



Brussels, 4.12.2014
C(2014) 9130 final

COMMISSION IMPLEMENTING DECISION

of 4.12.2014

**amending Implementing Decision C(2012) 5518 on the Annual Action Programme 2012
in favour of the Republic of Moldova to be financed from the general budget of the
European Union**

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THE EUROPEAN COMMISSION,

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

Having regard to the Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action¹, and in particular Article 2(1) thereof,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002², and in particular Article 84(2) thereof,

Whereas:

- (1) The Commission adopted Decision C(2012)5518 on the Annual Action Programme 2012 in favour of the Republic of Moldova, comprising four actions: “Support to justice sector reforms”; “Framework Programme in support of the current and new agreements between the European Union and the Republic of Moldova”; “Support to the vocational education and training sector”; “Pilot regional development programmes”.
- (2) The action “Framework Programme in support of the current and new agreements between the European Union and the Republic of Moldova” includes a component aimed to foster participation of the Republic of Moldova in Union programmes, and in particular in the “Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)” (hereinafter referred to as ‘FP7’).
- (3) In the action “Framework Programme in support of the current and new agreements between the European Union and the Republic of Moldova”, support is envisaged in the form of partial reimbursement of the financial contribution paid by the Republic of Moldova for its association to Union programmes as from the date of its accession to those programmes and for up to two consecutive years. The reimbursement takes the form of either an ad hoc grant contract or of specific provisions inserted in the Financing Agreement.
- (4) On 11 October 2011, the Republic of Moldova signed a Memorandum of Understanding related to its participation in the FP7³. According to the terms of the

¹ OJ L 77, 15.3.2014, p. 95.

² OJ L 298, 26.10.2012, p. 1.

³ A Memorandum of Understanding was signed on 11 October 2011 between the European Union and the Republic of Moldova on the association of the Republic of Moldova to the “Seventh Framework

Memorandum of Understanding, the Republic of Moldova is associated to FP7 as from 1 January 2012 and is required to pay its financial contribution as from that date. It is therefore appropriate to recognise that the costs incurred by the Republic of Moldova for participating in FP7 are eligible as of 1 January 2012 (within the percentage limits defined in the action).

- (5) The financial contribution paid by the Republic of Moldova for participating in FP7 over 2012 and 2013 amounts to EUR 1 371 189.20. Out of this sum, up to 50% should be reimbursed to the Republic of Moldova in the form of a lump sum payment. Appropriate provisions to that effect should be introduced in the Financing Agreement.
- (6) Decision C(2012) 5518 should therefore be amended accordingly.
- (7) This Decision complies with the conditions laid down in Article 94 of Commission Delegated Regulation (EU) No 1268/2012⁴.
- (8) This Decision is in accordance with the opinion of the European Neighbourhood Instrument Committee set up by Article 15 of Regulation (EU) No 232/2014 of the European Parliament and of the Council⁵,

Programme of the European Community for research, technological development and demonstration activities (2007-2013)”. The Memorandum of Understanding applied from 1 January 2012 until the termination of the Seventh EC Framework Programme (article 7).

⁴ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

⁵ Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 247, 9.9.2006, p. 32).

HAS DECIDED AS FOLLOWS:

Article 1

Action fiche “Framework Programme in support of the current and new agreements between the European Union and the Republic of Moldova” that constitutes Annex 2 to Decision C(2012) 5518 is replaced by the text set out in the Annex to this Decision.

Done at Brussels, 4.12.2014

For the Commission
Johannes HAHN
Member of the Commission



ANNEX

to the Commission Implementing Decision amending Commission Implementing Decision C(2012) 5518 on the Annual Action Programme 2012 in favour of the Republic of Moldova to be financed from the general budget of the European Union

Annex

“Annex 2 – Annual Action Programme 2012 for the Republic of Moldova

1. IDENTIFICATION

Title/Number	Framework Programme in support of the current and new agreements between the European Union and the Republic of Moldova CRIS: ENPI/2012/23421		
Total cost	EU contribution: EUR 30 million		
Aid method/Method of implementation	Project approach – direct centralised management and joint management		
DAC-code	15110	Sector	Public Sector policy and administrative management

2. RATIONALE

2.1. Sector context

The Government of the Republic of Moldova (hereinafter Moldova) regards European integration as a fundamental priority of its domestic and foreign policy and is committed to the principles of enhanced political association and closer economic integration. Negotiations of the EU-Moldova Association Agreement (AA), including a Deep and Comprehensive Free Trade Area (DCFTA), were launched on the 12th January 2010. Progress has also been made with respect to the introduction of visa liberalisation. An Action Plan on visa liberalisation was adopted by the European Council and the Moldovan Government subsequently approved an internal agenda for the implementation of the Action Plan. The European Commission's first progress report on the achievement of the benchmarks for Phase 1 of the Action Plan (16th September 2011) was positive. The Commission carried out three assessment missions of the implementation of Phase 1 in October and November 2011 and it is anticipated that a decision on the start date for the implementation of Phase 2 will be taken in 2012.

In its Communication “*On the general approach to enable ENP partner countries to participate in Community agencies and Community programmes*” (December 2006), the European Commission proposed the progressive opening-up to the neighbouring countries of a broad range of Community programmes. In line with the Commission Communication, a

protocol to the Partnership and Cooperation Agreement was signed in September 2010, which enables Moldova's gradual participation to the EU Programmes and agencies. A Memorandum of Understanding covering Moldova's participation in Framework Programme 7 was signed in October 2011. The Government has consolidated its commitment to enhanced political association and closer economic integration within the framework of the Government Programme, *European Integration, freedom, democracy and welfare 2011-2014*, which targets public administration reform, consolidation of the rule of law, reinforcement of the democratic processes and establishing the preconditions for environmentally sustainable socio-economic development and poverty reduction.

2.2. Lessons learned

Drawing upon the results of the mid-term review of the ENPI, the Results-Oriented Monitoring reports, and the stakeholder analysis and mapping study, it is possible to distil a number of important lessons to be learned:

- to avoid a top-down approach and ensure that the beneficiary is fully-engaged in the design, management, implementation and monitoring phases of the assistance;
- to ensure that the assistance is demand-driven;
- to provide a critical mass of support to the reform process through more rigorous programming and enhanced donor co-ordination and co-operation;
- to properly sequence the assistance, ensuring that there is a pre-existent reform agenda, which defines the policy framework and strategic approach, and which is then supported by interventions to strengthen the institutional and human resource capacities to manage that reform agenda;
- to introduce an approach to capacity building that focuses upon strengthening technical capacities and internal management systems as opposed to one that emphasises training/human resource development;
- to avoid capacity substitution: i.e. the recruitment of temporary local experts to cover institutional weaknesses;
- to maximise the opportunities presented by participation in the EU Programmes and agencies Moldova needs to build the administrative capacities, plan timely financial contributions from the state budget, create mechanisms for taking part in the management of the relevant programme or agency and ensure the necessary financial controls.

2.3. Complementary actions

The assistance planned under this Framework Programme will complement and extend Twinning and TA initiatives funded through the ENPI Annual Action Programmes 2007-2010 and the CIB Programme 2011 and the support provided by the EU High Level Policy Advice Mission (EUHLPAM). A further project *Support to the Government of Moldova in the field of anti-corruption, reform of the Ministry of Internal Affairs*, started in October 2011.

A Programme (EUR 10 million) entitled *Support to the Justice Sector Policy Reforms* has been approved in 2011 and is currently in the design phase. A Justice Sector Budget Support

is planned under Annual Action Programme 2012. A similar Framework Programme (€14 million – ENPI 2011) provides targeted support to the implementation of the EU-Republic of Moldova agreements. This programme will be complemented by TAIEX events and support from SIGMA for the public administration reform. Close cooperation takes place with multilateral and bilateral donors, notably the World Bank, SIDA, USAID and UNDP.

2.4. Donor coordination

Donor Coordination Meetings, chaired by the UN, are held monthly. In addition, the EU Delegation convenes bi-monthly EU donor coordination meetings.

3. Description

3.1. Objectives

The **overall objective** is to support Moldova to prepare, negotiate, conclude and implement its new contractual relations with the EU (Association Agreement including a DCFTA, as well as the visa liberalisation action plan) and to meet the objectives of the EU-Moldova ENP Action Plan.

The **specific objectives** are:

- To ensure effective institution-building of a limited number of core institutions that are central to preparing the ground for and implementing the future Association Agreement, including the DCFTA, and the visa liberalisation action plan.
- To support the relevant institutions within the Moldovan public administration to comply with the commitments set forth in the EU-Moldova ENP Action Plan.
- To assist the national authorities to carry out the preparatory, supervisory, monitoring, audit and evaluation work necessary for the timely and efficient launch and implementation of actions in the framework of ENPI annual programming in the priority sectors of the EU-Moldova ENP and the Visa Liberalisation Action Plans.
- To further accelerate Moldova's approximation and cooperation with the EU by fostering Moldova's participation in the EU programmes and agencies in a broad range of areas.

3.2. Expected results and main activities

The Framework Programme is expected to result in the following:

- Enhanced capacity of the Moldovan authorities to negotiate and conclude the future Association Agreement including the DCFTA.
- Strengthened institutional, technical and human resource capacities within the core institutions to co-ordinate the European integration process and to manage, implement and monitor their respective components of the EU-Moldova ENP Action Plan and the visa liberalisation action plan.
- The Government's strategic planning, policy-making, annual and medium-term budgetary processes are aligned with national development and EU integration priorities.

- Strengthened capacity to participate effectively in the programming exercises in priority sectors in line with the EU-Moldova ENP Action Plan.
- Completion of negotiations to allow for Moldova's participation in those EU programmes and Agencies covered by the Protocol⁶, which best match Moldova's priorities and capacities.

To meet the objectives, the current Framework Programme will comprise the following:

Component 1 - Reforming the Public Administration

The Government is presently engaged in substantive reforms to the public administration system. The focus to date has primarily been upon strengthening policy development and management capacities, reform to the public finance management system, the introduction of more transparent and user-friendly procedures (e-governance, e-procurement and mechanisms for consultation with Civil Society). This Framework Programme will assist the Government to implement the new Strategy and its Action Plan. Technical assistance will be given to support the introduction of the “change management” approach. Further support will be provided through technical assistance/Twinning/TAIEX/SIGMA and training to the selected core institutions to enable them to implement their Strategic Development Programmes. Policy advice (e.g. EU High Level Policy Advisers) constitutes another modality for assistance and may also address sectors under Components 2 and 3 of the present fiche. Assistance will also be given to address weaknesses in the coordination of the legal approximation process, notably with respect to prioritising the drafting of particular legislation and ensuring synergy between the Government and Parliamentary agenda.

Component 2 - Consolidating the rule of law and respect for human rights and fundamental freedoms

Policy advice and technical assistance will be given to support the implementation of the 2nd Phase of the Action Plan on Visa Liberalisation according to the National Annotated Agenda, and will complement the assistance being provided through the EUHLPAM, the EUBAM, the project *Support to the Government of Moldova in the field of anti-corruption, reform of the Ministry of Internal Affairs, including police and personal data protection*, the Eastern Partnership Flagship Initiative for Integrated Border Management as well as other relevant Joint EU – Council of Europe programmes. The assistance will be targeted at Block 2 on irregular migration and border management, migration management, as well as block 3 on public order and security, preventing and fighting corruption and supporting institutional changes related to organisational restructuring of the Ministry of Internal Affairs (Police), the integration of the Border Guard Service into the Ministry of Internal Affairs, as well as support to the Bureau for Migration and Asylum to achieve the benchmarks under the visa liberalisation dialogue. This Framework Programme will assist these institutions, through technical assistance and possible Twinning projects related to legal approximation, institutional change and capacity building, the procurement of essential technical equipment and the development of necessary databases compatible with those used in the EU.

Component 3 - Preparing the Republic of Moldova in view of a possible DCFTA with the EU

Following the launching of the DCFTA negotiations between the Republic of Moldova and European Union, policy advice and technical assistance (including supplies) will be given to

⁶ Protocol to the Partnership and Cooperation Agreement, enabling Moldova's gradual participation to the EU Programmes

the GoM for the implementation of the current and further key recommendations and activities related to the thematic areas which will be submitted by the European Commission during the entire negotiation process. Thus, the required technical assistance will be concentrated on the implementation process of the DCFTA, especially in the priority areas.

Component 4 - Support to the implementation of the EU-Moldova ENP Action Plan

Actions under this component (technical assistance) will support the development of institutional and administrative capacities for the implementation of the EU-Moldova ENP Action Plan commitments as well as regulatory approximation and the implementation of the Visa Liberalization Action Plan. In addition, assistance will be provided for the identification, formulation, monitoring, audit and evaluation of actions under the Framework Programme.

Component 5: Fostering Moldova's participation to the EU programmes and agencies

Following the Protocol to the Partnership and Cooperation Agreement⁷, this component will foster Moldova's participation to internal EU programmes and agencies. A Memorandum of Understanding for Moldova's association to the Framework Programme 7 ("FP7"), from January 2012, was signed on 11 October 2011 according to the terms of which Moldova is associated to FP7 as of 1 January 2012. Similar agreements are envisaged for the programmes Customs 2013, Intelligent Energy-Europe, Competitiveness and Innovation (the list is not exhaustive).

To the extent of the funds available, this component will allow providing co-financing of up to 50% of the entry fees for Moldova's participation in FP7 and several other EU programmes and agencies that will be negotiated in the course of 2012 according to the priorities expressed by the beneficiary, its financial possibilities, and the needs in the relevant sectors. The reimbursement of the entry fees will take the form of an ad hoc grant contract to be signed with the institution that will pay the fees and will be made after receiving evidence of the payment of the total fee. This may also be done through the introduction of specific provisions in the Financing Agreement.

As far as FP7 is specifically concerned, the total financial contribution of Moldova for participating in this programme over 2012 and 2013 amounts to EUR 1 371 189.20. Out of this sum, up to 50% shall be reimbursed to Moldova in the form of a lump sum payment. Appropriate provisions to that effect shall be introduced in the Financing Agreement.

3.3. Risks and assumptions

The principal **risks** to implementation are:

- Political instability
- Delays in the conclusion and adoption of the Strategic Development Programmes
- Lack of institutional, technical and human resource capacities and high staff turnover result in a failure to absorb the available assistance efficiently and effectively
- Macro-economic imbalances inhibit Moldova's capacity to provide co-financing and/or to provide adequate budgetary support to the core institutions

⁷ Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Moldova, of the other part, on a Framework Agreement between the European Union and the Republic of Moldova on the general principles for the participation of the Republic of Moldova in Union programmes, 19.01.2011.

- Middle ranking officials are resistant to the proposed institutional and operational changes
- Weaknesses in the legislative process, compounded by a deficient system for the coordination of legal approximation and the implementation of laws and regulations

The primary **assumptions** are:

- The Government of the Republic of Moldova remains firmly committed to its reform agenda and to enhanced political and economic relations with the European Union and is willing and able to pursue negotiations leading to the conclusion of new agreements (Association Agreement, DCFTA) and positive outcomes from the visa liberalisation dialogue
- The selected core institutions are able to draft comprehensive Strategic Development Programmes (SDP) within the requisite timeframe
- The selected core institutions allocate the necessary human, financial and technical resources to support the implementation of the SDPs

3.4. Crosscutting Issues

During the preparation of the CIB programme, special attention has been paid to the cross-cutting issues identified in the European Consensus on Development. The interventions planned under each of the Components above will be carefully monitored during the implementation phase to ensure compliance with the criteria of democracy, gender equality, good governance and human rights. In addition, all interventions will be monitored for their potential environmental impact.

3.5. Stakeholders

This Framework Programme was formulated following a comprehensive stakeholder analysis and mapping exercise, conducted in July and August 2011. The stakeholder analysis identified the following institutions as the principal beneficiaries under this Framework Programme: the State Chancellery, the Public Procurement Agency, the Ministry of Finance, Ministry of Internal Affairs, General Prosecutor's Office, Centre for Combating Economic Crime and Corruption, the Border Guard Service, and the Bureau for Migration and Asylum; Ministry of Economy and the Ministry of Agriculture and Food Industry and their subordinate institutions; other Ministries and State Agencies and public bodies involved in the implementation of the EU-Moldova Action Plan and eligible for inclusion in EU Programmes and agencies.

4. Implementation issues

4.1. Method of implementation

The programme will be implemented under direct centralised management. A number of implementation modalities will be used: service, supply and grant contracts.

In specific circumstances, subject to prior approval by the relevant authorising officer, and based on the needs and requests from the beneficiary, one or more Contribution Agreements

could be signed with an International Organisation (IO), in accordance with the conditions of Article 53d of Council Regulation (EC, Euratom) No 1605/2002.

The involvement of three international organisations, which have signed a framework agreement with the European Commission, is presently envisaged: the World Bank⁸, the Council of Europe⁹ and the UNDP¹⁰. Due to their specific expertise, their capacity and given the activities that they already implement in Moldova in their respective field(s) of specialisation (as indicatively listed in the table below), collaborating with these organisations under joint management is likely to have more impact than direct centralised management (procurement or grant contracts) for reaching the objectives of the programme.

International organization	Expected fields of expertise
United Nations Development Programme (UNDP)	Institutional Development (Policy advice, Public Administration Reform, Decentralization), Justice and Human Rights, Border management
World Bank	Economic competitiveness (Business Regulation, Tax Administration), Public sector governance (Central Public Administration Reform, Public Finance Management)
Council of Europe	Human Rights, Democracy (Election legislation, anticorruption), Rule of Law (Justice Sector Reform, Security and Law enforcement)

Under component 5, the reimbursement of the fees for Moldova's participation in EU programmes and agencies will be provided under the ENPI as a reimbursement of up to 50% of the "entry ticket" for the EU programmes for which a Memorandum of Understanding (MoU) is in force. Reimbursement of the 50% fees for year n+1 may also be considered. The EU contribution to the "entry ticket" will be negotiated between the beneficiary and the Commission before the MoU is signed. The participation of the beneficiary in EU programmes shall follow the specific terms and conditions set out for each such programme/agency in the MoU. The reimbursement will take the form of an ad hoc grant contract to be signed with the institution that will pay the fees and will be made after receiving evidence of the payment of the total fee. This may also be done through the introduction of specific provisions in the Financing Agreement. No pre-financing is foreseen under this scheme.

As far as FP7 is specifically concerned, a MoU was signed on 11 October 2011, according to the terms of which Moldova is associated to FP7 as of 1 January 2012 and its financial contribution is due as of that date. It is therefore appropriate to allow retroactive funding of this participation and the Commission authorises that the cost of the financial contribution of Moldova for its participation in FP7 may be recognized as eligible as of 1 January 2012.

The financial contribution of Moldova for participating in FP7 over 2012 and 2013 amounts to EUR 1 371 189.20. Out of this sum, up to 50% shall be reimbursed to Moldova in the form of a lump sum payment. Appropriate provisions to that effect shall be introduced in the

⁸ As per the Framework agreement signed in March 2009 between the EU and the World Bank

⁹ As per the Agreement of August 2004 between the EU and the Council of Europe

¹⁰ As per the Financial and Administrative Framework Agreement (FAFA) of April 2003 between the EU and the UN

Financing Agreement. 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 delegatee body under, respectively, decentralised, joint or indirect centralised management.

4.2. Procurement and grant award procedures

Direct centralised management

1) Contracts

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

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

2) Specific rules for grants

The selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EU external actions and accord with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the general budget. When derogations to these principles are applied, they shall be justified, in particular in the following cases:

- Financing in full (derogation to the principle of co-financing): the maximum possible rate of co-financing for grants is 80%. Full financing may only be applied in the cases provided for in Article 253 of the Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the General Budget.
- Derogation to the principle of non-retroactivity: a grant may be awarded for an action which has already begun only if the applicant can demonstrate the need to start the action before the grant is awarded, in accordance with Article 112 of the Financial Regulation applicable to the General Budget.

Joint management

All contracts implementing the action are awarded and implemented in accordance with the procedures and standard documents laid down and published by the relevant International Organisation.

4.3. Budget and calendar

- The total budget of the programme is EUR 30 million, according to the following indicative breakdown:

Comprehensive Institution Building (CIB) programme	EUR 17 million
Twinnings and technical assistance targeted at institutions not covered by the CIB programme but relevant for the implementation of the ENP Action Plan	EUR 8 million

Support Moldova's participation in EU programmes and agencies	EUR 5 million
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These funds may also be used for evaluation and audit activities.

The CIB will be co-financed by the partner country and by the European Commission and open to co-financing from other donors. The partner country will contribute to the CIB financially or in kind. In case of twinning and technical assistance operations, it is expected that, as a minimum, the partner country will provide a functioning office and counterpart staff. A minimum financial contribution of 20% will be required when EU funding is used to purchase equipment and/or to upgrade specialised infrastructure.

It is foreseen that the operational duration of the action will be 60 months from the signature of the Financing Agreement.

Funds earmarked for Moldova's participation in the EU internal programmes and agencies are indicative and will be allocated following the conclusion of MoUs for association to specific programmes or agencies. Should the totality of the funds not be needed, the remaining envelop could be reallocated to other components of the programme.

4.4. Performance monitoring

For the purpose of the European Commission, the projects under this framework programme will be monitored throughout their implementation by the *Results-Oriented Monitoring System of Projects and Programmes of External Co-operation*. For overall monitoring of the implementation of the programme, it is envisaged that a Steering Committee, involving principally the State Chancellery as the national aid coordinator and other relevant national stakeholders, donors, as well as all project representatives, will be established.

4.5. Evaluation and audit

Evaluation and audit will be decided by the European Commission on a case-by-case basis and will be carried out with the support of technical advice of external consultants recruited by the Commission. A mid-term evaluation and final evaluation of the CIB programme implementation is envisaged.

Where applicable, the provisions included in the framework agreement signed with the international organisation will apply.

4.6. Communication and visibility

Each project under this framework programme will have its own communication and visibility component and budget, according to the Communication and Visibility Manual for EU External Actions. Where applicable, the provisions included in the framework agreement signed with the international organisation will apply.”