



Brussels, 12.11.2012
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COMMISSION IMPLEMENTING DECISION

of 12.11.2012

**on the Special Measure Support to the European Endowment for Democracy to be
financed from the general budget of the European Union**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument (ENPI)¹, and in particular Article 13 thereof,

Whereas:

- (1) The Joint Communications on a Partnership for Democracy and Shared Prosperity for the Southern Neighbourhood² and on A New Response to a changing neighbourhood³ issued in March and in May 2011 reaffirm the crucial importance of striving for deep and sustainable democracy and respect for human rights and the rule of law as fundamental pillars of the renewed Neighbourhood policy and of the partnership with Neighbourhood countries.
- (2) The European Commission and the High Representative jointly proposed therefore to support the establishment of a European Endowment for Democracy, to support political actors striving for democratic change in their countries. The Endowment will take the form of a private law Foundation under Belgian law, autonomous from the European Union, governed by its own Statute and governing bodies.
- (3) The objective of this special measure, as set out in the attached annex, is to support the establishment, functioning and own activities of the European Endowment for Democracy, when it will have been established, as an actor to foster and encourage democratisation and deep and sustainable democracy in countries in political transition and in societies struggling for democratisation.
- (4) The focus of the European Endowment for Democracy will be initially, although not exclusively, in the region covered by the European Neighbourhood Policy. This special measure focuses on enabling the Endowment to carry out its activities in the region covered by the European Neighbourhood Policy.
- (5) The present Decision constitutes a Financing Decision within the meaning of Article 75 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the

¹ OJ L 310, 9.11.2006, p. 1-14.

² COM(2011) 200, 8 March 2011

³ COM(2011) 303, 25 May 2011

Financial Regulation applicable to the general budget⁴ (hereafter 'the Financial Regulation') and Article 90 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the general budget⁵ (hereafter 'the Implementing Rules').

- (6) The maximum contribution of the European Union set by the present Decision should cover any possible claims for interest due for late payment on the basis of Articles 83 of the Financial Regulation and 106(5) of its Implementing Rules.
- (7) The Commission is required to define the term “substantial change” in the meaning of Article 90 (4) of the Implementing Rules to ensure that any substantial change in this Decision shall follow the same procedure as the initial Decision.
- (8) In accordance with Article 13(4) of Regulation (EC) No 1638/2006, this special measure shall be sent to the European Parliament and the Member States for their information.

HAS DECIDED AS FOLLOWS:

Article 1

The Special Measure Support to the European Endowment for Democracy, the text of which is set out in the attached Annex, is approved. It can only be implemented once the European Endowment for Democracy is formally established and its governing bodies have been constituted or appointed.

Article 2

The maximum contribution of the European Union to this Special Measure is set at EUR 6 million to be financed from budget lines 19 08 01 01 (EUR 3 million) and 19 08 01 03 (EUR 3 million) of the general budget of the European Union.

This maximum contribution shall also cover any possible interests due for late payment.

Article 3

Cumulated changes of the allocations to the specific actions not exceeding 20% of the maximum contribution of the European Union shall not be considered substantial, provided that they do not significantly affect the nature and objectives of the Special Measure Support to the European Endowment for Democracy. This may include an increase of the maximum contribution of the European Union up to 20%.

⁴ OJ L 248, 16.09.2002, p. 1-48.

⁵ OJ L 357, 31.12.2002, p.1-71.

The relevant authorising officer may amend the present Decision to introduce non-substantial changes to the Support to the European Endowment for Democracy in accordance with the principles of sound financial management.

Done at Brussels, 12.11.2012

For the Commission
Štefan FÜLE
Member of the Commission

ANNEX

Special Measure Support to the European Endowment for Democracy

Annex

Special measure: Support to the European Endowment for Democracy

1. IDENTIFICATION

Title/Number	Special measure: Support to the European Endowment for Democracy CRIS 2012/024-305		
Total cost	Total EU contribution: EUR 6 million ENPI South (budget heading 19 08 01 01): EUR 3 million ENPI East (budget heading 19 08 01 03): EUR 3 million		
Aid method / Method of implementation	Project approach - Direct centralised management		
DAC-code	15150	Sector	Democracy and Civil Society

2. RATIONALE

2.1. Sectoral context

The events of 2011 in the Neighbourhood, in particular in the Southern Mediterranean but also in Eastern Europe, prompted a rapid response from the European Union (EU). **The Joint Communications on a Partnership for Democracy and Shared Prosperity for the Southern Neighbourhood¹** and on **A New Response to a changing neighbourhood²** issued in March and in May 2011 reaffirm the crucial importance of striving for deep and sustainable democracy and respect for human rights and the rule of law as fundamental pillars of the renewed European Neighbourhood Policy and of the partnership with Neighbourhood countries. The Joint Communications sent a clear message of solidarity to the peoples of the Neighbourhood, assuring them that their democratic aspirations and their fight for human rights will be heard and supported.

As a consequence, the European Commission and the High Representative jointly proposed to support the establishment of a **European Endowment for Democracy**, to support political actors striving for democratic change in their countries (especially political parties and non-registered NGOs or trade unions and other social partners).

¹ COM(2011) 200, 8 March 2011

² COM(2011) 303, 25 May 2011

One year later, the **Joint Communication "Delivering on a new European Neighbourhood Policy"**³ reaffirmed the EU's support to democratisation and human rights, including through its "more for more" approach, by which only those partners willing to embark on political reforms and to respect the shared universal values of human rights, democracy and the rule of law would be offered the most rewarding aspects of the EU policy. Democratic aspirations will be supported in those countries and societies that are going through a period of transition or are struggling for their democratic aspirations by advancing towards higher standards of human rights, and placing a strong emphasis on human rights within the political dialogue.

The establishment of a European Endowment for Democracy (EED) also received **political support from EU Member States**, through a **political Declaration** endorsed in December 2011 by the Committee of Permanent Representatives (COREPER)⁴. In that Declaration, the objective was set for the EED to foster and encourage deep and sustainable democracy in transition countries, focusing initially, but not exclusively, on the countries covered by the European Neighbourhood Policy.

From February to May 2012, a **Working Group** consisting of representatives of the European Parliament, the European Commission, Member States and the European External Action Service came together to establish the draft **Statute** of the Endowment, which was approved by the Working Group on 20 June 2012 (hereafter: "the EED Statute") .

According to its Statute, the Endowment will take the form of a private law **Foundation** under Belgian law, **autonomous from the European Union**, governed by its own Statute and governing bodies. The EED is therefore not a EU instrument, although the Statute does ensure that the EED will complement existing EU cooperation instruments by supporting key political players in fostering democratic transitions through rapid and flexible assistance.

The EED should be formally established by an authentic act under Belgian law during the month of October or November 2012. It is expected that the Board of Governors will have been constituted and the Executive Committee appointed by November 2012.

2.2. Lessons learnt

In striving for democratisation, specific actors of change and emerging players sometimes face **obstacles where access to EU funding is concerned**. The EED will aim to **add value** by offering a **dedicated rapid and flexible funding mechanism** for beneficiaries who are not supported, are insufficiently covered or face difficulties in obtaining support from EU financial instruments, in particular for reasons of legal personality, administrative requirements or eligibility criteria.

Such actors may include: journalists, bloggers, non-registered NGOs, loosely organised or fledgling movements and political movements (including those in exile or from the diaspora), in particular when all of these actors operate in a very uncertain political context.

³ JOIN(2012) 14, 15 May 2012

⁴ <http://register.consilium.europa.eu/pdf/en/11/st18/st18764.en11.pdf>

2.3. Complementary actions

For the delivery of its activities, as the EED Statute provides, the Endowment shall make every effort **to avoid duplication** and to **ensure coherence, synergy, complementarity and added-value with the activities carried out under EU financial instruments** which are already providing very valuable outputs. These include, in particular, the European Instrument for Democracy and Human Rights (EIDHR), the Instrument for Stability, the European Neighbourhood Partnership Instrument, the Development Cooperation Instrument including the Non-State Actors and the Local Authorities thematic programme.

Especially as far as the **EIDHR** is concerned, specific objectives identified by the EIDHR Strategy Paper for the period 2011-2013 include the strengthening of the role of civil society in promoting human rights and democratic reform, in supporting the peaceful conciliation of group interests and in consolidating political participation and supporting and strengthening the international and regional frameworks for the protection and promotion of human rights, justice, the rule of law and the promotion of democracy. The EIDHR already acts as a second complementary layer to the EU geographical instruments, in particular when dealing with the most difficult situations where Democracy and Human Rights are at risk. It is a specialised part of the EU response to crisis, and provides a breath of fresh air in the difficult situations mentioned above. The EED should, as a matter of principle, avoid any activities that are already covered by the EIDHR and act in this regard as a third layer of complementarity.

Moreover, similar efforts to avoid duplication and to achieve complementarity between the Endowment and the **Neighbourhood Civil Society Facility (CSF)** are deemed essential. The Endowment can indeed usefully complement the objectives of the CSF, the aim of which is to enhance the role of Civil Society Organizations in the reforms and democratic changes taking place in their countries, by operating where funding from the latter is difficult to implement due to the political context or the nature of the beneficiary.

Synergies between the activities funded by the EU through its various instruments and those of the Endowment will be encouraged in full respect of the principle regarding the EED's secondary role vis-à-vis the EIDHR's activities as recommended in the European Parliament's Resolution on the Endowment of March 2012⁵.

2.4. Donor coordination

According to its Statute, the EED is meant to function on the basis of contributions from EU Member States. The Endowment will therefore seek **coordination with actions in the field of democracy support of EU Member States** and shall engage in **regular consultations with relevant EU institutions** and other actors, including civil society organisations, political foundations, potential beneficiaries, as appropriate in order to ensure coherence, synergy, complementarity and added-value of its activities at all times.

⁵<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0113+0+DOC+XML+V0//EN>

The Endowment shall also take into account the **activities carried out by other international organizations**, such as the Council of Europe, the Organisation for Security and Cooperation in Europe (OSCE), the International Institute for Democracy and Electoral Assistance (IDEA) and the relevant bodies of the United Nations.

3. DESCRIPTION

3.1. Objectives

The objective of this action is **to support the establishment, the functioning and the own activities of the European Endowment for Democracy** as an actor to foster and encourage democratisation and deep and sustainable democracy in countries in political transition and in societies struggling for democratisation.

According to the EED statute, the focus of the EED will be initially, although not exclusively, in the Neighbourhood. **This action will focus on enabling the EED to carry out its activities in the countries covered by the European Neighbourhood Policy.**

The EED Statute allows the Endowment to implement and finance activities outside this region, upon a decision of the Board of Governors.

3.2. Expected results and main activities

This action will **enable the Endowment to function**, which, in turn, will deliver the following **with its own additional resources**:

a) **financial support to the activities** of civil society organisations, such as political foundations and networks of foundations which can qualify as implementing partners;

b) **direct financial support to beneficiaries**, including: project activities, material support, operating costs, visiting fellowships (including through a European invitation programme for young people who have shown an interest in and a commitment to democratisation);

The EU contribution will also cover the **own activities** that will be carried out by the EED such as the organisation of seminars, studies, conferences, publications, networking events, training, facilitating of networking between local and/or regional beneficiaries or other. For these activities, the Endowment will take into account the existing body of knowledge from think tanks, academic institutions, international organisations, experts and any other relevant stakeholders.

The Endowment shall deliver its activities in the **most flexible and effective manner** in order to reflect the situation, the operating environment and the needs of its beneficiaries. All the activities of the Endowment shall be carried out on a **not-for-profit basis** and they shall be implemented in a spirit of **transparency, pluralism and in a non-partisan manner**.

3.3. Risks and assumptions

One of the possible constraints in the functioning of the EED is the fact that the budget for its activities will be based on the contributions of the EU Member States, which are currently not scheduled in a regular manner and might tend to be somewhat ad-hoc. The **absence of reliable and recurring financial commitments** from its members or default in fulfilling those commitments might jeopardise the flexibility of the Endowment and its ability to respond immediately, as well as its activities, image and co-operation with other actors.

Support given to political actors, leaders of political movements and emerging leaders is a highly sensitive issue. Even if the Endowment will be an autonomous entity acting independently of the EU, the latter has to be aware of the possible **political consequences** that could result from the action of the Endowment.

The **independent, private and non-institutional nature of the Endowment** carries the risk of operational decisions which may differ from the official EU position, in keeping with the Endowment's founding concept of working at "arm's length" from the EU.

The purported added value of the Endowment is its ability to act swiftly and to offer dedicated and rapid funding in risky environments. However, sound financial management requires a **minimum level of procedural and regulatory conditions** and transparency, which should also be applied by the Endowment's management. Also, any EU funds to the EED should be delivered and managed according to EU financial regulations. The principles of sound financial management may therefore limit the flexibility and swiftness expected.

The pressure to make quick financing decision and to confidentiality of applications due to their sensitive nature could also lead to **less transparency** in the award of funding. In this situation of lack of competition selection of activities to be funded might not always take economic efficiency and effectiveness into account. Audits and evaluations could be a valuable tool of mitigation.

3.4. Cross-cutting Issues

Given that the primary aim of the Endowment is the fostering of democratisation, respect for **human rights and good governance** will be part of the objectives to be achieved.

In achieving its objectives, the Endowment will pay due attention to **gender, youth, disabilities, conflict sensitivity and economic and social standards**.

3.5. Stakeholders

The Endowment shall have a **Board of Governors and an Executive Committee**. The Board of Governors will have overall responsibility for the Endowment's operations, finances and shall exercise oversight of the Executive Committee. The Executive Committee shall exercise the executive powers related to the functioning of the European Endowment for Democracy, including the power to make decisions to commit the Endowment funds. The Board of Governors will consist of representatives from the European Parliament, Member States, the HR/VP and civil

society; as well as a member designated by the European Commission to sit "on his personal capacity".

The **direct beneficiaries** of the Endowment's activities may include: pro-democratic movements and other pro-democratic actors in favour of a pluralistic multiparty system on democratic grounds; social movements and actors; civil society organisations; emerging leaders, independent media and journalists (including bloggers, social media activists, etc), non-governmental institutions, including foundations and educational institutions functioning also in exile – provided that all the beneficiaries adhere to core democratic values, respect international human rights and subscribe to the principle of non-violence.

4. IMPLEMENTATION ISSUES

4.1. Method of implementation

Direct centralised management.

4.2. Procurement and grant award procedures

1) Contracts

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the ENPI Regulation. Further extensions of this participation to other natural or legal persons by the authorising officer concerned shall be subject to the conditions provided for in Art 21(7) ENPI.

2) Specific rules for grants

Based on Articles 108.1.b and 168.1.f of the Financial Regulation, an action grant will be awarded directly to the EED.

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EU external actions. They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the General Budget:

- Principle of non-retroactivity: an action grant shall be awarded within six months after the start of the beneficiary's budgetary year. Costs eligible for financing may neither have been incurred before the grant application was lodged nor before the start of the beneficiary's budgetary year, in accordance with Article 112.2 of the Financial Regulation applicable to the General Budget.

4.3. Indicative budget and timetable

The EU can only contribute to the EED once it will have been formally established and its governing bodies constituted or appointed.

The EU contribution to the EED will be limited to funding its establishment, running costs and own activities such as organisation of seminars, studies, conferences, publications, networking events, etc. and other administrative costs. It is expected that the grant contract will be signed before 31 December 2012, indicatively covering the first 3 years functioning.

The EU funding will consist of a contribution of EUR 6 million from the budget of the European Union (ENPI budget line), broken down as follows:

- EUR 5.9 million for grant to cover running costs and own activities;
- EUR 0.1 million for audit.

Pursuant to Article 113 of the Financial Regulation applicable to the General Budget, the grant will not finance the entire expenditure of the action and will limit itself to 95 % of the eligible costs.

EUR 0.1 million will be earmarked for one service contract managed by the European Commission for audit purpose. This contract will be signed on 31 December 2013 at the latest.

The EU contribution to the EED will be limited to finance its establishment, functioning and own activities; direct and indirect support to beneficiaries will be funded by contributions from Member States and other stakeholders (private foundations, etc.).

4.4. Performance monitoring

The European Union may carry out monitoring missions, using external expertise according to need. The Endowment and the European Union shall analyse the conclusions and recommendations of the evaluations and jointly decide on the follow-up action to be taken and any adjustments necessary, including the reorientation of the action.

4.5. Evaluation and audit

The evaluation of the Endowment and its activities by an independent third party shall be carried out on an annual basis. The legality and regularity of the Endowment's income and expenditure shall be audited by an independent auditor. The audit report shall be attached to the Endowment's annual report.

4.6. Communication and visibility

The Endowment is expected to become a very visible initiative. Notwithstanding this the EU visibility activities will take care to ensure that EED is perceived as being autonomous from the EU.