

**ANNEX 4**of the Commission Implementing Decision on the Annual Action Plan 2014 for Palestine<sup>1</sup>  
**Action Document for Access to Essential Social and Public Infrastructure in Area C****1. IDENTIFICATION**

Title/Number	Access to Essential Social and Public Infrastructure in Area C CRIS number: ENI/2014/32-783		
Total cost	Total estimated cost: EUR 3,500,000  Total amount of EU budget contribution: EUR 3,500,000 million		
Aid method / Method of implementation	Project Approach Direct management - Grant (direct award)  Direct management for the procurement of services - communication/visibility and evaluation/audit activities		
DAC-code	16050	Sector	Multi sector aid for basic social services

**2. RATIONALE AND CONTEXT****2.1. Summary of the action and its objectives**

The proposed action *Access to Essential Social and Public Infrastructure in Area C* aims at continuing interventions initiated under the Financing Decision ENPI/2012/023-776 *Land Development and Basic Infrastructure in Area C*.

It intends to complement the EUR 3.5 million which were allocated to capital investment projects. As for the *Land Development and Basic Infrastructure in Area C* project, the present action will be linked to the planning and zoning process undertaken by the Palestinian communities in Area C.

The objectives of the action are to enhance access to social and public infrastructure, and thus to improve the social and economic conditions of the populations in Area C.

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<sup>1</sup> This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of the Member States on this issue.

## 2.2. Context

### 2.2.1. Country context

#### 2.2.1.1. Economic and social situation and poverty analysis

Area C represents over 60% of the West Bank. It is the area where Israel retains almost exclusive control over law enforcement, planning and construction. According to the latest figures provided by the United Nations Office for the coordination of Humanitarian Affairs (OCHA) there are an estimated 297,000 Palestinians living in 533 residential areas throughout Area C.

In 1972, there were some 1000 settlers in the West Bank. This population grew exponentially and today there are an estimated 341,000 Israeli settlers living in 135 settlements and 100 outposts in Area C. Palestinian access, movement and use of land in Area C is restricted by a complex system of physical and administrative rules and regulations. The settlements are physically occupying 11% of Area C but the territory actually under their control is much higher. 70% of Area C is included within the boundaries of the regional councils of Israeli settlement and therefore off-limits for Palestinian use and development. Palestinian construction is heavily restricted in 29% of the remaining area, so that less than 1% has been planned for Palestinian development.<sup>2</sup>

Palestinian population in Area C are among the most vulnerable and marginalised in the West Bank. Demolitions of housing and livelihood and forced evictions are causing severe poverty. 24% of the households in Area C are food insecure<sup>3</sup>. Over 70% of communities located entirely or mostly in Area C are not connected to the water network and rely on rainwater or on tankered water at vastly increased cost.<sup>4</sup> The Israeli Civil Administration (ICA) takes action to disrupt the supply of water that residents try to obtain from alternate sources<sup>5</sup>.

Area C is a very resource rich area. The restrictive planning and permitting systems imposed by the ICA prevent Palestinians to have access to the land and the resources in Area C. The World Bank published a comprehensive study in October 2013 assessing the impact of the inaccessibility of Palestinian populations to the agricultural land and natural resources in Area C, on the Palestinian economy. The potential impact of this 'withheld land' sets the loss to the Palestinian economy at about US\$ 3,4 billion<sup>6</sup>, or 35% of the Palestinian GDP in 2011.

Under this context, development in Area C is undermined and the resilience of the Palestinian communities in Area C is strongly affected.

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<sup>2</sup> OCHA, Area C of the West Bank: key humanitarian concerns, January 2013.

<sup>3</sup> PCBS, UNRWA, FAO, WFP, Socio-Economic & Food Security Survey, 2012.

<sup>4</sup> OCHA, Area C of the West Bank: key humanitarian concerns, January 2013.

<sup>5</sup> B'Tselem, Acting the Landlord: Israeli Policy in Area C, the West Bank, 2012 - Between 2000 and 2012 the Israeli Civil Administration (ICA) destroyed 90 cisterns, 61 wells and 17 reservoirs belonging to Palestinians in Area C. In recent years the ICA has begun confiscating water containers purchased by residents of the Jordan valley for watering their herds. The supply of electricity that Palestinian communities in Area C receive from wind or solar power systems is also disrupted by demolitions and demolition orders.

<sup>6</sup> World Bank, Area C and the Future of the Palestinian Economy, October 2013.

### 2.2.1.2. National development policy

In April 2012 the Ministry of Local Government (MoLG) adopted a strategic action plan - Planning Support for Palestinian Communities in Area C. This action plan foresees the development of plans for all communities in Area C. The EU supported this action plan with its 2012 programme Land Development and Access to Basic Infrastructure in Area C, which allocated EUR 1 million to planning and zoning of Palestinian communities.

In the Ad Hoc Liaison Committee (AHLC) meeting in September 2012 the Palestinian Authority (PA) highlighted the importance to continue the planning process and recommended that the international community finances the implementation of the plans developed. EUR 2 million of the 2012 programme Land Development and Access to Basic Infrastructure in Area C were allocated to implement infrastructure projects according to the plans produced. The recommendation to fund the implementation of the plans was re-iterated by the PA during the AHLC meeting in March 2013.

The Ministry of Local Government (MoLG) is overseeing the planning process and the implementation of the projects identified and prioritized by the communities in Area C. The MoLG attends the meetings at the ICA during which the plans are negotiated. The MoLG and EU are jointly deciding (based on the action plans and priority lists developed by the communities in Area C) how to allocate the funds for the implementation of the projects.

### 2.2.2. *Sector context: policies and challenges*

Development of basic services in Area C is heavily impacted by the Israeli Civil Administration's (ICA) restrictive planning and permitting systems, which are effectively preventing Palestinian constructions in Area C. Infrastructure projects which are supposed to serve the most basic needs are usually denied. The lack of basic services of water, energy, health, education and transportation are strongly affecting the populations in Area C.

For its part the ICA has argued that the development of services cannot be approved absent specific development plans. This situation has changed in the last four years and today more than 90 communities located in Area C are engaged in an urban planning process. These plans are the foundation for essential public and social infrastructure in Area C. Though the first 22 of plans developed by Palestinian communities were submitted to the ICA in July 2011, only two of them have so far received final authorisation. For each plan the ICA requires technical specifications and supplementary documents which by far surpass common standards for outline plans<sup>7</sup>. The excessive requirements by the ICA represent thus a very heavy burden for the communities engaged in the planning process. There is also no formal procedure or timeframe governing the authorisation process.

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<sup>7</sup> survey maps, including photogrammetric data, to be updated every 6 months after submission, landownership maps, detailed road network proposals, water and sanitation proposals, environmental assessment, etc.

The EU Head of Mission report Area C and Palestinian State Building from July 2011 proposed a rationale for EU interventions in Area C while shifting the general approach from a purely humanitarian response to longer-term and development-oriented activities. The present action is a concrete step in this regard.

The Foreign Affairs Council (FAC) of May 2012 proposed a comprehensive EU policy for Area C. It insisted on the needs to support social and economic developments in Area C and to improve access and control by the PA over Area C. The Foreign Affairs Council of April 2013 condemned the lack of progress in Area C and re-iterated the need of improved social and economic conditions for Palestinian populations in Area C and of a fundamental shift in Israeli policy toward Area C. The programme proposed in the present Action Document aims at meeting the policy requirements set by the FAC in May 2012 and April 2013.

The EU Work Plan for Project Implementation in Area C aimed at mitigating the disproportionality of the ICA planning requirements and the risk that the plans would not receive final authorisation. This work plan was annexed to the Mashraq/Maghreb Working Party report of 26 July 2012. The 2012 Financing Agreement ENPI/2012/023-776 Land Development and Basic Infrastructure in Area C refers to the implementation modalities proposed in the EU work plan and stipulates that the plans are either formally approved by the Israeli authorities (after 60 days from the date of their publication) or are considered as tacitly approved if no major objection has been raised within 18 months following the submission to the ICA by the village councils. The implementation of public and social infrastructure may start once a plan has been formally approved by the Israeli authorities or is considered as tacitly approved (once the 18 month deadline has been reached). The same implementation modalities will be applied to the present action.

The present action moreover envisages that for projects located within areas covered by a plan that meets the ICA technical standards, no further Israeli permits should be required after formal or tacit approval of the plan.

Through its FA Land Development and Basic Infrastructure in Area C the EU is supporting the community-based bottom up planning process undertaken by Palestinian communities in Area C. During this process the communities are invited to reflect on their present and future development needs, to take decisions with regard to the allocation of their land and to identify and prioritise infrastructure projects according to their needs. This process is not followed by the Office of the Quartet Representative and UNDP which are favouring a top-down approach of infrastructure projects identified and prioritised in co-ordination with the ICA and not linked to a planning process.

### **2.3. Lessons learnt**

The EU Representative, together with the EU Head of Delegation in Tel Aviv, has held regular meetings with the Co-ordination of Government and Activities in the Territories (COGAT) as part of a dialogue aimed addressing Area C and promoting Palestinian development there. Some EU Member States have also met with COGAT bilaterally. Despite strong international pressure for a fundamental shift in Israeli policy towards Area C, no progress was made. This lack of progress concerning Area

C was noted in the FAC conclusions of May 2012 and has lead the EU to draft a number of concrete expectations as regards Israeli policy change in Area C. To optimise the success of development in Area C political dialogue with Israel needs to be reinforced.

Within the planning component of the 2012 Financing Agreement Land Development and Basic Infrastructure in Area C Palestinian communities engaged in planning also develop action plans and cost estimates for capital investment projects. 13 communities have so far produced an action plan and the total estimated costs of needed public and social infrastructure is about EUR 33.75 million. This illustrates that the initial EUR 2 million foreseen under the 2012 Financing Agreement are insufficient. The present action foresees to top up the initial amount by another EUR 3.5 million. The EU is moreover in discussion with EU Member States which expressed interest to follow the EU development approach for Area C.

#### **2.4. Complementary actions**

The EU is funding with EUR 7 million development in Area C through the 2012 Financing Agreement *Land Development and Basic Infrastructure in Area C*. EUR 1 million are allocated to consolidate plans developed by Palestinian communities in Area C, EUR 2 million are allocated for the implementation of the plans and EUR 3.6 million support land development projects in Area C.

The EU is also providing in 2014 €26.5 million of humanitarian funding through ECHO. This humanitarian support is used for emergency response and preparedness to unpredictable but recurrent humanitarian needs emerging from occupation and International Humanitarian Law breaches (demolitions, evictions, settlers's violence, the Blockade).

Belgium (EUR 0.4 million), France (EUR 0.5 million) and the UK (GBP 1 million) are also supporting the planning process of Palestinian communities in Area C. France is focusing its planning support on the most vulnerable communities in the South of Bethlehem and South of Hebron. These are very sensitive locations as they are in a firing zone or close to settlements or regional roads.

More than 90 outline plans are currently in development by Palestinian communities in Area C. These plans are the foundation for public and social infrastructure projects in those communities.

The outline planning process will be linked in a broader planning exercise that aims at clustering the communities and developing regional plans. The transition from outline planning to community clustering and regional planning is currently supported by the EU and the UK.

The Palestinian Ministry of Planning and Administrative Development (MoPAD) is moreover engaged in the development of a National Spatial Plan, which will include the entire Area C.

UNDP has set up the Community Resilience and Development Programme (CRDP) for Area C and East Jerusalem. Three EU Member States are funding the CRDP with

a total amount of approximately EUR 12.78 million. The activities of this programme are developing public and social infrastructure, access to and protection of natural resources, economic opportunities and provision of legal protection to Palestinian communities in Area C and East Jerusalem.

With the support of UN OCHA the office of the European Representative for West Bank and Gaza (EUREP) set up a reporting mechanism to inform monthly its headquarters about demolitions and other threats against EU and EU Member States funded projects in Area C. EUREP also ordered a study for the development of a comprehensive monitoring system for EU and EU Member States funded projects in Area C.

## **2.5. Donor co-ordination**

Development of Area C and projects' implementation are regularly discussed during the EU Head of Mission (EU/HoMs) meetings. EU/HoMs is currently working on the update of the July 2011 HoMs report on Area C. EU Heads of Co-operation (EU/HoCs) also discuss Area C on a regular basis. EU/HoCs are moreover closely involved in the development of a project monitoring system for EU and EU Member States projects in Area C.

Planning of Area C and implementation of the developed plans is discussed during the Local Governance Sector Working Group of the Ministry of Local Governance.

Donor co-ordination for humanitarian interventions in Area C is organised monthly in the ECHO/OCHA chaired Friday Group meetings.

There is a general understanding among the EU and the EU Member States that a non-confrontational approach with the Israeli Authorities is the preferred approach. The non-confrontational approach is also the guiding principle when the EU Representative and the EU Head of Delegation in Tel Aviv meet with COGAT.

## **3. DETAILED DESCRIPTION**

### **3.1. Objectives**

The **overall objective** of this action is the improvement of social and economic conditions of Palestinian communities in Area C.

The specific objectives are:

- Improved access to essential social and public infrastructure.
- Strengthening Palestinian national institutions' capacity to deliver essential social and public infrastructure in Area C.

### **3.2. Expected results and main activities**

The communities that will benefit from this action are engaged in the planning process. They developed an outline plan and detailed planning packages and submitted them to the ICA. The communities also developed action plans (in a

participatory manner) which prioritise their capital investment projects. The projects funded under this action will be based on the actions plans and will thus meet the communities needs and benefit from full community ownership.

Expected results:

- New and enhanced social and public infrastructure for Palestinian communities in Area C implemented according to priorities set by the targeted communities.
- Basic social services are improved.
- Palestinian national institutions implement social and public infrastructure in Area C.

Activities:

- Implementation of social and public infrastructure projects (water and waste water, energy, health, education transportation, other public infrastructure)

### **3.3. Risks and assumptions**

The EU has to undertake a financial risk of having 10 to 20% of demolition orders issued by the Israeli authorities. In order to mitigate such risk and in line with the exchange of correspondence between EUREP<sup>8</sup> and DEVCO/EEAS<sup>9</sup> it is proposed:

- to ensure co-ordination and information vis-à-vis the Israeli authorities
- to use an incident tracking system, which informs about stop work or demolition orders for infrastructure projects implemented under this action

### **3.4. Cross-cutting issues**

Gender:

This action will support gender equality and women's empowerment. This will be ensured by promoting active participation of women and youth to the communities in charge of developing the action plans. It is expected that the programme will directly benefit the Palestinian women in the targeted communities.

Environmental sustainability:

Environmental standards were applied during the planning process and the negotiation with the ICA. One chapter of the detailed planning is dedicated to environment.

### **3.5. Stakeholders**

The main stakeholders in this action will be the Palestinian communities in Area C and the Palestinian Authority with its Ministry of Local Government's (MoLG). The

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<sup>8</sup> Ref. DELWBG/GF/341/2012.

<sup>9</sup> Ref. Ares (2012) 390548.

Ministry of Local Government will give the guidance on sector and geographical preferences for infrastructure projects in Area C.

Beneficiaries will be the Palestinian communities in Area C, the village councils, and the PA as the action will contribute to its state building. Ownership will be very high as the action will fund the implementation of plans which were developed by the Palestinian communities in Area C under supervision of the MoLG and with technical assistance provided by UN Habitat.

#### **4. IMPLEMENTATION ISSUES**

##### **4.1. Financing agreement**

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of the Regulation (EU, Euratom) No 966/2012.

##### **4.2. Indicative operational implementation period**

The indicative operational implementation period of this action, during which the activities described in sections 3.2. and 4.3. will be carried out, is 60 months from the date of entry into force of the financing agreement or, where none is concluded, from the adoption of this Action Document, subject to modifications to be agreed by the responsible authorising officer in the relevant agreements. The European Parliament and the relevant Committee shall be informed of the extension of the operational implementation period within one month of that extension being granted.

##### **4.3. Implementation components and modules**

###### **4.3.1. Grant: direct award (direct management)**

- (a) Objectives of the grant, fields of intervention, priorities of the year and expected results

The grant will fund capital investment projects of communities located in Area C which engaged in a planning and zoning exercise. The infrastructure projects were prioritised by the communities in their action plans and approved by the Ministry of Local Government (MoLG) which identified priority sectors and localities in Area C. During the development of action plans for the first 13 communities in Area C it turned out that substantial additional funding is necessary to meet the most basic needs of the population. This is the reason for the present action which intends to top-up the 2012 action for Area C.

Following the guidance of the MoLG the action will focus on the sectors of energy, water and waste water, transport, education, health and other public infrastructure.

The expected results are new social and public infrastructure and improved basic social services for Palestinian communities in Area C.



#### (b) Justification of a direct grant

Under the responsibility of the authorising officer by delegation, the recourse to an award of a grant without a call for proposals is justified because of the declaration of a crisis situation in Palestine as per article 190 (2) RAP considering that Area C is occupied land under full Israeli control. Engaging in development interventions in Area C is thus very complex and difficult.

#### (c) Eligibility conditions

As regards the specificity and complexity to work in Palestine, a grant contract will be directly awarded to an entity which has the capacity to implement social and public infrastructure projects in Area C.

In order to be eligible for a grant, the applicant must:

- be a legal person **and**
- be non-profit-making **and**
- be specific a type of organisation such as: non-governmental organisation, public sector operator, local authority, international (inter-governmental) organisation as defined by Article 43 of the Rules of Application of the EU Financial Regulation<sup>10</sup>, **and**
- be established in<sup>11</sup> a Member State of the European Union, in Palestine or in another country eligible according to the "ENI Regulation" (Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument). This obligation does not apply to international organisations **and**
- be directly responsible for the preparation and management of the action with the co-applicant(s) and affiliated entity(ies), not acting as an intermediary.

#### (d) Essential selection and award criteria

The essential selection criteria are financial and operational capacity of the applicant. The essential award criteria are relevance of the proposed action to the objectives, as well as the design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

#### (e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 80%.

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10 International organisations are international public-sector organisations set up by intergovernmental agreements as well as specialised agencies set up by them; the International Committee of the Red Cross (ICRC) and the International Federation of National Red Cross and Red Crescent Societies are also recognised as international organisations.

11 To be determined on the basis of the organisation's statutes, which should demonstrate that it has been established by an instrument governed by the national law of the country concerned and that its head office is located in an eligible country. In this respect, any legal entity whose statutes have been established in another country cannot be considered an eligible local organisation, even if the statutes are registered locally or a 'Memorandum of Understanding' has been concluded.

The maximum possible rate of co-financing may be up to 100% in accordance with Articles 192 of Regulation (EU, Euratom) No 966/2012 if full funding is essential for the action to be carried out. The essentiality of full funding will be justified by the responsible authorising officer in the award decision, in respect of the principles of equal treatment and sound financial management.

(f) Indicative trimester to contact the potential direct grant beneficiary

First trimester 2015.

#### 4.4. Scope of geographical eligibility for procurement and grants

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act shall apply.

The responsible authorising officer may extend the geographical eligibility in accordance with Article 9(3) of Regulation (EU) No 236/2014 on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or other duly substantiated cases where the eligibility rules would make the realization of this action impossible or exceedingly difficult.

#### 4.5. Indicative budget

<b>Module</b>	<b>Amount in EUR thousands</b>	<b>Third party contribution (indicative, where known)</b>
4.3.1. Direct Grant (direct management)	3,220	N.A.
4.7. Evaluation and Audit	50	N.A.
4.8. Communication and visibility	30	N.A.
Contingencies	200	N.A.
Totals	3,500	N.A.

#### 4.6. Performance monitoring

The Commission may carry out Results Oriented Monitoring (ROM) via independent consultants, starting from the sixth month of project activities, which will be finalised at the latest 6 months before the end of the operational implementation phase. Sex-disaggregated data will be used when possible.

Day-to-day technical and financial monitoring will be a continuous process as part of the implementing agency's responsibilities. The projects will be subject to both internal and external result oriented monitoring. The internal monitoring functions will be carried out by the implementer, the Beneficiary institution/s and the

Delegation. The external monitoring will be undertaken by external monitors contracted by the Commission.

The performance indicators will be defined, once the localities and the priority sectors of the infrastructure projects will have been identified (depending on the progress in the authorisation process of the outline plans and detailed planning packages by the ICA).

Evaluation and audit

#### Evaluation

a) The Commission will carry out external **evaluations**, as follows:

- A final evaluation, at the beginning of the closing phase

b) The Commission shall inform the Beneficiary at least 30 days in advance of the dates foreseen for the external missions. The Beneficiary shall collaborate efficiently and effectively with the monitoring and/or evaluation experts, and *inter alia* provide them with all necessary information and documentation, as well as access to the project premises and activities.

#### Audit

When necessary, external audits/ verification missions regarding the whole action or parts of the action will be conducted by the EU.

An indicative number of 2 contracts for the above-mentioned evaluation and audit assignments might be concluded in the form of procurement of services under direct management for an indicative total budget of EUR 50,000.

### **4.7. Communication and visibility**

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated before the start of implementation and supported with the budget indicated in section 4.5 above.

The measures shall be implemented either (a) by the Commission, and/or (b) by the partner country, contractors, grant beneficiaries and entrusted entities. Appropriate contractual obligations shall be included in, respectively, financing agreements, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

The communication and visibility measures are implemented by way of procurement. The overall budget is estimated at EUR 30,000. One service contract will be issued in the fourth trimester 2015.