

TWINNING MANUAL 2017 UPDATE 2018

Frequently Asked Questions

1. Twinning Fiche, Call for proposals, Submission and Selection

Can the proposed work plan be changed?

The MS proposal is one of the annexes to the contract together with the Twinning fiche (Annex A1: Description of the action). The proposal is expected to be elaborated enough to respond to the Twinning Fiche focusing on the MS administrative model, on the strategy and methodology, the quality of the expertise available and an indicative sequencing of activities but it is not expected to contain a fully elaborated project work plan (see section 2.2 of the Manual). The initial proposed budget will be likewise indicative and at the level of the budget headings. To be noted that the overall amount proposed cannot be increased after the submission of the proposal. The **initial rolling work** plan and its corresponding budget will be further developed upon the arrival of the RTA to the Partner Country. The initial rolling work plan (based on the outline of the work plan contained in the proposal) will be as well the basis for the development of the **successive rolling work plans and updated budgets**, with the progressive addition of the details of further and/or closed activities. As a consequence, the Twinning work plan is a living document and is regularly updated to take stock of progress made, foreseen or unforeseen developments, etc., always with the aim of achieving the mandatory results. The initial rolling work plan and the subsequent rolling work plans are formally approved as part of the meetings of the Project Steering Committee (Section 5.2.4 of the Twinning Manual).

How can Member States better address the needs of the Partner Country in their proposals?

The Twinning Manual foresees a possibility to organise a Fact Finding Mission, as defined in Annex C16 “Guidelines for Fact Finding Missions”. Normally, those can be organised when the call for proposals is open with the invitation extended to all Member States (MSs). All MSs can submit additional questions in writing ahead of the mission, while the final mission report is also shared with all. Once the call for proposals has been launched, the interested EU Member States are invited to respond by proposing the logic of intervention that in their view best address the achievement of mandatory results and corresponding components in the fiche. The definition of the specific activities and its benchmarks will be addressed between the Twinning partners when preparing the work plan and its subsequent updates (*rolling work plan*).

How does the Contracting Authority assess the proposals?

According to the Manual (8.3.2 Selection procedure), the selection of the MS(s) is conducted based on **written proposals and selection interviews, both being equally important**. Following the receipt and administrative check of the proposals (Section 2.4.2.1) and their preliminary evaluation (Section 2.4.2.2), the Contracting Authority convenes and chairs the selection meeting. It invites the Beneficiary PL, including any official of the Beneficiary administration who can contribute to a comprehensive technical evaluation and the EUD (when the EUD is not the Contracting Authority and if appropriate). The Contracting Authority prepares

the same questions for all candidates and records/compiles the “Evaluation Grid Twinning Selections (Annex C7)” to assess the received proposals and ultimately award the contract.

What is the timeline to start the implementation of a Twinning project?

From the moment of the launch of the call for proposals, it indicatively takes up to 6 months for the project to start. The call is open for 2 months. The selection meeting shall take place at the latest two weeks after the deadline for submission of proposals. The notification of results should not exceed 4 weeks. The start of implementation (arrival of the RTA) should not be later than three months after the notification of the selection.

2. Twinning Grant Contract

How to prepare the contract and what are its essential elements?

The Manual (Section 3: The Twinning Grant Contract) describes the structure of a standard Twinning Grant Contract.

Firstly, the Contracting Authority (CA) requests the following documents from the selected Lead MS:

- Legal Entity Form and Financial Identification Form
- Justification of the RTA salary with detailed breakdown
- Quotations for the travel routes foreseen for the RTA, the PL and STEs

Once the documents have been collected, the CA checks the budget and the unit costs are established. The budget (Annex A3) is finalised by the Lead MS with the amounts set per heading and subheading. The methodology used for establishing unit cost shall be attached as an annex.

Before signature, the CA checks the first draft of the Special Conditions as submitted by the successful Lead MS. The Twinning Fiche and the MS proposal are compiled in Annex A1 (Description of the Action). The Lead MS submits also Annex A8 (Mandate of consortium), if applicable, and Annex A9 (CVs of PLs and RTA together with the declaration of exclusivity and availability of the RTA). At this stage, the MS(s) will also declare if they will use a different public administration or mandated body for logistics and financial management functions (this information shall be consistent with the information provided in the proposal).

Once the CA has checked all the annexes, the Lead MS signs first and sends three copies (or four in the case of indirect management) for signature:

- Special Conditions are signed by the CA, Lead MS and EU Delegation (if different from CA) and all pages are initialled;
- Annex A1 must have all pages initialled by both Lead MS and Partner Country Project Leader;
- Annex A2 does not require signature but it is recommended the CA initials all pages;
- Annex A3 must have all pages initialled by both Lead MS and Partner Country Project Leader;
- Annex A4, A5, A6 and A7 do not require signature but it is recommended the CA initials all pages;
- Annex A8 must be signed by Lead MS and Junior MS, if applicable;

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- Annex A9 does not require signature but it is recommended the CA initials all pages, while the Declaration of Exclusivity and Availability must be signed by the RTA.

The CA is the last to sign. Following that, the CA sends the notification of the signature of the contract, which marks the start of the execution period. The arrival of the RTA is the start of the implementation.

Please note that the CA may require additional documents than indicated above or the instructions for the signature of the contract may differ depending on the Partner Country and its CA itself.

1. Main Actors

Do all experts have to come from the public administration or mandated body?

As a rule, MS experts (RTA, Component Leaders and other STEs) and Project Leaders have to be permanent public administration or assimilated agents to offer practical expertise to their peers in the beneficiary administration. In order to preserve this distinctive quality of Twinning, it is therefore essential that the proposed experts are practitioners from Member States public sector bodies.

Can the experts come from Member States, which are not members of the consortium?

According to the Manual (5.4.3 Exceptional contributions by other Member States), the Member State PL can, in agreement with the Beneficiary PL, delegate the execution of some specific activities to another Member State. If a public administration or mandated body from any Member State simply provides experts for such specific participation in a Twinning project (for example by hosting Beneficiary trainees, running a workshop or an expert mission, providing a specialised training, etc.) it is not required to sign a consortium agreement. In this case, the experts concerned contribute to the Twinning project under the authority and the responsibility of the Member State PL, who must ensure their availability and define the details of their involvement.

Main experts (MS PL, RTA and Component Leaders), all engaged at the stage of the preparation of the proposal, shall represent the administration of the selected Lead MS and, in case of consortium, Junior MS(s). Only during the preparation of the initial rolling work plan or subsequent work plans may arise the need of specific expertise (STEs) available only from other MS(s). That necessary expertise may be foreseen and incorporated in the work plan in agreement with the Beneficiary PL. The participation of such STEs shall not exceed the 5% of the costs under the budget heading III “Mandatory Results” (Section 4.1.7 of the Twinning Manual).

Who can be the RTA?

Only countries formally engaged in a specific Twinning can propose the RTA. The specific and crucial contribution of the RTA to Twinning project ensures that the link between the RTA and the MS implementing the project is solid (4.1.6 The Resident Twinning Adviser).

Can the RTA join study visits?

In line with the provisions of the Manual (4.1.6 The Resident Twinning Adviser), the RTA is expected to advise the beneficiary administration and manage the project's daily activities in their place of duty. The Manual does not foresee the possibility for the RTA to join study visits.

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How is the monthly travel allowance paid?

The monthly travel allowance is paid as a unit cost to the RTA who decided against using the removal cost allowance at the time of the deployment. It is necessary that a triggering factor takes place, e.g. proof that the actual travel took place.

How is the salary of the RTA paid?

Twinning compensates the Member State administration for their absence.

According to the Twinning Manual, “The institution dispatching the RTA shall receive a reimbursement equalling the remuneration of the RTA on the basis of an analytical accounting statement of the last closed accounting year taking full account of all statutory rights according to the civil service legislation of the given Member State (among other things salary, incentives, statutory bonus schemes, and predictable salary changes). The monthly rate will be calculated on the basis of the estimated costs for the months of assignment, divided by the number of months of assignment. Similarly, the institution dispatching the RTA shall receive a reimbursement equalling the non-wage labour costs incurred for the RTA, including compulsory social security contributions such as those related to health, pension, unemployment), based on an analytical accounting statement of the last closed accounting year. The non-wage labour costs should take full account of statutory rights according to the civil service legislation of the given Member State in particular rights of civil servants' working abroad, family allowances and insurances” (Twinning Manual, ANNEX A7: Financial Annex, 3.2. The Resident Twinning Adviser (RTA) related costs).

How to recruit the RTA Assistant?

In line with the Manual (4.1.6.10 Assistant(s) of the RTA), a minimum of three candidates must be interviewed before selecting a RTA assistant with the support of the Contracting Authority and of the EUD (when the EUD is not the Contracting Authority). They shall not have been in any contractual relation with the Beneficiary country public administration during at least the 6 months preceding their hiring. The RTA and the Member State PL have the decisive say in the choice of the assistant(s), in dialogue with the Contracting Authority which are also well placed to advise regarding the local market remuneration levels for establishing the unit cost for the RTA assistants. The EUD shall always be informed of the selected RTA.

Can RTA Assistant and/or Language Assistant join study visits?

The RTA Assistant and the Language Assistant are hired by the project via service contracts. Hence, the possibility must be included in their respective contracts. It is up to the relevant EU Member State and Contracting Authority to foresee such a possibility.

What documents to submit to claim the expenses for an STE mission?

Each MS administration may set up specific rules for the STEs to claim the compensation. The Twinning Manual proposes Annex C10 as the standard document to use.

What are the criteria to register as a full and ad hoc mandated body?

The Twinning Manual lists the criteria in section 4.1.4.2 Body or other semi-public entity:

- are entrusted with the delivery of public service(s) by law or government act, also laid down as a main purpose in their mandate/statute;

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- are under permanent structural supervision of a public authority exercising a predominant role with regards to the management/decision making and the operation of the body/entity;
- are subject to the financial control by a public authority or by an entity appointed by a public authority;
- are subject to audit by a public authority or by an entity appointed by a public authority.

It is always the NCP that submits to the Twinning Coordination Team the self-declaration of the Annex C17 template filled in by the entities requesting to be registered as mandated bodies.

Can public universities and/or research institutes register as mandated bodies?

The Manual explicitly indicates that public universities and/or research institutes can participate in Twinning for specific projects and specific sectors. In other words, those public institutions have to apply as **ad hoc mandated bodies** before the deadline for proposals for the specific project via their respective NCP.

Is it necessary to receive the confirmation of the registration as a mandated body?

Yes, the NCP must receive the email confirming the registration in the corresponding list of mandated bodies from the Twinning Coordination Team (subsection 4.1.4.3).

2. Project Design and Management

How to process the rolling work plan?

The **initial rolling work** plan will be defined upon the arrival of the RTA to the Partner Country. The corresponding detailed budget will be defined at this stage too. This initial rolling work plan (based on the outline of the work plan contained in the proposal) will be as well the basis for the development of the **successive rolling work plans and updated budgets**, with the progressive addition of the details of further and/or closed activities.

In summary the evolution of the work plans and budgets are as follows:

Initial rolling work plan: 1-2-3-4-5- 6 months

2nd rolling work plan: 4-5-6-7-8-9 months

3rd rolling work plan: 7-8- 9-10-11-12 months

X rolling work plan

The Twinning work plan is a living document, it is regularly updated to take stock of progress made, foreseen or unforeseen developments, availability of Member State and Beneficiary experts, etc., always in the prospect of the achievement of the mandatory results/outputs. The initial and the subsequent updates of the work plans are formalised as part of the quarterly meetings of the Project Steering Committee (see section 5.2.4 The Project Steering Committee of the Twinning Manual).

Is there an allowance for taking up duty?

The compensation for salary and non-wage labour costs, and the method for calculation of the RTA, is defined in Annexes B and A7. The applicable provisions on subsistence allowance; travel at the beginning and at the end of the assignment; RTA moving to the Beneficiary country with and without family members; removal of household effects; and the schooling fees all can be found in Section 6.2.5 The Resident Twinning Adviser (RTA) of the Twinning Manual.

Can the project continue if the RTA is temporarily absent?

Yes, the Member State might for a maximum period of two months second the Member State PL to temporary replace the RTA if justified and in exceptional circumstances (4.1.6.8 Replacement of the RTA). In addition, the Beneficiary administration shall be informed in advance about any leave of absence of the RTA (previously agreed by the Member State PL) and as soon as possible about a sick leave and its expected duration. Nonetheless, it is recommended to assess the situation on a case-by-case basis and propose a replacement if the absence is likely to be longer.

Can the Project Leader delegate the signature of project documents to the RTA?

The MS Project Leader can delegate to the RTA the power of signature, which may apply to Side Letters, mission certificates and time sheets. Nonetheless, the project reports and addenda to the contract must be approved and signed by the two Project Leaders.

How to select translators and/ or interpreters?

According to the Twinning Manual (6.2.8 Translation and interpretation), if the translation and interpretation services necessary for the implementation of activities cannot be provided by the Beneficiary administration with own resources, their cost can be covered by the project's budget as private sector input and foreseen under the relevant budget heading and sub-heading per activity. Such interpretation and translation costs shall be budgeted based on an invoice evidencing the real costs and based on a procurement procedure including the receipt of three offers. If the volume of translation and/or interpretation requested through a Twinning project is expected to be considerable, it may be envisaged to recruit a full-time or part-time language assistant. The provisions for the recruitment of the RTA assistant (see section 6.2.13) also apply for the recruitment of the language assistant.

Can goods be purchased under Twinning projects?

Twinning projects do not include the purchase of equipment. The Beneficiary is solely and entirely responsible for providing all necessary office equipment to ensure effective working conditions for the project and, in particular, for the RTA and the RTA assistant(s). In exceptional and duly justified cases, small items of essential supplies (e.g. small laboratory testing consumables or facilities, etc.) can be eligible for reimbursement, within the global ceiling of EUR 5 000 foreseen for the purchase of goods (see section 6.2.1). Goods purchased with project funds become the property of the Beneficiary at the end of the project provided a handover certificate is signed by both PLs and the item/s is/are registered in the asset register of the Beneficiary (Twinning Manual, 6.2.10 Equipment and office supplies).

How to design a visibility and communication plan?

It is good practice to discuss communication and visibility with the Contracting Authority and the EUD at the outset of the project to make sure that all activities comply with the requirements in force at the time of signing the contract. The Twinning Manual includes the Communication and Visibility Template in Annex C19 for the implementing partners to follow. They should however always refer to the Contracting Authorities to check for updates/changes and/ or any local templates to follow.

What is eligible under indirect costs and Twinning project support costs?

Annex A7 - Financial Annex - to the Twinning contract lists what is eligible under indirect costs and Twinning projects support costs in Section 3.10 Twinning Project Support Costs.

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Is it necessary to keep evidence of the costs incurred?

Yes, such records must be kept by the Beneficiary and the Member State for a five-year period after the last payment made under the Twinning Grant Contract (Twinning Manual, Section 7: Financial management and control, 7.2 Documentation in support of requests for payment).

Are banking fees eligible?

The banking fees are deemed to be compensated by the Indirect Costs in line with Annex A.7 of the Twinning contract point 3.11: “Other costs such as training provided to officials, office space and equipment, human resources management, general management and administrative costs of the Member state grantee linked, among other things, to accounting or book-keeping or invoicing”.

3. Twinning Project Budget

How to determine travel costs?

According to the Twinning Manual (6.2.4 Travel), “Travel costs of Member State officials or assimilated agents from the place of employment in the Member State to the place of assignment in the Beneficiary country are reimbursed to the Member State in the form of a unit cost per return trip as per Annex B and Annex A7. When the unit cost is established based on this methodology, the Member State will not have to document the cost incurred however an activity/event triggering the unit cost will have to take place to trigger the compensation”.

As one example, the unit cost for travel between Paris and Chisinau is set at 350 EUR. This is based on three quotations from travel agencies or from the competitively selected travel agency used by the Member State in question (see section Annex A7 section 3). Each time experts travels between Paris and Chisinau, the project pays 350 EUR, regardless of the actual price of the ticket. The cost (350 EUR) is reimbursed as long as the triggering event, e.g. the purchase of the ticket, can be proven.

Nevertheless, the Manual enables the use of the real cost option for cases where it is not possible to establish unit cost. In that case, “the Twinning project reimburses the actual incurred cost of an economy class air ticket (including basic luggage allowance), based on documentary evidence (invoices), and based on the cheapest of three offers provided by a travel agency” (6.2.4 Travel).

For additional information on unit costs and flat rates, including the method to determine unit costs, please refer to Annex B: Unit costs and flat rates.

Can RTA and STEs take part in local missions (including overnights outside place of posting)?

In principle, as set out in the Twinning Manual (4.1.6 The Resident Twinning Adviser (RTA); 4.1.6.3 Overall duties), the RTA is expected to provide advice to and technically assist the representatives of the Beneficiary administration in his/ her place of assignment.

It is for the Short-Term Experts to deliver the bulk of the assistance where they are most appropriate, be it in the headquarters of the beneficiary administration or in decentralised offices, through specific activities, including workshops, seminars, training sessions, meetings with officials of the Beneficiary administration, joint drafting sessions, etc. (4.1.7 Short-term experts). Short Term Experts are allowed to have local missions to deliver their activities.

Are local travel (for the use of transport means outside the place of posting without overnights outside the place of posting) costs eligible?

According to the Twinning Manual (6.2.4 Travel), travel costs can be reimbursed on the basis of real costs based on invoices/ticket or receipt if over 25 km from the RTA's place of assignment for travel within the Beneficiary country of Member State officials or assimilated agents, including the RTA, in the framework of the implementation of the project, which must be identified and budgeted separately. Whenever appropriate and possible, the use of public transport is mandatory (3.2.2 Allowances).

What is the definition of a half working day?

The definition of half a working day equals half of the time of what is defined as a working day in the Beneficiary country. As an example, half working day can occur if an expert spends half a day travelling and other half working. According to the Manual, fees can be paid for travel days when work is performed in the Beneficiary country - full or half working days only will be taken into account. However, fees are never paid when travel takes place during weekend. This must be considered when calculating the costs for short term inputs and budgeting the appropriate working days (3.3 Costs for short-term experts working in the Beneficiary country).

Are public holidays in the Beneficiary country working days for experts? In principle public holidays in the Beneficiary country should not be used as working days. According to the Manual (3.2.5. Leave Entitlement), RTAs are entitled to leave on public holidays of the country, which will be the same as those allowed for counterpart Beneficiary officials in the administration within which they work. Exceptions may be possible if duly justified and agreed with the Contracting Authority.

Is travel time equal to working time?

No, travel time does not equal working time. Fees can be paid for travel days when work is performed in the Beneficiary country either full or half working day depending on the number of hours finally worked in the Beneficiary that day. However, fees are never paid when travel takes place during weekend. This must be considered when calculating the costs for short-term inputs and budgeting the appropriate working days (3.3 Costs for short-term experts working in the Beneficiary country).

Is the cost of travel insurance eligible?

Normally, the cost of travel insurance is covered from the reimbursement to the institution dispatching the experts (3.2.1 Unit cost for compensation for remuneration and non-wage costs). While it can be expected that the experts' salary and/or fees cover expenses that continue to be borne in the place of origin, the MS can pay the experts a daily subsistence allowance to meet the extra costs of living or travelling on a mission to the Beneficiary country, such as lodging, extra security and additional health insurance (3.2.2 Allowances, Unit cost for compensating daily subsistence expenditure).

Can the reserve be lower than the 2,5% of the total budget as foreseen by the Manual?

The Manual stipulates that the reserve cannot exceed 2,5 % of the total budget. It is recommended to have the adequate reserve in case of unforeseen needs. Should the reserve be used for the implementation of the project, the funds used are re-allocated to the relevant budget heading.

Can the costs of interpretation and translation be paid as lump sums?

No, the reimbursement of the costs of interpretation and translation is based on real costs as evidenced by the paid invoice.

What can be financed under communication and visibility?

It is recommended to discuss this matter with the Contracting Authority, as some of the materials may be readily available e.g. press release templates. In principle, all the events (e.g. opening event, other specific events in the course of implementation, closing event), purchase of relevant promotional materials (e.g. roll-up banners, posters, project video, leaflets, brochures, document folders, writing pads, pens, business cards, project gadgets with the project logo), design, translation and printing of relevant documents (e.g. press releases, invitations, agendas etc.).

Costs for implementation of the Communication and Visibility plan will be reimbursed based on real costs as evidenced by a paid invoice and the absolute maximum for the communication and visibility activities is set at 3% of the budget. For purchases, see Annex A4.

When is a side letter necessary?

The side letter is necessary for all the other changes than the following, where an addendum is required (Annex A7, section 2.A):

- The relevant field of cooperation with the EU and the Union acquis related to the project;
- Change of the Member State administration involved in the Twinning project as mentioned in Article 5 of the Twinning Grant Contract;
- The execution period of the contract and the implementation period of the Action. (Article 2 of the Twinning Grant Contract);
- Mandatory results/outputs and targets to be achieved;
- Identity of the Member State and Beneficiary PLs, and of the RTA;
- Reallocations beyond 25% of the budget headings under the Twinning Grant Contract (Annex A3).

In case of doubts, it is recommended to consult the Contracting Authority. The template for side letters can be found in Annex C13.

4. Financial Management and Control

Are there any guidelines for conducting audit of Twinning projects?

For Twinning projects, like for any other projected financed by the EU, the first level of control consists in the supervision and checks of all operation and financial transactions based on the financial circuits of the Contracting Authority on the basis of comprehensive and detailed checklists. The final request for payment has to be accompanied by expenditure verification report issued by an external auditor in line with the Manual (Section 5.5.4). Furthermore, the EU Delegations carry out a robust project-level risk assessment at the beginning of each year, which is the basis of their audit plan. The objective is to have an additional layer of control to activate in cases of specific risks. These are financial, systems, and combined financial and systems audits (fully fledged audits with audit opinions).

The Twinning Manual provides guidelines on audit in Section 7: Financial Management and Control, article 7.3 Audit. As the inspections may take place up to five years after the payment of the balance, it is important to keep all the documentation for five years (7.2 Documentation in support of requests for payment). The procedures shall respect the provisions of Article 16 – Accounts and technical and financial checks (Special Conditions, Annex A2: General Conditions applicable to European Union-financed grant contracts for external actions of the Twinning Grant Contract).

5. Specific Procedures for Twinning Light

Is communication and visibility plan mandatory for Twinning Light (TWL) ?

Yes, the communication and visibility plan is mandatory also for TWL. A TWL is a format for the delivery of assistance that, although on a smaller scale, follows the same fundamental principle of standard Twinning (8.1 Definition of Twinning Light). At the same time, the funds for communication and visibility need to be assigned.

Can local support staff be hired for the duration of the project?

Local Support staff is not foreseen in Twinning projects.

6. Other

What is the data protection regime applicable to Twinning projects?

The Data Protection regime applied by the European Union Institutions and bodies is governed by the Internal Data Protection Regulation (Regulation (EU) 2018/1725). With regard to Twinning projects, processing of personal data of the EU MS experts encompasses two steps: (1) preliminary and preparatory activities that involves, *inter alia*, training activities and (2) selection/award and grant implementation. Processing of personal data corresponding to each of the two steps of the Twinning procedures are covered by two separate records¹, which explain in detail the processing of personal data while information to data subjects is provided in the related Privacy Statements.

Where the Commission implements actions in direct management, contracts are awarded and managed directly by its departments either at headquarters or in EU Delegations. The relevant EU service then becomes the contracting authority in charge of procedures and of signing and managing the contracts. In those instances, the Commission acts as the data controller and carries out personal data processing operations necessary for the implementation of the actions. The transfer of information to third countries follows the safeguards foreseen by IDPR. Articles 1.3 and 1.4 of the General Conditions to the Twinning contract specify the data protection requirements.

In indirect management, the Commission delegates the implementation of an action including the award and management of contracts to a third country or to the bodies it has designated. When third countries (beneficiaries or partner countries) are entrusted with budget implementation, they shall respect the principles of sound financial management, transparency and non-discrimination and guarantee the protection of the financial interests of the Union. Requirements that follow directly from the EU's legislative framework, such as data protection rules, are not applicable to them; however, they have to be taken into account for the implementation of EU-funded actions. The Financial Regulation stipulates that third countries entrusted with budget implementation have to ensure “a level of protection of personal data equivalent to that of Article 5 of the Financial Regulation”. In this respect, the contractual obligations in the financing agreements have been reinforced with the requirements set by Article 4 of IDPR (see Annex I – Financing

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agreement). Furthermore, article 7.3.1 of the Special Conditions of the Twinning contracts signed after September 2019 adapts the articles 1.3 and 1.4 of the General Conditions from Direct to Indirect Management.

Given that the transfer of personal data takes place in the context of preliminary activities and processing of contracts with partner or beneficiary countries, the associated risk appears rather limited. On the one hand, the data subjects voluntarily provide the personal data required being fully aware that processing will take place for the evaluation of their application and for the conclusion of a contract (which is equivalent to consent). On the other hand, the degree of risk is not significant as personal data are treated solely in the framework of the preparatory and grant award procedures, which are covered by the relevant provisions of the financing agreement with the partner or beneficiary countries. Indeed, the financing agreement with the partner or beneficiary countries lays down the terms and conditions on which the financial assistance will be made available and establishes for the Commission and the partner and beneficiary countries mutual rights and obligations, among which, requirements on data protection. The partner or beneficiary countries are bound by clauses on the protection of personal data and by an obligation of confidentiality pursuant to Articles 1(7) and 22 of the financing agreement general conditions.

In line with the provisions of the IDPR, the lawfulness of processing of personal data in the context of external action with partner or beneficiary countries stems from Article 5.1, in particular:

- 5.1(a) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body
- 5.1(b) Processing is necessary for compliance with a legal obligation to which the controller is subject
- 5.1(c) Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract

The legal basis for transferring personal data to third countries falls under the provisions of Article 50 of IDPR – “Derogations for specific situations”, namely the case of:

- Article 50(1) (d) “important reason of public interest” and
- Article 50(1) (b) “for the conclusion or performance of a contract concluded in the interest of the data subject”

More specifically, the conclusion of contracts in the implementation of development assistance corresponds to a policy interest of the Union recognised in the Treaties (Part 5 Title III TFEU). The European Data Protection Board guidelines on derogations also indicate that this derogation applies when such data transfers are allowed for important public interest purposes including “in the spirit of reciprocity for international cooperation”. According to the European Data Protection Supervisor, the existence of an international agreement or convention, which recognises a certain objective and provides for international cooperation to foster that objective, can be an indicator when assessing the existence of a public interest.