

ADDENDUM

to

Norwegian Financial Mechanism 2009-2014

PROGRAMME AGREEMENT

for the financing of the Programme
“Judicial Capacity Building and Cooperation/Improvement of the efficiency of justice”
hereinafter referred to as the “Programme Agreement”

between

The Norwegian Ministry of Foreign Affairs,
hereinafter referred to as the “NMFA”

and

The Ministry of Infrastructure and Development
hereinafter referred to as the “Focal Point”,
representing the Republic of Poland,
hereinafter referred to as the “Beneficiary State”

together hereinafter referred to as the “Parties”

Article 1

1. The Annexes to the Norwegian Financial Mechanism Programme Agreement for the financing of the Programme PL16 “Judicial Capacity Building and Cooperation/Improvement of the efficiency of justice” are replaced by the Annexes sent with this addendum.

2. The modifications contained in the new versions of Annex I and II to the Programme Agreement entered into force on the 08 May 2015.

Article 2

1. This addendum and the Annexes accompanying it constitute an integral part of the Programme Agreement. Except from the modifications stated above, the Programme Agreement remains unchanged.

Signed in Brussels on.....^{23/06-2015}

Signed in ^{WARSAW}.....on.....^{2.7.15}

For the NMFA

For the Focal Point



Stine Andresen
Director
Financial Mechanism Office

Marceli Niezgoda
Undersecretary of State
Ministry of Infrastructure and Development

Annex I - Programme Decision

1. Expected Outcomes & Indicators for Outputs

Expected outcome: Improved efficiency of the court systems, including the development of systems for case handling

Output	Indicator	Baseline	Target	Source of Verification
ICT-equipment and software purchased and used	Number of courts using upgraded ICT equipment and software	0	90	Data provided by the Project Promoters within periodical and final reports. The target value concerns the total number of courts in which a court files management system was introduced and the number of courts which received infrastructural support to use the ID management system.
Staff trained with improved skills	Number of court staff trained in using upgraded ICT equipment and software	0	275	Data provided by the Project Promoters within periodical and final reports.

Expected outcome: Increased competence of the actors within the judiciary

Output	Indicator	Baseline	Target	Source of Verification
Continuous training programme for courts managers developed and implemented	Number of continuous training programme (s) for court managers developed	0	2	Data provided by the Project Promoter within periodical and final reports. The target value of the indicator concerns 2 separate continuous training programmes for court directors and for other managerial staff representatives (court presidents, presidents of court divisions).
Skills of court managers improved	Number of court managers trained in modern methods of court management.	0	6000	Data provided by the Project Promoter within periodical and final reports. The target value concerns the total number of participants of all envisaged training activities

Expected outcome: Improved access to justice, including for vulnerable persons (e.g. victims, minors, minorities)

Output	Indicator	Baseline	Target	Source of Verification
Crime victims receiving assistance	Number of centres providing legal and psychological counselling within the programme	0	16	Data provided by the Project Promoter within periodical and final reports. The target value concerns the number of centres in which crime victims will be assisted during the implementation of a predefined project – by the end of 2015.
Awareness-raising events on legal rights and the justice system organised	Number of participants in awareness raising events for minors on legal rights and the legal system	0	9000	Data provided by the Project Promoter within periodical and final reports.

Expected outcome: Alternative dispute resolutions developed (restorative justice)

Output	Indicator	Baseline	Target	Source of Verification
Awareness-raising campaigns on the ADR mechanism conducted	Number of awareness-raising campaigns on the ADR mechanism conducted	0	1	Data provided by the Project Promoter within periodical and final reports.
Training on ADR	Number of persons trained on ADR	0	840	Data provided by the Project Promoter within periodical and final reports.

2. Conditions

2.1 General

- 1) Bilateral, output and outcome indicators shall be reported on in the annual programme report.
- 2) The National Focal Point shall ensure that the Programme Operator ensures that any residual or extracted material from project activities is reused, recycled, treated and/or deposited in an environmentally sound manner.
- 3) The National Focal Point shall ensure that the Programme Operator ensures that Project Promoters who have, in line with this Agreement, received an exception from the general rule in Article 7.3.1(c) of the Regulation with respect to any equipment (the *excepted equipment*):

- Keep the excepted equipment in their ownership for a period of at least five years following the completion of the project and continue to use that equipment for the benefit of the overall objectives of the project for the same period;
- Keep the excepted equipment properly insured against losses such as fire, theft and other normally insurable incidents both during project implementation and for at least 5 years following the completion of the project; and
- Set aside appropriate resources for the maintenance of the excepted equipment for at least 5 years following the completion of the project. The specific means for implementation of this obligation shall be specified in the project contract;

provided however that the Programme Operator may release any Project Promoter from the above obligations with respect to any specifically identified excepted equipment where the Programme Operator is satisfied that, having regard to all relevant circumstances, continued use of that equipment for the overall objectives of the project would serve no useful economic purpose.

The National Focal Point shall furthermore ensure that the Programme Operator keeps a list of the excepted equipment for each project.

- 4) The fund set-up for the fund for bilateral relations at programme level, including the selection criteria and the selection procedures shall be discussed with the donor programme partner in the Cooperation Committee and submitted to the NMFA for approval before 01.12.2013. The NMFA will give its comments within 10 working days.
- 5) The appraisal of the pre-defined projects, referred to in Article 5.5.3 of the Regulation shall be carried out by an appraisal team appointed by the Programme Operator where experts external to the Programme Operator compose the majority of the team. The chairman of the team shall be an expert external to the Programme Operator.

2.2 Pre-eligibility

Not applicable.

2.3 Pre-payment

Not applicable.

2.4 Pre-completion

Not applicable.

2.5 Post-completion

Not applicable.

2.6 Other

Not applicable

3. Eligibility of Costs

3.1 Eligibility of costs - period

Eligibility of costs (excluding prog. prep. costs):	02/10/2012 – 30/04/2017.
Eligibility of programme proposal preparation costs:	10/06/2011- 01/10/2012.

3.2 Grant rate and co-financing

Estimated total programme cost	€16,470,589
Programme estimated eligible cost	€16,470,589
Programme grant rate (%)	85%
Maximum amount of programme grant	€14,000,000

3.3 Programme eligible expenditure (€) and Advance payment amount (€)

Budget heading	Contribution from NFM	Contribution from programme operator	Total eligible expenditure	Advance payment (NFM contribution)
Programme management	€999,600	€176,400	€1,176,000	€251,000
Improved efficiency of the court systems, including the development of systems for case handling	€6,825,500	€1,204,500	€8,030,000	
Increased competence of actors within the Judiciary	€3,740,000	€660,000	€4,400,000	€503 000
Improved access to justice, including for vulnerable persons (e.g. victims, minors, minorities)	€1,513,000	€267,000	€1,780,000	€311,780
Alternative dispute resolutions developed (restorative justice)	€612,000	€108,000	€720,000	
Funds for bilateral relations.	€218,270	€38,519	€256,789	€42,500
Complementary actions	€91,630	€16,170	€107,800	
Total	€14,000,000	€2,470,589	€16,470,589	€1,108,280

3.4 Retention of management costs

Retention of management costs - percentage of the grant amount	10 %
Retention of management costs – planned euro value	€99,960

3.5 Small grant scheme

Not applicable.

Annex II - Operational rules

1. Eligibility

1.1 Eligible measures (sub-measures if any)

The Programme Operator is the Ministry of Justice. The donor programme partner is the Norwegian Courts Administration.

The Programme is implemented through 6 pre-defined projects.

The Programme will support activities that promote the efficiency of justice, ensure increased competence of the actors within the judiciary and provide support to victims and witnesses. The programme will also carry out awareness-raising activities on the functioning of the legal system and on human rights. In addition, it will promote alternative methods of dispute resolution.

The programme will support the following type of activities:

- Training
- Development of case handling systems
- Development of systems of court files management
- Awareness-raising
- Research
- Legal and psychological support services

1.2 Eligible applicants

There are only pre-defined projects under the Programme. This section is not applicable.

1.3 Special rules on eligibility of costs

In general, costs are eligible in accordance with Chapter 7 of the Regulation, with the following exception:

- By way of exception from Article 7.3.1(c) of the Regulation, the entire purchase price of equipment may be eligible if the equipment is an integral and necessary component for the implementation of measures that are essential for achieving the outcome of the project.

Eligible indirect costs are costs identified in accordance with Article 7.4.1 (a) of the Regulation.

In-kind contributions are not eligible in projects.

2. Financial parameters

2.1 Minimum and maximum grant amount per project

The grant assistance applied for in the pre-defined project is referred to under Section 6.

2.2 Project grant rate

Project grant rate is 100% of total eligible project costs.

3. Selection of projects

3.1 Selection procedures

The Programme consists only of pre-defined projects. Thus, selection procedures are not applicable.

The appraisal of the pre-defined projects, referred to in Article 5.5.3 of the Regulation, shall be carried out by an appraisal team appointed by the Programme Operator where experts external to the Programme Operator compose the majority of the team. The chairman of the team shall be an expert external to the Programme Operator.

3.2 Open calls and availability of funds (including number of calls, duration of calls, and estimated size)

Not applicable.

3.3 Selection criteria

Not applicable

4. Payment flows, verification of payment claims, monitoring and reporting

4.1 Payment flows

Payments towards projects are made on the basis of approved project interim/final reports. The payment flows will be based on the Polish public finance law meaning that project promoters from the public sector will be pre-financed by state budgetary resources.

4.2 Verification of payment claims

Verification and approval of project interim/final reports will be conducted by the Programme Operator.

Verification and approval of project interim reports will be based on information on incurred expenditure, financial status and projects progress contained in the interim reports, and on additional information and accounting documents to be submitted together with the reports.

In case of verification of expenditure incurred by a donor project partner, a report by an independent and certified auditor, certifying that the claimed costs are incurred in accordance with the Regulation, the national law and accounting practices of the project partner's country, shall be seen as sufficient proof of costs incurred.

The procedure for verification of payment claims, periodicity of reporting periods, and deadlines for reporting will further be outlined in the description of the Programme's management and control systems according to article 4.8.2 of the Regulation.

4.3 Monitoring and reporting

Project Promoters shall be required to report on project outputs and financial progress in interim reports, and at the end of the project in a final report. The frequency of interim reporting to the Programme Operator shall be based on an agreed timetable, but no less than three times a year.

For the pre-defined projects, on-the-spot checks will be performed at least once for each project during the implementation period.

On-the-spot checks shall further be conducted annually on a sample of projects selected on the basis of a risk analysis. The analysis takes into account, among other things, the physical and financial progress of a project, the time remaining to project completion, and the correctness of prepared reporting documentation and other secondary information on project progress.

On the spot checks can also be conducted on an ad-hoc basis when considered necessary.

On-the-spot checks are carried out by the Programme Operator.

Information on Reporting and Monitoring will further be outlined in the description of the Programme's management and control systems according to article 4.8.2 of the Regulation.

5. Additional mechanisms within the programme

5.1 Funds for bilateral relations

The Programme Operator will set aside not less than 1.5 % of the total programme budget to a fund for bilateral relations.

The use and implementation of the bilateral fund shall be agreed with the donor programme partner and decided upon by the Cooperation Committee.

The following activities will be supported under the fund for bilateral relations:

- a) implementation of partnerships – this part of the fund will cover the costs of establishing partnerships, their development and preparation of the application (Regulation article 3.6.1 measure ‘a’). Approximately 30 per cent of the fund will be allocated to this measure.
- b) contacts exchange, transfer of knowledge, accessible for all Project Promoters to enable them the exchange of experiences, contacts with Norwegian entities and participation in conferences (Regulation article 3.6.1 measure ‘b’). Approximately 70 per cent of the fund will be allocated to this measure.

The eligible applicants under measure ‘a’ are the three pre-defined partnership projects (pre-defined project 3, 4 and 6). For measure ‘b’ the eligible applicants are all project promoters, donor programme partners and Programme Operator.

The selection procedures and the selection criteria shall be consulted with the donor programme partner in the Cooperation Committee and be submitted to the Donors for approval.

Furthermore, the Programme Operator must under the fund for bilateral relations secure available funding (during the programme period) for activities that strengthen co-operation between the Programme Operators and similar entities within the Beneficiary States and Donor States and exchange experiences and best practices related to the implementation of the Programme. This funding should also facilitate the participation of relevant stakeholders in events/seminars/activities (organized for example by the Council of Europe, the European Union Agency for Fundamental Rights and others) agreed with the Donor. In addition the funding should facilitate activities across programmes and between beneficiary countries on crosscutting issues.

The maximum grant amount under the bilateral fund is €80,000 per project. The grant rate is 100%

5.2 Complementary action

Complementary actions with grant of around EUR 92 000 shall be organised by the Programme Operator, in line with the Regulation and objectives of the Programme, in order to strengthen co-operation between the Programme Operator and similar entities within the Donor States. These will include the exchange of experience and best practice related to the implementation of the Programme.

5.3 Reserve for exchange rate losses

Contracts between the Programme Operator and the Project Promoter will be defined in PLN.

The reserve for exchange rate losses will be used to cover exchange rate losses resulting from the difference between the exchange rate used for the Programme budget planning and the exchange rates used for the actual expenditures (including the difference between the

exchange rate used for awarding grants to projects and the exchange rate used for the settlement of project grants).

5.4 Small Grant Schemes

Not applicable.

6. Pre-defined projects

There will be 6 pre-defined projects implemented under the Programme. The projects are described in Annex 2 of the Programme Proposal and further information is also provided in the replies to the requests for additional information.

1. *Improving administrative capacities of courts, including computer systems*

Project Promoter: Department of Computerisation and Court Registers, Ministry of Justice

Maximum contribution from the programme: €4,690,000

Project grant rate: 100%

Project objective: Improved efficiency of the court systems, including the development of systems for case handling

Project outcomes: ICT-equipment and software purchased and used
Staff trained with improved skills

Project scope:

- Improved efficiency and unification of IT environment in courts;
- Improved efficiency of IT systems for running court cases;
- Increased competence of employees of the judiciary.

2. *IT-archive centres for common courts – development of a court files management system*

Project Promoter: Department of Courts, Organisation and Analyses of the Judiciary, Ministry of Justice

Maximum contribution from the programme: €3,340,000

Project grant rate: 100%

Project objective: Improved efficiency of the court systems, including the development of systems for case handling

Project outcomes: ICT-equipment and software purchased and used
Staff trained with improved skills

Project scope:

- Development of a uniform system for court files management;
- Implementation of a uniform court files management system based on RFID technology.

3. *Modern methods of court management (the implementation)*

Project Promoter: Department of Courts, Organisation and Analyses of the Judiciary, Ministry of Justice

Donor Project Partner: The Norwegian Courts Administration

Maximum contribution from the programme: €4,400,000

Project grant rate: 100%

Project objective: Increased competence of the actors within the judiciary

Project outcomes: Continuous training programme for courts managers developed and implemented
Skills of court managers improved

Project scope:

- Modernisation of the human resources management, financial management and IT-tools management in supported courts;
- Disseminated knowledge about modern strategies and court management techniques.

4. Strengthening the position of crime victims and support for witnesses in criminal proceedings

Project Promoter: Department of International Cooperation and Human Rights, Ministry of Justice

Donor Project Partner: The Norwegian Courts Administration

Maximum contribution from the programme: €1,170,000

Project grant rate: 100%

Project objective: Improved access to justice, including for vulnerable persons (e.g. victims, minors, minorities)

Project outcomes: Crime victims receiving assistance
Awareness-raising events on legal rights and the justice system organised

Project scope:

- Disseminated knowledge on how to support crime victims, especially the vulnerable ones;
- Disseminated knowledge among the employees of the customer service points in courts about the rights and obligations of witnesses in criminal proceedings;
- Providing comfortable conditions of hearing for children as victims/witnesses in criminal proceedings.

5. School education against legal exclusion

Project Promoter: Bureau of the Minister, Ministry of Justice

Maximum contribution from the programme: €610,000

Project grant rate: 100%

Project objective: Improved access to justice, including for vulnerable persons (e.g. victims, minors, minorities)

Project outcomes: awareness-raising events on legal rights and the justice system organized

Project scope:

- Disseminated knowledge on the functioning of the justice system among minors in lower secondary schools;
- Disseminated knowledge on the functioning of the justice system among minors in secondary schools.

6. Promoting alternative methods of dispute resolution

Project Promoter: Department of International Cooperation and Human Rights, Ministry of Justice

Donor Project partner: The Norwegian Courts Administration

Maximum contribution from the programme: €720,000

Project grant rate: 100%

Project objective: Alternative dispute resolutions developed (restorative justice)

Project outcomes: Awareness-raising campaigns on the ADR mechanism conducted
Training on ADR

Project scope:

- Gained knowledge about the reasons for low popularity of mediation;
- Disseminated knowledge about alternative methods of dispute resolution, including mediation.

7. Modification of the Programme

Any modifications of the programme will follow the rules set forth in Article 5.9 of the Regulation and Article 2.9 of the Programme Agreement.

8. Programme proposal version

Any reference to the programme proposal in this programme agreement shall be interpreted as version signed by the Programme Operator on 1 February 2012, and shall include all subsequent correspondence and communication between the NMFA, the FMO, the National Focal Point and the Programme Operator.

9. Miscellaneous

Not applicable.



Ms. Malgorzata Zalewska
Deputy Director
Department of Assistance Programmes
Ministry of Infrastructure and Development
ul. Wspólna 2/4
00-926 Warsaw
Poland

Brussels, 7 July 2015

Subject: Clarification on irregularities

Dear Ms. Zalewska,

Following the question raised by the Polish National Focal Point in the letter dated 26 June 2015, I would like to clarify the issue related to financial corrections and reallocation.

Article 12.2.2 of the Regulation provides the possibility to reuse financial contributions cancelled due to irregularities for projects under the programme other than those that were the subject of the correction.

Article 6.9.1 of the Regulation provides the possibility to reallocate project grants that have been cancelled due to irregularities to future calls or to additional activities of already approved projects. Therefore reallocation to projects that were subject to financial corrections is not excluded as long as the reallocation is to support additional activities, the process set out in Articles 6.9.2 and 6.9.3 is followed and under no circumstances do they support the activity that was the reason for the irregularity and the corresponding financial correction.

Article 12.2.2 of the Regulation defines the possibility of reuse of financial corrections within a programme. Financial corrections applied for irregularities in Programme management costs may thus be reused within the programme management heading for financing another activity/expenditure. Such reuse may only take place provided that the financial correction is not made for systemic irregularities or irregularities related to management or control systems within the programme. If the financial correction is made for systemic irregularities or irregularities related to management or control systems, the financial contribution may not be reused for that programme.

Yours sincerely,

Stine Andresen
*Director,
Financial Mechanism Office*