1. Basic information

1.1 CRIS Number: TR2009/0136.07

1.2 Title: Implementation Capacity of Turkish Police to Prevent Disproportionate Use of Force

1.3 ELARG Statistical code: Political Criteria (36)

1.4 Location: Republic of Turkey

Implementing arrangements:

1.5 Implementing Agency:

The CFCU will be Implementing Agency and will be responsible for all procedural aspects of the tendering process, contracting matters and financial management, including payment of project activities. The director of the CFCU will act as Programme Authorizing Officer (PAO) of the project. The contact details of CFCU Director are given below:

Mr. Muhsin ALTUN (PAO- CFCU Director) Central Finance and Contracting Unit Tel: + 90 312 295 49 00Fax: + 90 312 286 70 72

E-mail: <u>muhsin.altun@cfcu.gov.tr</u> Address: Eskişehir Yolu 4. Km. 2. Cad. (Halkbank Kampüsü) No: 63 C-Blok 06580 Söğütözü/Ankara TÜRKİYE

1.6 Beneficiary (including details of SPO):

Turkish National Police (Departments of Legal Affairs, Training, Security and Public Order)

The Leader of the project will be:

Osman KARAKUŞ Legal Advisor, 1.Degree Turkish National Police Tel: 0090.312 412 11 42 Fax: 0090.312 419 93 30 Bakanlıklar /Ankara

The SPO of the project will be

Metin VAROL Deputy Head of Training Department Phone: +90-312- 412 14 02 Fax: +90-312-425 43 15 E-mail: egitimdb@egm.gov.tr Adress: Necatibey Caddesi No:70 Çankaya/Ankara **The RTA counterpart will be** Kaan BÖKE, PhD. Division Manager Senior Superintendent Training Department Phone: +90-312- 412 14 48 Fax: +90-312-425 43 15 E-mail:kboke@egm.gov.tr

Project Coordinator will be

1- Serdar Kurban DURSUN Division Manager Senior Superintendent Legal Affairs Department Bakanlıklar /Ankara

Financing:

- **1.7 Overall cost (VAT excluded)**¹**:**2.000.000 €
- **1.8 EU contribution:** 1.900.000 €
- **1.9 Final date for contracting:** 2 years after the signature of financing agreement

1.10 Final date for execution of contracts: 2 years following the end date for contracting

1.11 Final date for disbursements: 1 year after the end date for the execution of contracts

2. Overall Objective and Project Purpose

2.1 Overall Objective:

Full compliance of Turkish National Police (TNP) with the European Convention on Human Rights.

2.2 Project Purpose:

Develop and implement use of force practices for TNP in accordance with the European Convention on Human Rights.

2.3 Link with AP/NPAA/EP/SAA:

2008 Accession Partnership

Short-term priorities:

Continue the training of law enforcement agencies on human rights issues and investigation techniques.

Continue implementation of all reforms concerning freedom of association and peaceful assembly in accordance with the ECHR and its related case law. Implement measures to prevent the excessive use of force by security forces.

¹ The total cost of the project should be net of VAT and/or other taxes. Should this not be the case, the amount of VAT and the reasons why it should be considered eligible should be clearly indicated (see Section 7.6)

NPAA 2008

According to the **NPAA 2008** (National Programme for the Adoption of the Acquis) for Turkey, there are four main objectives to be completed to fit the requirements in this field:

- The importance will continue to be attached to, the implementation of the measures adopted in the context of "zero tolerance policy" against torture and ill-treatment, covering all public officers, in line with the European Convention on Human Rights, the provisions of the Turkish Penal Code and the recommendations of the European Committee for the Prevention of Torture and prevention of impunity.
- Improvement of the training system for law enforcement officers will continue. The working conditions of law enforcement officers will be reviewed.
- Attaching importance and priority to preventive measures through using new technologies for preventing human right violations will continue.
- In conformity with the European Convention on Human Rights and related case laws and in line with the implementation of all reforms regarding the freedom of peaceful assembly and demonstration, the capacity of Turkish police institution to intervene in the social events will be strengthened in the context of the implementation of measures regarding the use of proportional force by police.

Regular report priority

"Turkey 2008 Progress Report" prepared by European Commission suggests that:

-It is considered that the arbitrary restrictions and disproportionate use of force is going on in demonstrations, more efforts are required to enable a freedom of public gathering in compliance with the European standards.
- By the amendments in the law on the duty and legal competencies of the police made in 2007, the power of the polis to use force unless facing with a resistance has been cancelled. These amendments have made an impression that the Turkish regulation is integrated with the ECHR standards along with the instructions given to the members of the security forces. Nevertheless, there is a concern that the implementation of this law leads maltreatment during the routine identity controls. In order to prevent the violations in human rights, the implementation of the amended laws should be controlled by the Turkish authorities.

2.4 Link with MIPD (Multi-Annual Indicative Planning Document for Turkey)

In the "Executive Summary" section of the Multi-annual Indicative Planning Document (MIPD) 2008-2010, it is stated that;

"Within the Institution Building component the focus of assistance in the area of the political criteria will be on the institutions that are directly concerned by the reforms: the judiciary and the law enforcement services"

In Section 2 of "Pre-accession assistance strategy for the period 2008-2010" under "2.1 Strategic Choices" titled "Progress towards fully meeting the Copenhagen political criteria":

"Priority will therefore be given to supporting the institutions - within the judiciary, the law enforcement services and key parts of the public administration -that are directly concerned by the reforms."

2.5 Link with National Development Plan

In the "5.6. Increasing the Quality and Effectiveness in Public Services" section of the National Development Plan 2007-2013, under the title of "5.6.6. Making Security Services Effective" is stated that;

"..... Issues such as lack of coordination among security forces, inability to establish sufficient coordination among relevant institutions in intelligence activities carried out to prevent crime and the failure to strengthen and spread the forensic infrastructure that provides important inputs in reaching the suspect from the evidence throughout the country, still remain important."

2.6 Link with national/ sectoral investment plans(where applicable)

60th Government Action Plan suggests: "Efforts to provide the security and relief of the society will be improved, priority will be given to the preventive law enforcement forces, police and gendarmerie will be strengthened in terms of both human sources and technological infrastructure and equipments. In order to realise this, the legal and institutional infrastructure studies will be accelerated about security of the borders and the fight against terror and the financing of terror, organised crime, illegal migration and asylum movements, drug and human trafficking"

3. Description of project

3.1 Background and justification:

The Turkish Government, in the course of progress towards accession to the EU, and in response to obligation of the EU Acquis, is following the National Programme for the Adoption of the Acquis. However the objectives of the process of law approximation is not only to implement the relevant amendments to existing legislation but as importantly, to strengthen those institutions responsible for the enforcement or implementation of existing law and of new procedures and processes.

The Turkish government made extensive constitutional reforms which aim to improve human rights. These reforms must be implemented through adoption of new legislation, apply to different areas but most importantly in the field of human rights and fundamental freedoms.

In this context, necessary amendments on the use of force by Turkish National Police were made with the Law 5681 in 2007. The enacted law was designed based on the philosophy of protecting basic rights and freedoms, considering EU standards, international criteria, contemporary approach and new security concept and those criteria were written in the justification of the Law.

Human rights have become one of the main and shared concerns of international community. This concern developed protection methods at both national and international levels in order to recognize and secure human rights. Hence, human rights have been the core part of both international treaties and constitutions.

There are many international agreements to preserve human rights, but the most effective one is "The European Convention on Human Rights", to which Turkey is party.

"The right to life" of the article 2 and "the right not to be subjected to torture or to inhuman treatment or to punishment" of the article 3 are the fundamental values of democratic societies.

The mentioned rights were secured by the article 17 of the he Constitution of the Republic Of Turkey.

The use of force by police is directly related to the above mentioned rights. A citizen should not be subjected to excessive force.

Despite this legal situation, the police have sometimes been criticized for disproportionate use of force. Particularly when the police in charge individually or on patrol or in a team meet situations requiring use of force or arms, there is no guidance which are valid in whole country, guiding and showing the executives which ways and instruments will be used. For example, how stopping vehicles by using force should be done when necessary is an issue which requires extensive guidance and mandates.

These criticisms create a setting which is not in compliance with the Copenhagen Criteria and the European Convention on Human Rights that Turkey has adopted.

The police must have as their highest priority the respect for and the protection of life. This principle has particular applications for the use of force by police.

While the use of force will be indispensable to proper policing in certain situations, police officers must be committed to the principle that the use of force must be considered as an exceptional measure, which must not be executed arbitrarily, but must be proportionate to the threat, minimizing damage and injury, and used only to the extent required to achieve a legitimate objective.

The project includes both the riot police force which responds the incidents as a collective force and other police which are in charge individually or on patrol or in a team.

The project includes establishing an automatic review procedure to be initiated when a firearm or other means of force has been used by police officers. Also project focuses on establishing communication channels between police and civil society.

Departments of Training, Legal Affairs, Security and the Public Order are the main beneficiaries of the project and all those departments are committed to the project and involved in the project from the very beginning throughout implementation. Besides TNP, civil society also is beneficiaries of this project and will involve in some parts of the project.

Within the scope of the project, it is aimed to both determine and overcome all those deficiencies. It is aimed to revise and improve the directives and procedures of police responding the incidents as a collective force or in charge individually or on patrol or in a team by comparing the directives and procedures of police who have similar duties in the European Union countries.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact (where applicable)

The project is a major step to address and overcome all deficiencies and the project will reduce disproportionate use of force.

Contributing the functioning of the judicial system through supporting full compliance of law enforcement agencies with human rights principles, standards and practices in accordance with the European Convention on Human Rights, will make a catalytic effect on the policecitizen encounters. As a result, in the long run, police -judicial system will function better and faster in Turkey and Europe in broad sense. In addition to that, project is a necessary step toward Turkey's alignment with the EU acquis in the field of political criteria. Standardized training programs through the project will make training activities on use of force sustainable nation-wide. For a nationwide planning, implementation and maintaining the stability of the trainings in force and weapon using, Training Department, which is responsible for in-service trainings, shall undertake an efficient role.

Turkish National Police can exchange its experiences in trainings and exercises in the field of force and weapon using with EU member countries, candidate countries and other countries.

3.3 Results and measurable indicators:

<u>Results</u> expected from this project are the following:

R1 Factors causing disproportionate use of force determined and guiding procedures on implementation established

Measurable indicators of R1;

- A comparative analysis and evaluation of disproportionate use of force between TNP and EU done by 2012
- A preparation of a detailed concept on use of force done by 2012
- An assessment and analysis of Turkish legislation, standards and procedures on use of force by 2012
- An evaluation of EU best practices on use of force by 2011.
- Developing guiding procedures on implementation by 2012.
- Analysis and evaluation results publish in a study by 2012.
- **R.2** Efficiency of the practices in compliance with EU best practices in training improved. Measurable indicators of R2;
 - Model training programs developed by 2012
 - At least 250 staff participated successfully in in-service trainings by 2012
 - Defining the needs, tools and techniques of training model in compliance with the EU Acquis and best practices by 2012

3.4 Activities:

This project will be funded by Turkish National Police with an amount of 100.000 Euro (%5 of Total Budget).

This project has only one Twinning Contract.

R1 Factors causing disproportionate use of force determined and guiding procedures on implementation established

Principally within the scope of the project, determining the factors causing disproportionate use of force will be determined by means of joint working with the EU member states in compliance with EU best practices. Legal regulation on the use of force and the instruments - implementations used in the member states of the European Union will be assessed to ensure a more effective implementation of proportional use of force in compliance with EU best practices.

Component 1.1 (Twinning)

1.1 Comparative analysis and evaluation of use of force in Turkey and EU Member States.

1.2 Identification of additive physical force means in the framework of proportional use of force.

1.3 Identification of the professional development needs on management level in Turkish National Police.

1.4 Assistance and advice in preparation of a detailed concept on use of force for all levels in Turkish National Police.

1.5 Assessment and analysis of Turkish legislation, standards and procedures on use of force.

1.6 Examination of adjudications on use of force in Turkish courts.

1.7 Comparative analysis of the best practices and procedures, structures of the EU Member States on this topic.

1.8 Examination of ECHR decisions on use of force.

1.9 Development of evaluation criteria which constitutes the basics for implementation.

1.10 Development and preparation guide procedures which shall enable standard operations nationwide in regard to proportional use of force.

R.2 Efficiency of the practices in compliance with EU best practices in training improved.

Implementation training practices in regard to use of force will be examined and administrative regulation will be established to ensure permanence of the outcomes. This component is designed to enhance the institutional capacity of TNP and relevant institutions in order to provide a more efficient police work in compliance with EU best practices.

<u>Component 1.2 (Twinning)</u>

1- Assessment and analysis of the EU standards and procedures concerning in-service training of use of force

2- Comparative analysis of the best practices of the EU Member States concerning in-service training of use of force

3- Development of models for training the staff of relevant beneficiaries

- 4- Analysis of pros and cons of all proposed models
- 5- Training of the staff of relevant beneficiaries

6- Study visits, on-the-job trainings and domestic activities will be made for the staff of related beneficiaries working in operational units.

3.5 Conditionality and sequencing:

With respect to sequencing of activities the following will be taken into consideration:

- Needs assessment in terms of number of individuals to be trained;
- Development of a structured implementation plan;

Both of these will be jointly carried out by prospective EU member country and TNP.

3.6 Linked activities

Acquired information on the practices of the EU member states in case of demonstrations, their legal arrangements, their policies and their points of views on demonstrations is one of the crucial areas for Turkey as it is in the process of obtaining accession into the European Union. As the Turkish National Police, it is aimed to determine a common stance and define a model for related units dealing with demonstrations.

The project on "Strengthening the Accountability, Efficiency and Effectiveness of the Turkish National Police (TR 0301.01)" which aimed to develop and implement a corporate plan for the reorganization of the service, training and personnel systems of the Turkish National Police in line with current EU practices. The project also provided training on human rights and interrogation methods and supported the development of a Police Code of Ethics.

TNP organized a seminar on Police Practices in relation to demonstrations (including relevant legislation) in coordination with TAIEX Office on 05-07 September 2005 in Istanbul. (2) experts from UK, (2) experts from Netherland, (2) experts from Germany, (2) experts from France and (80) Chiefs of Riot Police Unit and State Security Units participated that seminar in Turkey.

A similar seminar was organized on June 2007 by TAIEX.

The TAIEX seminar on Use of Force by Law Enforcement Agencies - Rules and Conditions was held on 26 - 27 February 2008 with the participation of Public Prosecutors, Judges, Law Enforcement Agencies, Public Officials and NGOs. The final recommendations and minutes of the seminar was delivered to the Minitry of Interior and Ministry of Justice with official letter dated 5 March 2009.

3.7 Lessons learned

Previous experiences prove that our country, which is in the process of becoming the member of EU, aims at carrying out its responsibilities in line with the EU standards, towards its people who wish to use their democratic rights of holding meetings and demonstrations.

In studies on eliminating the deficiencies from both the legal standpoint and that of police practices, we aim at sharing information with Police Departments in EU countries and developing cooperation with these countries on police practices during social incidents as well as in the other fields.

Outputs and recommendations of TAIEX seminar held in February 2009 as follows;

- Legal Framework

to undertake academic research of Turkish legal situation related to use of force with regard to the compliance with standards set up by the case law of the European Court of Human rights

- Police tactics

to intensify exchange programmes between Turkish law enforcement and Member State police organizations with particular regard to good practices in crowd control

to initiate the elaboration of a national code of conduct for law enforcement personnel, based on a broad process involving officers on the beat

- Training

to address the principles of necessity and proportionality in all training activities concerning use of force and to extend the training programmes on human rights, addressing knowledge, skills and attitude of police trainees

- Working conditions

to review the working conditions of law enforcement personnel in particular with regard to the time to be spent on duty and to the workload

- Review procedures

to establish an automatic review system concerning use of firearms and use of force in case a person was injured, regardless whether there is an allegation of ill-treatment or not. This automatic review system should also allow to gain statistical data about the use of force.

- Disciplinary measures

to undertake academic research on the impact of the disciplinary system within law enforcement with regard to desired performance of law enforcement personnel.

- Trust-building measures

to establish a stable and regular communication between law enforcement and civil society on national, on regional and on local level in order to build trust among the actors, to exchange perceptions and to allow for a common understanding about needs and requests within society and related procedures of police service

In some demonstrations, it is a reality that Turkish National Police has some problems in terms of using force against the demonstrators which may result in personal incidents. With training programs, study visits to EU countries, workshops, seminars, and internships in EU countries; it is aimed to decrease the number of the disproportionate use of force by police.

4. Indicative Budget (amounts in EUR)

								S	OURCES OF FU	NDING			
		TOTAL EXP.RE	TOTAL PUBLIC EXP.RE		PA COMMUNITY CONTRIBUTION NATIONAL PUBLIC CONTRIBUTION			PRIVATI CONTRIBUT					
ACTIVITIE S	IB (1)	INV (1)	EUR (a)=(b)+(e)	EUR (b)=(c)+(d)	EUR (c)	% (2)	Total EUR (d)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/ Local EUR (y)	IFIs EUR (z)	EUR (e)	% (3)
Activity1	Х		<u>2,000,000</u>										
Contract 1. Twinning Contract	_	_	<u>2,000,000</u>		<u>1,900,000</u>	<u>95</u>	<u>100,000</u>	<u>5</u>					_
TOTAL IB		<u>2,000,000</u>		<u>1,900,000</u>	<u>95</u>	<u>100,000</u>	<u>5</u>						
TOTAL INV		7	<u>0</u>										
TOTAL P	TOTAL PROJECT		<u>2,000,000</u>		<u>1,900,000</u>	<u>95</u>	<u>100,000</u>	<u>5</u>					

Amounts net of VAT

(1) In the Activity row use "X" to identify whether IB or INV

(2) Expressed in % of the **Public** Expenditure (column (b))

(3) Expressed in % of the **Total** Expenditure (column (a))

5. Indicative Implementation Schedule (periods broken down per quarter) Duration of the contracts

Contract 1: (Twinning)					24 months
					+ 3 months
					for wrap up
					and closure
Contracts	Start	of	Signature	of	Project
	Tendering		contract		Completion
Twinning Contract 1.1	1Q/2010		4Q/2010		4Q/2012

All projects should in principle be ready for tendering in the 1^{ST} Quarter following the signature of the FA

6. Cross cutting issues (where applicable)

6.1 Equal Opportunity

The proposed Programme will comply with EU equal opportunity policies. Equal treatment of men and women in project implementation at all levels will be one of the most important principles in project management and implementation. Great attention will be given on having equal participation within the personnel that will be trained as well. The beneficiaries are employers of equal opportunity. Appropriate professional qualifications and experience will be the main decisive factors in personnel recruitment and evaluation. Both women and men have identical prospects.

6.2 Environment

This project will have no negative impact on the environment.

6.3 Minorities

According to the Turkish Constitutional System, the word "minority" encompasses only groups of persons defined and recognized as such on the basis of multilateral or bilateral instruments to which Turkey is a party. This project has no negative impact on minorities and vulnerable groups.

6.4. Civil Society

Civil Society is the beneficiaries of this project and will be involved in some parts of the project.

ANNEX 1 – LOGICAL FRAMEWORK

LOGFRAME PLANNING MATRIX FOR		Contracting period expires	Disbursement period expires
Implementation Capacity of Turkish Police to	Prevent Disproportionate Use of Force	2 years after the FA	1 year after the end date for the execution of contracts
		Programme name and number	Support to Implementation Capacity of Turkish Police for Preventing Disproportionate Use of Force - Ref No:
		Total budget :	EC Assistance budget :
		€ 2,000,000	€ 1,900,000
Overall objective	Objectively verifiable indicators	Sources of Verification	
Full compliance of Turkish National Police (TNP) with the European Convention on Human Rights.	Decreasing number of the complaining on disproportionate use of force on ECHR statistics.	 Progress Reports in 2009 and onwards Statistics of ECHR 	

Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
Develop and implement use of force practices for Turkish National Police (TNP) in accordance with the European Convention on Human Rights.		Court, Administrative Court and European court of Human Rights	commitment towards Turkey's

Results	Objectively verifiable indicators	Sources of Verification	Assumptions
 Factors causing disproportionate use of force determined and guiding procedures on implementation established 	1 5	 and procedures in place 1.4 Assessment and analysis of the EU standards and procedures concerning use of force 1.5. Guiding procedures in place 1.6. Training programs become part of 	Availability of experienced advisors and consultants Availability of suitable, appropriately qualified RTA and STEs Know how on existing Turkish environment and legislation and organizational arrangements Development of suitable workshops and seminars

Results	Objectively verifiable indicators	Sources of Verification	Assumptions
2. Efficiency of the practices in compliance with EU best practices in training improved.	successfully in in-service trainings by 201	 2.2 Assessment and analysis of the EU standards and procedures concerning training 2.2 Comparative analysis of the best practices of the EU Member States 	Availability of experienced advisors and consultants Availability of suitable, appropriately qualified RTA and STEs Know how on existing Turkish environment and legislation and organizational arrangements Development of suitable workshops and seminars

Result 1 Twinning -Availability of suitable, appropriately qualified RTA and STEs use of force in Turkey and EU Member States. STEs -Know how on existing Turkish environment and legislation and organizational arrangements Identification of additive physical force Stott term training Internship arrangements -Development of suitable workshops and seminars Identification of the professional development needs on management level in Turkish National Police. Assistance and advice in preparation of a detailed concept on use of force for all levels in Turkish National Police. Workshops • Assistance and analysis of Turkish legislation, standards and procedures on use of force. Turkish expressional and procedures on use of force for all pevels in Turkish courts. -Development of adjudications on use of force for all pevels in Turkish courts. • Comparative analysis of the best practices and procedures on this topic. Examination of ECHR decisions on use of -	Activities	Means	Assumptions
 arrangements arrangements Internship arrangements Conferences & seminars Conferences & seminars Workshops Assistance and advice in preparation of a detailed concept on use of force for all levels in Turkish National Police. Assessment and analysis of Turkish legislation, standards and procedures on use of force. Examination of adjudications on use of force for all procedures on use of force in Turkish courts. Comparative analysis of the best practices and procedures, structures of the EU Member States on this topic. 	• Comparative analysis and evaluation of use of force in Turkey and EU Member States.	 RTA STEs Short term training 	-Availability of suitable, appropriately qualified RTA and STEs -Know how on existing Turkish environment and
force.Development of evaluation criteria which	 means in the framework of proportional use of force. Identification of the professional development needs on management level in Turkish National Police. Assistance and advice in preparation of a detailed concept on use of force for all levels in Turkish National Police. Assessment and analysis of Turkish legislation, standards and procedures on use of force. Examination of adjudications on use of force in Turkish courts. Comparative analysis of the best practices and procedures, structures of the EU Member States on this topic. Examination of ECHR decisions on use of force. 	Internship arrangementsConferences & seminars	arrangements -Development of suitable

Activities	Means	Assumptions
 constitutes the basics for implementation. Development and preparation guide procedures which shall enable standard operations nationwide in regard to proportional use of force. 		
 Result 2 Assessment and analysis of the EU standards and procedures concerning in service training of use of force Comparative analysis of the best practice of the EU Member States concerning in service training of use of force Development of models for training th staff of relevant beneficiaries Analysis of pros and cons of all propose models Training of the staff of relevant beneficiaries Study visits, on-the-job trainings an domestic activities will be made for the force of the staff of the st	 STEs Short term training Study visits Internship arrangements Conferences & seminars Workshops 	-Availability of suitable, appropriately qualified RTA and STEs -Know how on existing Turkish environment and legislation and organizational arrangements -Development of suitable workshops and seminars -Co-operation of all government agencies involved in border, surveillance and control activity

Activities	Means	Assumptions
staff of related beneficiaries working i		
operational units.		