

Action Fiche for programme "Strengthening democratic reform in the southern Neighbourhood"

1. IDENTIFICATION

Title	Strengthening democratic reform in the southern Neighbourhood		
Total cost	EU contribution: EUR 4 million		
Aid method / Method of implementation	Project approach – Joint management with an international organisation – the Council of Europe		
DAC-code	15160	Sector	Human Rights and Democracy

2. RATIONALE

2.1. Sector context

In response to the Arab Spring, the European Union (EU) has undertaken several flagship initiatives at political level to smooth the countries' path to democratic reform. The Joint Communication by the European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy "A partnership for democracy and shared prosperity with the Southern Mediterranean"¹ led to EU commitments to support all its Southern neighbours who are able and willing to embark on such reforms through a "Partnership for Democracy and Shared Prosperity". The premise being that the commitment to democracy, human rights, social justice, good governance and the rule of law must be shared.

The Partnership should be built on three elements, the first one being democratic transformation and institution-building, with a particular focus on fundamental freedoms, constitutional reforms, reform of the judiciary and the fight against corruption. The possibilities to pursue this element are described in more detail in the Joint Communication by the European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy "A new response to a changing Neighbourhood"² which set out the basis for a renewed European Union Neighbourhood Policy in response to the truly historic opportunity for in-depth change in a number of countries of the southern Mediterranean.

The Joint Communications recognised that commitments to human rights and fundamental freedoms as ratified in relevant international and regional instruments are not always matched by action. Full compliance with their provisions, should underpin the partnership. In this context, it is stated that 'boosting co-operation with the Council of Europe could also help in promoting compliance'. In the framework of the proposed programme, partner countries will be invited to step up their co-operation with the Council of Europe by pursuing a Partner for Democracy status

¹ COM(2011)200 of 8 March 2011.

² COM(2011)303 of 25 May 2011.

with the Council of Europe Parliamentary Assembly (PACE), and take steps towards accession to a number of governance related Council of Europe conventions³.

In response to the events and ongoing situation in countries around the Southern rim of the Mediterranean, the Council of Europe Secretary General presented to the Council of Europe Committee of Ministers his proposals for a new "Council of Europe Neighbourhood policy". The Committee of Ministers took note of this proposals at its meeting at ministerial level in Istanbul (10-11 May 2011), and invited the Secretary General to develop action plans for the implementation of this policy.

With this programme the European Union will seek to complement its global response to the Arab Spring, and to further enhance co-operation with partner countries of the southern Mediterranean engaged in building deep and sustainable democracy, including in particular commitments, but not limited to: an independent judiciary; promotion of good governance, fight against trafficking in human beings and respect for democratic values and institutions.

The countries from the southern Mediterranean could benefit from the long-standing expertise of the Council of Europe in leading an inclusive political dialogue and co-operation activities at parliamentary and governmental levels with fragile new democracies. When establishing the Partner for Democracy status⁴ in 2009, the PACE recalled that political dialogue and co-operation at parliamentary level was of key importance in the process of rapprochement between the countries from Central and Eastern Europe states and the Council of Europe in the early 1990s.

The current level of co-operation between the Council of Europe and Morocco (Partner for democracy status granted, regular contacts with the Council of Europe), and Tunisia (high level Council of Europe missions, request for Partner for Democracy status to follow shortly) would allow activities in these countries to start without delay. However, activities under this proposed programme will also be opened to other partner countries in the region engaged in a process of democratic transformation.

Morocco

On 21 June 2011 the PACE granted the Parliament of Morocco Partner for Democracy status.

Since February 2011 the Secretary General of the Council of Europe and high level officials from the Council of Europe Secretariat paid several visits to the country, and had meetings with Moroccan authorities. As a result, a roadmap for co-operation was presented for consideration to the European Commission. It sets out the immediate priorities identified by the Moroccan authorities in consultation with the European Union, with particular focus on reforming the judicial system and combating corruption. The roadmap provides a pipeline of activities ready for possible financing under the proposed programme.

³ Notably the Council of Europe Conventions in the areas of criminal law, prevention and financing or terrorism, cybercrime, torture, trafficking in human beings, protection of children, fight against corruption, and sexual exploitation of children.

⁴ Resolution 1680(2009) "Establishment of a "partner for democracy" status with the Parliamentary Assembly".

Tunisia

On 21 June 2011, the PACE adopted its Resolution 1819 on the situation in Tunisia, which sets out a number of specific points for consideration by the Tunisian transition authorities, political and civil forces as well as by the future Tunisian authorities. It is anticipated that a request for Partner for Democracy status will follow shortly.

A number of political level visits (Council of Europe Secretary General and the Chairman-in-office of the Council of Europe Committee of Ministers, Venice Commission and PACE representatives) and high level meetings have been carried out by the Council of Europe between February and September 2011 to discuss possible co-operation and assistance activities.

As regards other countries of the region opportunities for co-operation will also be considered. For instance, the PACE has granted (4 October 2011) the Partner for Democracy status to the Palestinian National Authority. The revision under way of the content of the “EU Advanced Status” of Jordan also provides opportunities for starting co-operation with this country. Co-operation could also be strengthened with the countries from the southern Mediterranean through up and running initiatives and networks developed by relevant Council of Europe bodies like: the North-South Centre (intercultural dialogue, youth), the Pompidou group (drugs), the Venice Commission (constitutional law, election law, judicial reform), the group of Experts on Action Against Trafficking in Human Beings (GRETA), or the network of Schools of Political Studies.

2.2. Lessons learnt

The European Union regularly implements joint management programmes together with the Council of Europe, within the framework of their strategic partnership based on shared values: democracy, human rights and rule of law. The signature in May 2007 of a Memorandum of Understanding between the EU and the Council of Europe has reinforced their ongoing co-operation in the framework of joint programmes, particularly in the Neighbourhood. 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 programmes between the EU and the Council of Europe was launched in 2010 and is underway.

The proposed programme for the southern Neighbourhood will build on the results of previous European Union / Council of Europe joint programmes, which supported reform processes through a multilateral approach in the eastern Neighbourhood countries. In this respect, the experience in the implementation of the Council of Europe Facility for Eastern Partnership countries⁵; which started in March 2011 and covers areas such as improved functioning of the judiciary, public administration reform, fight against corruption, and human rights protection in Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine will facilitate the implementation of the proposed programme.

⁵ C(2010)7560 of 08.11.2010.

2.3. Complementary actions

As a response to the Arab Spring, and to honour the commitments of the two communications quoted above, the EU added additional funding to the original European Neighbourhood Policy Instrument (ENPI) envelope, through a number of means:

- A prominent initiative is the programme Support for partnership, reforms and inclusive growth (SPRING), which can provide up to EUR 350 million to countries, which are progressing in their democratic reforms. These funds are made available directly to governments, to support the SPRING objectives of democratic transition and inclusive growth.
- The Civil Society Facility⁶ will provide about EUR 12 million to the support of capacity-building and involvement of civil society in the policy dialogue in the southern Neighbourhood. Most of this funding is made available directly to civil society organisations, through calls for proposals.
- The country allocations of the European Instrument for Democracy and Human Rights (EIDHR) and the thematic programme Non-State Actors and Local Authorities in Development (NSA-LA), which operate through local calls for proposals and agreements with international organisations, have also received top-ups for countries with specific needs, e.g. Libya.

Initiatives supported through the proposed programme will complement ongoing activities mentioned above. It will also be consistent with the future "European Union Endowment for Democracy", and actions supported at European Union level or bilaterally by EU Member States, as well as, by other donors. Through the fact-finding missions, the Council of Europe will establish an inventory of ongoing assistance in the fields covered by the proposed programme to ensure complementarity of activities foreseen, and coherence with other EU initiatives in the region. This will avoid overlaps and double-financing with other bilateral and multilateral initiatives.

2.4. Donor co-ordination

When designing the various possible activities within this programme, the Council of Europe will take into account other donors' interventions in the areas covered by the proposed programme for the southern Neighbourhood. The co-ordination with the EU delegations in the partner countries will be of special importance. The adoption of a flexible approach under the proposed programme will provide opportunities for joint initiatives between various donors.

Further donor co-ordination will be ensured from headquarters as well as by a programme co-ordinator based in each of the partner countries. The Council of Europe Committee of Ministers and in particular its rapporteur group on external relations, allows for exchanges with other EU Member States, as well as on co-ordination issues..

⁶ C(2011)6471 of 20.09.2011.

3. DESCRIPTION

3.1. Objectives

The overall objective of this programme is to **enhance the political and democratic reform processes** in the southern Neighbourhood countries, in accordance with European and international standards, based on a **demand-driven and targeted approach**.

The programme will therefore have the necessary flexibility to react to new and emerging priorities/activities which may result from the political context in the region and/or frequent consultation processes between the European Union, the Council of Europe and the southern Neighbourhood countries. Implementation of activities by the Council of Europe shall be subject to prior consultation and approval by the European Commission. The latter will take into consideration the views of EU Institutional actors, including European External Action Service (EEAS).

Specific objectives:

- To **enhance independence and efficiency of judiciary** by improving court functioning, by facilitating judicial reform and by improvement of the legislation pertinent to the judicial system, using as a reference the relevant Council of Europe standards
- To **promote good governance**, prevention of corruption and money laundering on the basis of the relevant Council of Europe standards, mechanisms and instruments by strengthening policy frameworks and the operational capacities.
- To contribute to **strengthening and protecting human rights** through the prevention and **control of trafficking in human beings** by assisting and supporting the authorities in bringing legislative framework in line with the provisions of the Council of Europe Convention on Action Against Trafficking in Human Beings⁷ and other international standards, and by strengthening institutional capacities.
- To **promote democratic values to the beneficiaries**, building on existing networks including those developed by the North-South Centre, the Pompidou Group, the Venice Commission and the Schools of Political Studies.

All these specific objectives will have a positive impact on policies for the promotion of gender equality and the protection of the rights of the child in the countries concerned.

3.2. Expected results and main activities

The overall expected result is better compliance with European standards concerning deepening democracy, fundamental rights and the rule of law, both in legislation implementation and practices in the different proposed areas. Needs assessment, when required, will be conducted ex-ante to define priorities and areas of greatest potential impact. In general, the activities will take place on a country-specific level,

⁷ Council of Europe Treaty Series (CETS) No. 197

although this should not exclude joint participation in wider events at regional level, as appropriate (see activity area 4)

Consultations between the Council of Europe, the European Union and individual southern Neighbourhood countries are ongoing with a view to clearly defining the appropriate actions to be implemented. The foreseen work will take into account any ongoing and planned support through any other programme of the European Union co-operation with the respective partner country.

Activity area 1 – Independence and functioning of the judiciary

Sector context:

The Council of Europe has a long-standing record of interventions in the field of judicial reform. The objective of the Council of Europe interventions is to make judicial systems more independent, efficient, transparent and accountable, in line with the standards set by the organisation.

These standards have been identified by the Council of Europe standard-setting and monitoring bodies, such as the European Court of Human Rights (ECHR), the European Commission for the Efficiency of Justice (CEPEJ), the Consultative Council of European Judges, the Consultative Council of European Prosecutors, Venice Commission, and the Council of Europe Commissioner for Human Rights.

The political, institutional, legal and societal context, as well as the challenges as regards judicial reform being very different in Tunisia and Morocco, two separate targeted actions are proposed. The common denominator of the actions is the proposed methodology (expert advice, exchange of good practice and institutional capacity-building) and the overall objective of pushing forward judicial reform in line with European standards.

The most relevant expected results in this area are:

- i) tangible improvement of the independence, impartiality, effectiveness and transparency of the judiciary through review of the relevant legal framework and its effective implementation,
- ii) the professionalism of the judiciary is improved,
- iii) the efficiency of the judiciary and the services provided to the citizens are improved.

Possible activities in this area include:

- i) needs assessment through the tools developed by the CEPEJ and recommendations for improving the efficiency, independence, professionalism, accessibility and transparency of the judicial system to be submitted to the relevant authorities and discussed with the policy makers, the justice professionals and civil society representatives,
- ii) recommendations on the development of a new code of ethics,

- iii) legal opinions on the review of the legal framework and the design of specific state policies in the field of justice,
- iv) tools to measure judicial performance,
- v) assessment study on the reasons for backlogs and the non-execution of judicial decisions,
- vi) accessibility of justice.

Activity area 2 – Promoting good governance: prevention and combating of corruption, anti-money laundering and counter-terrorism financing (AML/CTF)

Sector context:

The Council of Europe contribution will be carefully tailored to the individual needs of the partner countries and referring to the relevant Council of Europe standards (governance related Council of Europe conventions). The exact type and format of the interventions should be defined in a preparatory needs-assessment phase. The Group of States against Corruption (GRECO)⁸ and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)⁹ will carry out the assessment.

The most relevant expected results in this area are:

- i) corruption and money laundering assessments, based on GRECO, MONEYVAL models, have identified priority reform areas to pursue anti-corruption reforms (prevention and law enforcement related), and enhance capacities to combat money-laundering and terrorist financing offenses,
- ii) tools and expert advice related to proposals for legislative amendments and system re-enforcement concerning prevention and combating of corruption, money-laundering and financing of terrorism are available and in line with Council of Europe and international standards/practices,
- iii) policy advice is formulated and capacity-building is provided to key stakeholder institutions on establishing comprehensive, modern anti-corruption and anti money-laundering national policies / strategies / action plans. The human capacities of civil servants, law enforcement officials and the judiciary are increased in matters of preventing, prosecuting and adjudication of corruption and money laundering / financing of terrorism offenses,
- iv) co-operation between Financial Intelligence Units (FIUs) in support to the exchange information concerning European and international instruments (particularly those related to AML/CTF and especially the Financial Action Task Force (FATF) recommendations) and legislation on money laundering and the financing of terrorism is initiated and fostered.

⁸ <http://www.coe.int/greco>

⁹ <http://www.coe.int/t/dghl/monitoring/moneyval/>

Possible activities in this area include:

i) an “evaluation” type of exercise which shall be called assessment concerning the overall legal and institutional framework of the country (governance/corruption and AML/CTF) - based on GRECO5 and MONEYVAL6 methodology and experience. The results of the assessment to serve as basis to identify, in co-operation with beneficiary institutions, areas where reforms and capacities need to be reinforced and consolidated,

ii) identifying, compiling and disseminating the relevant legislation, translation into French and English exchange of expert-peer visits for meetings with the relevant European/national institutions and stakeholders and presentation of good practices among stakeholders and homologue operational structures (both corruption and money laundering related sectors),

iii) policy advice to key institutions (elaboration of expert advice, presentation and delivery to key beneficiary partners through seminars, workshops, study visits),

iv) providing of training based on identified areas for capacity-building, including training modules and materials to key beneficiary partners on “train the trainers” basis as well as strengthen and foster regional co-operation.

Activity area 3 – Support measures to prevent and combat trafficking in human beings

Sector context:

The southern Neighbourhood area is a source, destination, and possible transit country for men, women, and children subjected to trafficking in persons, specifically forced labour and forced sexual exploitation. Under the current political context, the risk of trafficking in human beings from, and via this region is even higher.

Furthermore, the EU has expressed concerns about current developments. Organised crime activities, including smuggling of migrants and trafficking in human beings, directly affect the security of European citizens. The EU has therefore, included co-operation to prevent and combat trafficking in human beings through Action Plans with a number of countries.

Required expertise and capacity-building support will be provided by the Council of Europe through its specialised bodies, in particular the Group of Experts on the Action against Trafficking in Human Beings¹⁰.

In the specific case of Morocco, and in line with the roadmap prepared by the Council of Europe during the past months and as discussed with the European Commission, actions to be supported through this programme for the southern Neighbourhood will also include under this component protection of children against violence.

¹⁰ http://www.coe.int/T/E/human_rights/trafficking

The most relevant expected results in this area are:

- i) national legislation and practice are brought fully in line with the Council of Europe Convention on Action against Trafficking in Human Beings¹¹ (and other relevant EU and international instruments,
- ii) training is provided to the judiciary, law enforcement officials, border guards, consular officers, social workers and services, NGOs and civil society in line with the provisions of international standards,
- iii) a strategy on designing and running awareness raising campaigns is in place,
- iv) a regional partnership and network to fight against trafficking in human beings is set up. Co-operation among border control agencies, law enforcement bodies and prosecutors is operational.

Possible activities in this area include:

- i) support to the relevant institution to identify gaps and draft relevant legislative amendments in order to improve national legislation regarding prevention and control of the trafficking in human beings,
- ii) analysis of police, prosecution and courts practices in cases of trafficking in human beings,
- iii) review of institutional structures and support to strengthen institutional capacities,
- iv) support to drafting of recommendations that address policy, institutional and legislative issues to ensure the respect of the requirements of the Convention on Action against Trafficking in Human Beings and other relevant EU and international standards.

Activity area 4 – Promote regional co-operation on human rights protection and promotion of democratic values

Sector context:

The Council of Europe has developed co-operation with the countries of the region and established links and networks at regional level involving both civil society and authorities. Existing networks such as the Venice Commission, the North-South Centre, the Pompidou Group and the Schools of Political Studies can serve to promote democratic processes and exchanges and to organise regional events and meetings between neighbouring countries.

Furthermore, support to the role that youth organisations can play in this democratic transition phase could be enhanced by the implementation of national youth policies and training. Since 1998 the EU and the Council of Europe have developed a close partnership in the field of Youth with a focus on the southern Mediterranean and the eastern Neighbourhood. The proposed programme will seek to achieve

¹¹ Council of Europe Treaty Series (CETS) No. 197

complementarity with the on-going and future EU activities into this field including Euromed Youth.

The most relevant expected results in this area are:

- i) the authorities benefit from direct access to the constitutional and legislative expertise of the Venice Commission, and from events allowing for the exchange of experience organised in the countries themselves and in other member states of that Commission,
- ii) the North-South Centre is used as a platform for co-operation for regional activities in the areas of youth and civil society,
- iii) the Pompidou Group provides expertise and advice on human rights standards in the development and implementation of a balanced drug policy covering the multi-disciplinary aspects of prevention, treatment, and research and law enforcement,
- iv) a School of Political Studies is launched in partnership with local NGOs, gathering up to 40 participants, representative of all walks of life and exercising a leadership role,
- v) recommendations on national youth policies are provided by a group of international experts for further development in line with international standards.
- vi) training on human rights education, intercultural dialogue, youth participation and education for democratic citizenship is provided to the leaders and staff of non-governmental youth organisations in line with international standards.

Possible activities in this area can include:

- i) legal opinions by the Venice Commission on the review of the constitutional, legal and institutional framework; support to constitutional and electoral reform in the region through the Venice Commission's network,
- ii) through the North-South Centre, civil society capacity-building through networking with public authorities and with other international NGOs,
- iii) training and capacity-building in the field of drug prevention, drug addiction and substitution treatment; support to the development and implementation of a National drug action plan,
- iv) training of young political leaders through the School of Political Studies; participation in regional activities within the network of Schools,
- v) expert advice on national youth policies; training programmes for youth leaders on human rights education and youth participation and on intercultural dialogue.

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 proposed programme. This is the main risk in southern Mediterranean 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 this proposed programme 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.

Certain activities launched under activity area 4 (for instance setting up a network of Schools of Political Studies) may prove not sustainable once the initial EU financing is phased out.

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 and the rights of the child which will be taken into consideration in the organisation of activities on for example judicial reform and the rule of law, elections, functioning of public administration. The enhancement of reform processes in the southern Mediterranean partner countries will improve the overall governance and capacity-building within these countries. The programme will also have a positive impact on environment as the improvement of the judicial system will also help to enhance the governance of natural resources.

3.5. Stakeholders

The overall beneficiaries of the programme and main stakeholders will be: governmental bodies at all levels, notably ministries of justice, ministries 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; youth and civil society organisations.

4. IMPLEMENTATION ISSUES

4.1. Method of implementation

Joint management through the signature of an agreement with the Council of Europe. Such an agreement will provide for a mechanism through which the European Commission will approve the specific activities proposed and monitor their implementation.

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 53d 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.

Since the Council of Europe does not, yet, have structures in place in the partner countries, the programme's implementation should be closely co-ordinated with the respective EU Delegation.

The change of management mode constitutes a substantial change except where the Commission "re-centralises" or reduces the level of tasks previously delegated to the beneficiary country, international organisation or delegated body under, respectively, decentralised, joint or indirect centralised management.

4.2. 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 international organisation concerned.

4.3. Indicative budget and calendar

The total budget for this programme is EUR 4 million for an indicative duration of 36 months (2012-2014) as from signature of the Contribution Agreement with the Council of Europe.

Indicative breakdown of overall amount is the following, keeping in mind the possibility of financing emerging activities:

Activity area	Amount (in EUR)
1) Independence and functioning of the judiciary	1,000,000
2) Promoting good governance: prevention and combating of corruption, anti-money laundering and counter-terrorism financing (AML/CTF)	900,000
3) Support measures to prevent and combat trafficking in human beings	800,000
4) Promotion of democratic values and institutions	600,000
5) Monitoring, communication / visibility, identification of follow-up action, operating costs	300,000
6) Rapid reaction, contingencies	400,000
Total	4,000,000

4.4. Performance monitoring

The actions will be monitored according to standard procedures. Programme monitoring and evaluation will be based on periodic assessment of progress on

delivery of specified programme results towards achievement of programme objectives.

4.5. Evaluation and audit

An external evaluation might be carried out by independent consultants recruited directly by the Commission in accordance with EU rules and procedures and in line with specifically established terms of reference, in case it is deemed necessary.

The Commission reserves the right to carry out verification missions, in agreement with the contribution agreement it will sign with the Council of Europe.

These evaluations and audits will be funded from other sources than the programme budget.

4.6. Communication and visibility

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

Key results under the programme will be communicated to all governmental, non-governmental and other stakeholders. All reports and publications produced in the framework of the programme shall be widely disseminated. All activities will adhere to the European Union requirements for visibility on EU-funded activities, as described in the “EU Visibility Guidelines”¹². This shall include, but not be limited to, press releases, briefings, reports, seminars, workshops, events, publications, websites and any promotional items.

¹²

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