Standard Twinning fiche

1 IDENTIFICATION

Publication reference	EuropeAid/ 137-105/IH/ACT/TR		
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Twinning number	TR13 IB OT 01		
Project Title	Strengthening the Turkish Copyright System with a Focus on Fostering Creative and Copyright Based Industries		
Sector	Other projects		
Programme	IPA National programmes / Component I, 2013 (ESEI 2013)		
MIPD Sector Code	3. Private Sector Development		
Indicative total cost (VAT excluded) ¹	1.750.000 €		
Indicative IPA EU contribution	1.662.500 €		
Management mode	Indirect Management mode (Decentralised)		
Responsible Unit or	Ms. Emine Döğer (Acting PAO-CFCU Director)		
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¹ The total project cost should be net of VAT and/or of other taxes. Should this not be the case, clearly indicate the amount of VAT and the reasons why it is considered eligible.

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Implementing modality	2013 Enhanced Support Activities to Strengthen the European Integration Process, ESEI project				
Zone benefiting from the action(s)	Turkey				

2 RATIONALE

2.1 SUMMARY

All around the world and especially in the European Union, the creative and cultural economy has been recognized as an important and growing part of the global economy. Governments and creative sectors across the world are increasingly recognizing its importance as a combiner of arts, culture, technology and economy.

The Green Paper (Brussels, COM 2010- 183) titled as "Unlocking the potential of cultural and creative industries" of also verifies the EU's vision to this issue seriously. As stated explicitly in this document, "For Europe and other parts of the world, the rapid roll-out of new technologies and increased globalization has meant a striking shift away from traditional manufacturing towards services and innovation. Factory floors are progressively being replaced by creative communities whose raw material is their ability to imagine, create and innovate."

The widely adopted definition of the creative industries are regarded as those industries that "combine the creation, production and commercialization of contents which are intangible and cultural in nature. These contents are typically protected by copyright and they can take the form of goods or services, includes those sectors: film, music, publishing, software, television and radio broadcasts, architecture, fine arts, crafts, designs, interactive leisure software (ie. video games) and the performing arts. Industrial designs also consist a wide part of creative industries which are applied to a wide variety of products of industry and handicraft: from technical instruments to watches, from housewares and electrical appliances to vehicles and architectural structures; from textile designs to leisure goods. The industrial designs which have esthetical nature are considered as a work of fine art under copyright law as well as design under industrial property law. In this concept, generally "copyright" term covers all industrial designs which are deemed as a work of fine art.

Copyright supports creativity by giving individuals-and the creative industries in which they are involved -incentives to invest time, efforts and money in creating, producing and distributing works. In many developing countries, the performance and competitiveness of the creative and copyright based industries have suffered from weak institutional and political support, low levels of entrepreneurial capability and massive copyright infringement. The entire fostering of creative industries depends to a considerable extent on the enforceability of the copyright systems. Inadequate enforcement of copyright limits incentives to develop creative products, especially for small and medium-sized enterprises. The green paper of EU also refers to Council Conclusions on the contribution of the cultural and creative sectors to the achievement of the Lisbon objectives, 2007 as the European Council recognized the importance of the cultural and creative sectors in the frame of the Lisbon Agenda, as well as the need to reinforce their potential, in particularly as far as SMEs are concerned.

The inefficiency of intellectual property legislation and enforcement systems imperils the economic growth to which the creative and copyright based industries contribute. Enforcement is as important as the education and awareness. Countries that wish to see their creative and copyright based industries prosper must take a strong stance for the promotion of the full spectrum of copyrights and their licences,

for the best way to expand the creative economy is to implement a balanced copyright framework that realizes their development potential.

The above mentioned green paper also refers to **European Commission Communication "Copyright in the knowledge economy" - COM(2009) 532** with the Strategy on Intellectual Property that it will build on a number of past and on-going initiatives that are directly related to several Cultural and Creative Industries. The focus is clearly on the use and management of rights, looking for a balance between the necessary protection and sustainability of creation and the need to foster the development of new services and business models.

Within this context, in order to support Turkish government in its efforts towards strengthening the capacity in legal, institutional, technical and investment matters related to intellectual rights protection (copyright, related rights, sui generis data base rights, etc.) in line with relevant <u>EU Acquis</u>, with specific focus on fight against piracy, a Twinning project entitled "Support to Turkey's efforts in the full alignment and enforcement in the field of intellectual property rights with a focus on fight against piracy" launched in May 2006 between Ministry of Culture and Tourism and European Public Law Center. The project was completed in November 2007 and selected as best implemented project among the other twinning projects.

By the experiences and knowledge gained by this project various actions are implemented:

- In order to establish a more specialized administrative structure in terms of copyright and related rights Directorate General of Copyright and Cinema was restructured as Directorate General of Copyright (DGC) under Ministry of Culture and Tourism, as a more expertise body responsible for defining policy areas, reviewing related legislation, taking necessary measures, co-operating with other stakeholders in the field of copyright and neighboring rights. All these developments were aimed to make progress regarding the closing benchmark of "Intellectual Property Law Chapter" which is "Turkey makes sure that enforcing bodies dispose of sufficient administrative capacity to enforce the rights concerning the fight against piracy and counterfeit."

- An advisory report on amendment suggestions of provisions of Law no 5846 on Intellectual and Artistic Works was prepared in coordination and cooperation with all stakeholders. The report, which was prepared by the Twinning Project Legislation Committee, was benefited in the legislation studies in order to identify the main points of the amendments needed to bring the Turkish Copyright fully harmonized with EU Acquis. With this comprehensive advisory report, the main targets were to solve the problems arising from licensing models, establish more transparent and effective collecting societies and eliminate discrepancies in the implementation of intellectual property rights are still in progress. Some amendments were made in order to fully provide harmonization with the digital rights management in compliance with EU related directives. On the other hand strict measures were established in order to combat with digital piracy especially regarding peer to peer. In addition all these amendments contribute to establish a more effective copyright protection system in order to provide the sustainability of cultural/creative and copyright based industries in our country.

- Within the accession process of Turkey to European Union an IPR Working Group has been established in compliance with the **Terms of Reference for the Working Group on Intellectual Property Rights between European Union and the Republic of Turkey which was prepared in the consequence of negotiations between EU and Turkey under the first closing benchmark of "Intellectual Property Law Chapter"**

The experiences gained by the Twinning Project and all progress in closing benchmarks have lead up the developments in administrative structure of related bodies and legislative structure of Turkish copyright system. However, technological developments, progress in the IP systems in the world and the Law no 5846 on Intellectual and Artistic Works emerged new requirements. Taking into

consideration that the Twinning Project was ended in 2007 and in the light of actual developments in the last 5 years, a further point of the advances in new knowledge and practices need to be implemented by a new project.

By this project; Institutional capacity is expected to be enhanced through the improvement of current enforcement mechanisms, increasing coordination between enforcement bodies, setting up alternative dispute resolution methods and more expertized staff which will be able to follow international developments. Besides, in order to support the effective implementation of the legislation on intellectual property there is a need for the judges and prosecutors of specialized courts of intellectual property and Supreme Court of Turkey and EU member countries exchanging of the opinions on judiciary practices in the copyright field.

Moreover, within the concept of this project more intensive, systematic, and wide-ranging collaboration between the arts, academic, scientific institutions, private sector and all stakeholders will be promoted, as well as private-public initiatives to increase the awareness regarding to the recycling effect between an effective copyright system and creative/copyright based industries. Raised copyright protection culture of public and private sector concerning the individual and national productivity is expected to be increased in the result of establishment of efficiently functioning copyright system in conformity with international area.

Finally, transparent, comprehensive solutions to function effectively and efficiently licensing is expected to be established and complexity of processes for copyright licensing is planning to be reduced.

2.2 LINK WITH MIPD AND NATIONAL SECTOR STRATEGIES

The Multi Annual Indicative Planning Document 2011-2013 states that;

"Links exist with activities that could be supported under component I, other interventions, in areas of the Acquis such as free movement of goods and services, enterprise and industrial policy, company law or public procurement." Intellectual Property Rights area is one of the fields that could be supported under Component-I within the Private Sector Development sector of MIPD. The activities that will be carried out by the proposed project *would* help the creative and copyright based industries, develop a strong business environment and would contribute strengthening the public perception that innovation in those industries is highly related with an effective copyright protection. This is in conformity with the identified priorities under the Multi-beneficiary MIPD 2011-2013 related to the competitiveness of the pre-accession economies.

National Development Plan of 2007-2013 has the main objectives on development axes such "Improving R&D and Innovativeness", "Protecting and Improving Culture and Strengthening Social Dialogue", "Ensuring Development Based on Local Dynamics and Internal Potential".

The National Development Plan also includes, among their strategic priorities, the improvement of the business environment, aiming at a more attractive environment both for entrepreneurs from inside the country as well as for the foreign ones. This also represents a key criterion for achieving a functioning market economy.

2.3 LINK WITH ACCESSION PARTNERSHIP (AP) / EUROPEAN PARTNERSHIP (EP)/ STABILISATION AND ASSOCIATION AGREEMENTS (SAA) / ANNUAL PROGRESS REPORT

In 2008 Accession Partnership it's declared that;

Short Term Priorities;

Ability to assume the obligations of membership

Chapter 7: Intellectual property law

— Improve the capacity of police, customs and the judiciary to enforce intellectual property rights, including strengthening coordination between these bodies,

- address, in particular, the counterfeiting of trademarks and piracy.

Medium-Term Priorities

Chapter 7: Intellectual property law

- Continue alignment and ensure an effective enforcement of intellectual property rights.

<u>Closing Benchmark 2</u> of Chapter no7 on Intellectual Property Rights in the Accession Process of <u>Turkey in EU</u>

The Closing Benchmark 2

"Turkey makes sure that enforcing bodies dispose of sufficient administrative capacity to enforce the rights concerning the fight against piracy and counterfeit."

In 2011 Annual Progress Report it's stated that;

"Adoption of a law on IPR enforcement procedures, in line with Directive, is needed. Civil, criminal and administrative procedures, including ex-officio measures to combat piracy and counterfeiting, need to be strengthened. Judicial and customs enforcement remains weak; enhancement of the capacity of the judiciary and of the customs administration with a view to more effective action is crucial. **Closer coordination and cooperation among IPR stakeholders and public bodies is essential, as well as general awareness campaigns on the risks of IPR infringements.** The opportunity of an effective IPR dialogue with the EU through the recently launched IPR Working Group could contribute to an improvement in IPR protection in Turkey."

In 2012 Annual Progress Report it's stated that;

"Stakeholder dialogue was further improved with regard to copyright protection. [...]Overall, there is a need for more effective general awareness raising campaigns on the risks of IPR infringements and the benefits of a better functioning IPR system throughout the country."

2013 Annual Progress Report it's stated that;

"Some progress can be reported in the area of intellectual property law. Updated laws need to be adopted to regulate intellectual and industrial property rights and enforcement procedures in line with the *acquis*. Strengthening the capacity of the judiciary is crucial. Customs and police enforcement is quite effective and constantly improving. Closer coordination and cooperation between IPR stakeholders and public bodies is necessary, as are campaigns to raise awareness of the benefits of IPR protection. Overall, alignment with the *acquis* is advanced."

With respect to above mentioned reports, a closer coordination and cooperation among IPR stakeholders and public bodies is very essential, this project will contribute especially the strengthening coordination between the enforcement bodies as well as SME's. Moreover the countrywide awareness campaigns on the risks of IPR infringements will be the main activities for dissemination of these kind infringements effect the national economy adversely. All the affirmative results aimed with this project will contribute cultural economic growth.

2.4 PROBLEM ANALYSIS

Main problems that the proposed project will address and support could be summarized as;

a) Administrative Capacity

• <u>Institutional capacity needs to be further enhanced in accordance with international standards</u>,

General Directorate of Copyright aims to be a competent institution in the field of intellectual property following international developments and providing swift solutions to all relevant sectors. In order to execute the main tasks of DGC, the institutional capacity should be increased and the staff expertise should be provided. Also DGC has a new mission to be pioneer of protection and enhancement of creative and copyright based/cultural industries. In this context the capacity of DGC has to be enhanced for the aim of supporting and leading to these sectors with respect to copyright protection area. Study visits to sample EU member states could be guiding in order to compare the current administrative structure DG Copyright of our country.

• <u>Need for further improvement of coordination between enforcement bodies for effective functioning of copyright system.</u>

The DGCC is the body responsible for defining policy areas, reviewing related legislation, taking necessary measures, co-operating with other stakeholders in the copyright field. In order to assist in more professional and prompt prevention of IPR infringements this coordination and co-operation between enforcement bodies should be increased.

• Enforcement Mechanisms of the current copyright system need to be upgraded

Effective application of new requirements arising from new adopted Directives and International Treaties concerning the enforcement mechanisms is crucial for the forceful functioning of the IP regime. Current enforcement mechanisms in order to fight against digital infringements also need to be improved according to the technological developments.

Alternative administrative dispute resolution methods that provide effective and swift • resolution of disputes before the submission to judiciary need to be improved. It's briefly stated in "Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multiterritorial licensing of rights in musical works for online uses in the internal market"; "It is necessary to ensure the effective enforcement of the provisions of national law adopted pursuant to this Directive. Furthermore, Member States should be able to provide that disputes between collective management organizations, their members, right holders or users as to the application of this Directive can be submitted to a rapid, independent and impartial alternative dispute resolution procedure. In particular, the effectiveness of the rules on multi-territorial licensing of online rights in musical works could be undermined if disputes between collective management organizations and other parties were not resolved quickly and efficiently. As a result, it is appropriate to provide, without prejudice to the right of access to a tribunal, for the possibility of easily accessible, efficient and impartial out-of-court procedures, such as mediation or arbitration, for resolving conflicts between, on the one hand, collective management organizations granting multi-territorial licenses and, on the other, online service providers, right holders or other collective management organizations. Finally, it is also appropriate to require that Member States have independent, impartial and effective dispute resolution procedures, via bodies possessing expertise in intellectual property law or via courts, suitable for settling commercial disputes between collective management organizations and users on existing or proposed licensing conditions or on a breach of contract."

"Copyright Arbitration Board" model is needed to be discussed taking into account of the new Directive provisions. The aim of this alternative resolution method would create a transparent system in order to negotiate the tariffs and the conditions of licensing agreements between collective management organizations and the users.

b) Additional support to Judiciary in the field of Copyright

- In order to support the effective implementation of the legislation on intellectual property; exchange of the opinions on judiciary practices and latest developments in the copyright field for the judges and prosecutors of specialized courts of intellectual property and Supreme Court of Turkey and EU member countries is needed.
- Number of activities for sharing information and experience, international legal practices need to be increased with the participation of judiciary members of both Turkey and EU member countries.

c) Raising Awareness

• <u>Measurement of the economic size of national creative and copyright based industries to</u> <u>identify the share in whole natural economy</u>

In order to identify the requirements of cultural/creative sectors, statistical data and supporting information are essential to portray their size and characteristics through the whole Turkish economy. The collection of such data and information will be beneficial while designing the public awareness strategies. Mapping of an effective awareness campaigns with the aim of explaining the vital link between an effective copyright protection and a developed creative economy need to be explained to public and all stakeholders.

• The significant link between an effective copyright protection and a developed creative economy need to be explained to public and all stakeholders.

Public awareness campaigns are needed in order to express the serious relation between an effective copyright/ industrial designs protection and a developed creative economy to public and all stakeholders. To promote a well-structured strategy through the public awareness activities is significantly crucial to communicate all sectors that the effective and modernized intellectual property regimes that protect the all creators and work owners stimulate the creation and innovation.

• <u>Expertise and sectorial/academic information need to be shared between international</u> partners in this area via seminars, trainings, workshops, study visits and etc.

Knowledge exchange activities should be organized between academic institutions and experts/ lawyers working at copyright field. These kind of activities will contribute to increase the intellectual and institutional accumulate of knowledge for strengthening current copyright protection system.

d) Collecting Societies

• More effective supervision of Collecting Societies need to be established,

Collecting societies are associations of authors and owners of related rights, organized under private law (such as composers, writers, authors, artists, photographers, film performers, producers of sound recordings, film producers). The right holders assign their user and licensing rights relating to the copyrighted works as well as their claims to remuneration to the relevant collecting society. At present, in our country we have 27 collecting societies have the authorization granted by DGC. The DGC also has the authorization of regular supervision on these collecting societies. Technological developments, progress in the IP systems in the world emerged a systematic and a regular supervision of collecting societies by an expertized institution.

Problems faced provision of transparency of collecting societies need to be solved

The management of collecting societies needs to adapt in terms of the service provided to members and users as regards efficiency, accuracy, transparency and accountability. Since the collecting societies license rights on behalf of national and foreign right holders, the functioning of some of them has raised concerns as to their transparency, governance and the handling of rights revenue collected on behalf of right holders. These kind of concerns also have been expressed with regard to the accountability of certain societies to their members in general, and to the management of their finances in particular in the "Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market". As it was briefly stated in this reference document "The aim of this Directive is to lay down requirements applicable to collective management, transparency and reporting."

• The need for the improvement of licensing models and systems for effective functioning

As it is also briefly stated in the "Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market"; it is seriously needed to make an effective and modern licensing system workable in the digital era and it is essential to create conditions conducive to the most effective licensing practices by collecting societies, in an increasingly cross border context. In this regard, the current licensing models are not adequate to meet the requirements of digital developments and Turkey needs to improve these licensing models by taking into consideration this Directive.

2.5 COMPLEMENTARITY OF THE PROJECT

The project will be implemented in close cooperation between the Ministry of Justice, Ministry for EU Affairs, Ministry of Interior, Ministry of Customs and Trade, Ministry of Development, Ministry of Economy, Turkish Patent Institute, Turkish Statistic Institution, Collecting Societies, SME's, sector representatives of creative and copyright based industries, Universities, NGO's and international organizations.

Linked activities:

ERASMUS + Programme: The Erasmus+ Programme aims to boost skills and employability, as well as modernizing Education, Training, and Youth work. The General Directorate for Copyright of Turkey applied for an EU Erasmus + Programme, which is allocated to the education and training of staff. By enabling approximately 10 experts/staff members to visit the copyright relevant organizations /institutions of the EU member countries (Finland, UK, France, Italy) as well as collecting societies of these countries. We aim with this project named "The Education of DG Copyright Staff on Fighting Against the Digital Piracy and Effective Licensing Practices in EU Countries" to acquire firsthand

information and exchange experiences with our counterparts in Europe on the organizational structure, job specifications as well copyright implementations in Europe.

WIPO Project for "National Study on Assessing the Economic Contribution of Copyright-Based Industries to the National Economy of Turkish Republic".

The General Directorate for Copyright is conducting a project with the assistance of the World Intellectual Property Organization (WIPO) in undertaking a "National Study on Assessing the Economic Contribution of Copyright-Based Industries to the National Economy of Turkish Republic". This Project has the aim to contribute to gain powerful evidence of the importance of the creative and copyright based sector, which operates on the basis of copyright protection in our country.

TR 0402.04 - Support to Turkey's efforts in the full alignment and enforcement in the field of intellectual property rights with a focus on fight against piracy.

The Twining project is being implemented by the Ministry of Culture and Tourism /DG for Copyright and Cinema. The legislative committee studies in the form of 5 sub-committees together with Ministry staff, Turkish IPR judges, prosecutors, representatives of collecting societies and where necessary other stakeholders like State Planning organization representative and some academics. These studies have greatly contributed to the enhancement of common legal understanding of different actors, legal quality of the advisory report on legislative amendments and overall constructive dialog between the participants of the project.

Under the Project DG IA-D/MEDTQ/02-99 "Effective Enforcement of Intellectual Property Rights", which was conducted by the Ministry of Justice and completed in December 2005, eight judges were trained in different IPR relevant institutions in six EU Countries between September 2002 and June 2003. One civil and two criminal IPR courts in addition to the existing one civil and one criminal IPR court were established in Istanbul on September 2003 and on September 2004.

One civil and one criminal IPR court were established in Ankara, one criminal IPR court was established in Izmir on September 2003. There are currently twenty-one specialized IPR courts in Istanbul, Ankara and Izmir.

Seven of the judges who have been trained within the framework of the Project were appointed to these courts by the Decision of the Supreme Board for Judges and Prosecutors on October 2003, and on July 2004. One of them has been working in the General Directorate for the EU Affairs of the Ministry of Justice.

IPR Documentation Centre has been set up in the IPR Research Institute under the umbrella of the University of Ankara. It has got very rich collection in Turkish, in English, in French and in German. It has got also an electronic library.

An international symposium was held in Istanbul on 6-7 May 2004 with the participation of approximately 500 persons as the last component of the Project.

Supporting Turkey for Enhancing Implementation and Enforcement of Industrial Property Rights" project was conducted by Turkish Patent Institute to improve implementation and enforcement of industrial property rights in Turkey. This project's overall object was to improve further alignment with the EU acquis, enhance the capacity of the TPI for better implementation and establishing a constructive dialog between the stakeholders.

2.6 LESSONS LEARNED

Following our previous Twinning project experience which is entitled "Support to Turkey's efforts in the full alignment and enforcement in the field of intellectual property rights with a focus on fight against piracy" we as the DG of Copyright had observed below points,

- It is essential to provide proper co-ordination and good communication between key partners.
- The multitude of beneficiary institutions causes ineffective communication and cooperation. Sometimes, delays and time loss in the time schedule of defined activities within project could be experienced in consequence of too many institutions involved.
- The technical staff in the related institutions should work as active as the designated experts throughout the project.
- The translations of the documents are indeed crucial, and the translations should be made by the qualified person specific to the project's subjects, and also after the translations, the translated documents should be controlled carefully by the Ministry staff.
- The close-cooperation with the stakeholders in the implementation of the project is the key aspect for the project success.
- Some study visits and meetings have been carried out to the EU member states under the previous Twinning project. During those activities the opportunity to see the Copyright institutions, offices, collecting societies etc. has been obtained.
- With the previous twinning experience, we had the chance to analyze how the planning of the project was carried out; how it was realized, including how the intended target groups were reached; and the project outputs/results delivered.

2.7 STAKEHOLDERS ANALYSIS

- Ministry of Justice
- Supreme Court of Turkey
- High Council for Judges and Prosecutors
- Ministry for EU Affairs
- Ministry of Interior
- Ministry of Customs and Trade
- Ministry of Development
- Ministry of Economy
- Turkish Patent Institute
- Small and Medium Enterprises Development Organization
- The Union of Chambers and Commodity Exchanges of Turkey
- Collecting Societies
- Universities

3 DESCRIPTION

3.1 **OVERALL OBJECTIVE OF THE PROJECT**

The overall objective of this project is to establish more effective copyright system in order to promote creative and copyright based industries.

3.2 SPECIFIC OBJECTIVE(S) OF THE PROJECT

The specific objective of the project is to strengthen the administrative capacities of all related institutions and providing additional support for judiciary in the copyright field as well as raising awareness of stakeholders regarding copyright, the importance and the benefits of an effective IP system for fostering the creative economy and also promoting strong coordination between the public institutions and the private sector.

3.3 **RESULTS**

Result 1: Further enhanced Administrative Capacity:

Institutional capacity is enhanced through the improvement of current enforcement mechanisms, increasing coordination between enforcement bodies, setting up proposals for alternative dispute resolution methods and more expertized staff which will be able to follow international developments.

- ✓ Number of International experienced staff is raised from 8 to 20 by the end of the project.
- ✓ Number of cooperation activities between project stakeholders in order to provide sustainability of project is increased by the end of the project.
- \checkmark Alternative dispute resolution method proposals identified by the end of the project.

Result 2: More supported and cooperated judiciary on legal practices in the field of copyright

- ✓ Number of specialized judges and prosecutors on copyright is raised.
- ✓ Number of training activities oriented judges and prosecutors of specialized courts of intellectual property and other authorized courts.

Result 3: Increased awareness among public and private stakeholders on the significance of relationship between an effective intellectual property system and development of creative and copyright based industries.

The cultural and creative and copyright based industries have great economic potential and because of this potential more intensive, systematic, and wide-ranging collaboration between the arts, academic, scientific institutions, private sector and all stakeholders should be promoted, as well as private-public initiatives to increase the awareness regarding to the recycling effect between an effective copyright system and creative and copyright based industries. Raised copyright protection culture of public and private sector concerning the individual and national productivity is increased in the result of establishment of efficiently functioning copyright system in conform with international area.

- ✓ Unauthorized usage of copyrighted works and subject matters is decreased by 10% by the end of the project compared to 2013.
- ✓ Number of sales of banderolled legal copies increased 10% by the end of the project compared to 2013.
- ✓ Increase of legal sales of musical works in digital market from 5.5 Million Euro to 7. Million Euro by the end of the project compared to 2013

Result 4: More effective and transparent/accountable Collecting Societies

Transparent, comprehensive solutions to function effectively and efficiently licensing consisted and complexity of processes for copyright licensing is reduced.

✓ Licensing remuneration of collecting societies is increased by 20 % by the end of the project compared to 2013.

✓ Increased number of licensed public places and broadcasting organizations.

3.4 MAIN ACTIVITIES

The activities listed hereunder represent the minimum activities to be implemented in the course of the Twinning project. Member State(s) may propose additional activities in line with the methodology elaborated in its proposal.

The proposal made by the MS should include the activities they propose to achieve the results listed in the fiche. The following activities listed hereunder are only indicative:

Result 1: Further enhanced Administrative Capacity:

<u>Activity 1.1:</u> Strengthening the current enforcement mechanisms in accordance with the requirements arising from practices.

Advisory activities for possible secondary legislation for the current enforcement mechanisms via comparing with international and EU practices as well as EU Directives.

- -Registration System
- Banderole System
- Certification System
- Inspection Commissions

<u>Activity 1.2:</u> Review of Turkish Copyright Law and related legislation for the preparation of an advisory report with the purpose of enhancing creative and copyright based industries in conformity with international standards.

Analysis of secondary legislation and related administrative procedures. This analysis shall be performed in cooperation with all relevant bodies in order to best position the role of the Twinning Project with the purpose of enhancing creative and copyright based industries in conformity with international standards.

<u>Activity 1.3</u>: Advise on the design of alternative administrative dispute resolution methods that provide effective and swift resolution of disputes before the submission to judiciary.

Activity 1.4: Preparation of a comprehensive assessment report following study visits to sample EU member states in order to compare the current administrative structure DG Copyright of our country. These study visits should enable best practices from other EU countries to be built into the regulations and practice of Turkey. The learning will affect achievement of other identified results, too. (It is anticipated that three study visits will take place during the project to member states which had successfully established a strong IPR system such as Germany, France etc.) Relevant experts from the DGC Turkey will carry out study visits to other states for one week study visits to see first-hand how each of the themes covered in this Twinning project, including: how the normative base functions, how new regulations are created and how they are implemented; what kind of enforcement mechanisms for protecting copyright are established etc.

The entire consultation process should be summed up in an assessment report. Its scope is to examine the extent the revised administrative basis should affect the institutional set-up of the DGC Turkey as well as its requirements for material resources. In the end, it should form an explanatory reference to the proposals for the revised administrative basis.

<u>Activity 1.5</u>: Organization of training programs including trainings / workshops / courses / stages / colloquiums on different aspects, based on the "Training Needs Assessment" of DGC and all other stakeholders.(Ministry of Justice, Supreme Court, High Council for Judges and Prosecutors, Ministry for EU Affairs, Ministry of Interior, Ministry of Customs and Trade, Ministry of Development, Ministry of Economy, Turkish Patent Institute , Small and Medium Enterprises Development Organization, The Union of Chambers and Commodity Exchanges of Turkey, Collecting Societies, Universities)

The Twinning Team will work together with the DGC Turkey staff to conduct training needs analysis of staff members-other stakeholders. The needs analysis should define the details of training to be delivered (workshops, class training sessions, on-the-job trainings, courses, stages); and should later serve as a basis for setting up a detailed program for continuous training.

Based on the needs analysis, the Twinning partners will develop a training toolkit. It can be later by DGC Turkey trainers while delivering training to other stakeholders. The training toolkit will consist of modules for trainers and target groups of trainees. It will also include training material (presentations, videos, etc) and material for distribution.

The twinning partner will also bring international experts or trainers from WIPO and other expert institutions in the copyright field for handling international cases.

<u>Activity 1.6</u>: Development of strategies and application methods for an effective enforcement structures against online/digital infringements of copyright in compliance with best practices of EU countries.

<u>Activity 1.7:</u> Establishment of an effective and sustainable model for provision of legal and organizational support to all partners consisting creative and copyright based industries.

The twinning partner shall design a sustainable model for provision of legal and organizational support to all partners consisting creative and copyright based industries such as help- desk or a web site. The web site would include some statistics from other sample countries proofing the serious relation between an effective copyright protection and a developed creative economy.

Result 2: More supported and cooperated judiciary on legal practices in the field of copyright

Activity 2.1: Preparation of training curricula and program; delivery of trainings and workshops for the specialized judges and Public Prosecutors of the Specialized IPR Courts and Supreme Court for the implementation of the relevant legal framework on copyright and industrial designs.

Activity 2.2: Organization of 1 (one) study visit to develop a comparative analysis and exchange of knowledge and experience with specialized judges and prosecutors on intellectual property in EU Member States.

Activity 2.3: Translation of important case laws of Court of Justice of the European Union and other international judicial decisions on copyright and industrial designs.

<u>Result 3: Increased awareness among public and private</u> stakeholders on the significance of relationship between an effective intellectual property system and development of creative and copyright based industries.

<u>Activity 3.1:</u> Increasing awareness of private sector and all stakeholders on effective functioning of the creative economy through organizing awareness raising seminars with all key partners.

<u>Activity 3.2</u>: Establishment of a sustainable coordination and cooperation with copyright holders and the SME's within the institutional approach.

<u>Activity 3.3:</u> Drawing of a roadmap for the acceptance of "Intellectual Property" as an interdisciplinary research program in our country's academic structure.

Result 4: More effective and transparent/accountable Collecting Societies

Activity 4.1: Improvement of systems to ensure effective and fair licensing and distribution.

<u>Activity 4.2</u>: Preparation of a comprehensive advisory report by comparing all collecting societies in Turkey and the pioneer collecting societies of EU member states.

Activity 4.3: Organization of workshops/seminars/ wrap up sessions on the basis of activities 4.1 and 4.2 including case studies and best practices in the field of collective management.

3.5 SUSTAINABILITY

The sustainability of the initiative can be examined at several levels. First the beneficiary ownership and the participation in the process are essential to ensure that the political and policy sustainability of the actions is supported through the project. This will particularly important regarding the reforms leading to sustainable long term improvement of public and private sector cooperation.

The sustainability of the project results will be addressed by:

• Further adoption of legislative texts by an inter-institutional working group comprising representatives of international organizations and of the following enforcement authorities: Customs, Police, Judiciary, Market Surveillance.

• Strengthened administrative capacities, particularly at DGC, with regard to the protection of copyright and related rights;

• Strengthened capacities with regard to the enforcement of copyright and related rights at the Customs, Police, Judiciary

• Increased awareness regarding IP rights among rights holders, schools/universities and the general public.

3.6 ASSUMPTIONS AND PRECONDITIONS²

The Twinning project with the subject "Support to Turkey's efforts in the full alignment and enforcement in the field of intellectual property rights with a focus on fight against piracy" had

² Assumptions are external factors that have the potential to influence (or even determine) the success of a project but lie outside the control of the implementation managers. Such factors are sometimes referred to as risks or assumptions but the Commission requires that all risks shall be expressed as assumptions. Pre-conditions are requirements that must be met before the sector support can start.

completed. The beneficiaries should observe the recommendations and legal comments given by the previous project on the relevant laws and regulations and on their conformity with the acquis; recommendations for corrective measures, covering both legal and institutional aspects of IPR, with the overall aim to increase the efficiency of enforcement.

Assumptions:

- Willingness to improve coordination and cooperation between relevant institutions
- Full commitment of the relevant institutions
- Full participation of the relevant institutions to the project activities.

4. IMPLEMENTATION ISSUES:

The project will be implemented through a twinning contract and its management will be ensured by DG Copyright. The project will be implemented with direct involvement of the relevant institutions and in cooperation with key actors in the area approached.

4.1. Budget

		TOTAL EXP.RE	TOTAL PUBLIC EXP.RE	IPA CONTRIB ON	UTI	I NATIONAL PUBLIC CONTRIBUTION				
ACTIVITIES		EUR (a)=(b)+ (e)	EUR (b)=(c)+ (d)	EUR (c)	%	Total EUR (d)=(x)+(y) +(z)	%	Central EUR (x)	Regional/ Local EUR (y)	IFIs EUR (z)
Twinning Contract		1.750.000	1.750.000	1.662.500	95	87.500	5	87.500		
TOTAL PROJ	ЕСТ	<u>1.750.000</u>		1.662.500		87.500		87.500		

The co-financing requirement foreseen under IPA will be considered fulfilled according to the provision of the relevant Financing Agreement.

4.2. INDICATIVE IMPLEMENTATION SCHEDULE

Contracts	START OF TENDERING	SIGNATURE OF CONTRACT	CONTRACT COMPLETION
TWINNING	APRIL 2015	OCTOBER 2015	JULY 2017

4.3. CROSS CUTTING ISSUES

Equal opportunity

Equal participation of women and men will be secured through appropriate information and publicity material, in the design of projects and access to the opportunities they offer. An appropriate men/women balance will be sought on all the managing bodies and activities of the programme and its projects.

Environment

Not applicable

Minority & vulnerable groups

According to the Turkish Constitutional System, the word minorities encompass only groups of persons defined and recognized as such on the basis of multilateral or bilateral instruments to which Turkey is a party.

The project will in no way harm the rights of <u>any individuals</u> (including disabled people) or entities to apply for the registration of their industrial property rights, or hinder the use of their rights for oppositions, complaints, appeals, or any other rights thereof before the public institutions of Republic of Turkey.

5. DOCUMENTS TO BE ANNEXED TO THE PROJECT IDENTIFICATION FICHE

ANNEX I: STANDART LOG FRAME IS ANNEXED ANNEX II: INSTUTIONAL FRAMEWORK ANNEX III: ESTIMATED COSTS

ANNEX 1

Logical framework matrix in standard format – to be completed to the extent possible at the project identification stage

LOGFRAME PLANNING MATRIX FOR Project Fiche	Strengthening the Turkish Copyright Syster based Industries	g Copyright				
	Contracting period expires: 1 year	Contracting period expires: 1 year				
	Total budget		:1.750.000			
	IPA budget:		:1.662.500			
Overall objective	Objectively verifiable indicators (OVI)	Sources of Verification				
The overall objective of this project is to establish more effective copyright system in order to promote creative and copyright based industries.	creative and copyright based industries	 Economic Statistics provided from TURKSTAT Export statistics of copyright based industries provided from Ministry of Economics Regular report on Turkeys progress on 				

		accession as a candidate country -Training programs and documents	
strengthen the administrative capacities of all related institutions and providing additional support for judiciary in the copyright field as well as raising awareness of stakeholders regarding copyright, the importance and the benefits of an effective IP system for fostering the creative economy and also promoting	-Volume of employment is increased by 5% by	reports on Turkey -Project's inception report, activity progress reports, interim reports and final report	Assumptions • Willingness to improve coordination and cooperation between relevant institutions • Full commitment of the relevant institutions • Full participation of the relevant institutions to the project activities.
Results	Objectively verifiable indicators (OVI)	-Internal Supervision Reports and strategic planning reports of DGC and Ministry of Culture and Tourism Sources of Verification	
Result 1: Further enhanced Administrative	-Number of International experienced staff is	-Training	

Capacity Institutional capacity is enhanced through the improvement of current enforcement mechanisms, increasing coordination between enforcement bodies, setting up proposals for alternative dispute resolution methods and more expertized staff which will be able to follow international developments.	of the project.	activities/documents and materials, study visit reports -Project's inception report, activity progress reports, interim reports and final report	
Result 2: More supported and cooperated judiciary on legal practices in the field of copyright	 -Number of specialized judges and prosecutors on copyright is raised. - Number of training activities oriented judges and prosecutors of specialized courts of intellectual property and other authorized courts. 	-Training activities/documents and materials, study visit reports -Project's inception report, activity progress reports, interim reports and final report	
Result 3: Increased awareness among public and private stakeholders on the significance of relationship between an effective intellectual property system and development of creative and copyright based industries. The cultural and creative and copyright based industries have great economic potential and because of this potential more intensive, systematic, and wide-ranging collaboration between the arts, academic, scientific	 -Unauthorized usages of copyrighted works and subject matters is decreased by 10% by the end of the project compared to 2013. - Number of sales of banderolled legal copies increased 10% by the end of the project compared to 2013. -Increase of legal sales of musical works in digital market from 5.5 Million Euro to 7. Million Euro by the end of the project compared to 2013 	banderole sales. -Statistics and data provided from collecting societies and	

institutions, private sector and all stakeholders should be promoted, as well as private-public initiatives to increase the awareness regarding to the recycling effect between an effective copyright system and creative and copyright based industries. Raised copyright protection culture of public and private sector concerning the individual and national productivity is increased in the result of establishment of efficiently functioning copyright system in conform with international area.	-	digital market.	
Result 4: More effective and transparent/accountable Collecting Societies Transparent, comprehensive solutions to function effectively and efficiently licensing consisted and complexity of processes for copyright licensing is reduced.	 -Licensing remuneration of collecting societies is increased by 20 % by the end of the project compared to 2013. -Increased number of licensed public places and broadcasting organizations. 	collected and distributed by the societies.	
Activities to achieve results The activities listed hereunder represent the minimum activities to be implemented in the course of the Twinning project. Member State(s) may propose additional activities in line with the methodology elaborated in its proposal.	Means / contracts	Costs	Assumptions

Result 1: Further enhanced Administrative Capacity:	Twinning Contract	€ 1.750.000	-Willingness of Universities, SME's and other stakeholders
Activity 1.1: Strengthening the current enforcement mechanisms in accordance with the requirements arising from practices.			
Advisory activities for possible secondary for the current enforcement mechanisms via comparing with international and EU practices as well as EU Directives.			
-Registration System - Banderole System - Certification System - Inspection Commissions			
Activity 1.2: Review of Turkish Copyright Law and related legislation for the preparation of an advisory report with the purpose of enhancing creative and copyright based industries in conformity with international standards.			
Analysis of secondary legislation and related administrative procedures. This analysis shall be performed in cooperation with all relevant bodies in order to best position the role of the Twinning Project with the purpose of enhancing creative and copyright based industries in conformity with international standards.			

Activity 1.3: Advise on the design of alternative administrative dispute resolution methods that provide effective and swift resolution of disputes before the submission to judiciary. Activity 1.4: Preparation of a comprehensive assessment report following study visits to sample EU member states in order to compare the current administrative structure DG Copyright of our country These study visits should enable best practices from other EU countries to be built into the regulations and practice of Turkey. The learning will affect achievement of other identified results, too. (It is anticipated that three study visits will take place during the project to member states which had successfully established a strong IPR system such as Germany, France etc.) Relevant experts from the DGC Turkey will carry out study visits to other states for one week study visits to see first-hand how each of the themes covered in this Twinning project, including: how the normative base functions, how new regulations are created and how they are implemented; what kind of enforcement mechanisms for protecting copyright are established etc.

The entire consultation process should be summed up in an assessment report. Its scope is to examine the extent the revised administrative basis should affect the institutional set-up of the DGC Turkey as well as its requirements for material resources. In the end, it should form an explanatory reference to the proposals for the revised administrative basis.

Activity 1.5: Designation of training programs including trainings / workshops / courses / stages/ colloquiums on different aspects, based on the "Training Needs Assessment" of DGC and all other stakeholders. (Ministry of Justice, Supreme Court, High Council for Judges and Prosecutors, Ministry for EU Affairs, Ministry of Interior, Ministry of Customs and Trade, Ministry of Development, Ministry of Economy, Turkish Patent Institute , Small and Medium Enterprises Development Organization, The Union of Chambers and Commodity Exchanges of Turkey, Collecting Societies, Universities)

The Twinning Team will work together with the DGC Turkey staff to conduct training needs analysis of staff members –other stakeholders. The needs analysis should define the details of training to be delivered (workshops, class training sessions, on-the-job trainings, courses, stages); and should later

process should be		
nt report. Its scope		
tent the revised		
ould affect the		
GC Turkey as well		
terial resources. In		
n an explanatory		
s for the revised		
f training programs		
shops / courses /		
erent aspects, based		
sessment" of DGC		
Ministry of Justice,		
ncil for Judges and		
U Affairs, Ministry		
stoms and Trade,		
ent, Ministry of		
nstitute, Small and		
Development		
of Chambers and		
Turkey, Collecting		
work together with		
o conduct training		
members -other		
alysis should define		
to be delivered		
sessions, on-the-job		
and should later		

serve as a basis for setting up a detailed program for continuous training.		
Based on the needs analysis, the Twinning partners will develop a training toolkit. It can be later by DGC Turkey trainers while delivering training to other stakeholders. The training toolkit will consist of modules for trainers and target groups of trainees. It will also include training material (presentations, videos, etc) and material for distribution.		
The twinning partner will also bring international experts or trainers from WIPO and other expert institutions in the copyright field for handling international cases.		
Activity 1.6: Development of strategies and application methods for an effective enforcement structures against online/digital infringements of copyright in compliance with best practices of EU countries.		
Activity 1.7: Establishment of an effective and sustainable model for provision of legal and organizational support to all partners consisting creative and copyright based industries.		
The twinning partner shall design a sustainable model for provision of legal and organizational support to all partners consisting creative and		

copyright based industries such as help- desk or a web site. The web site would include some statistics from other sample countries proofing the serious relation between an effective copyright protection and a developed creative economy.		
Result 2 : More supported and cooperated judiciary on legal practices in the field of copyright		
Activity 2.1: Preparation of training curricula and program; delivery of trainings and workshops for the specialized judges and Public Prosecutors of the Specialized IPR Courts and Supreme Court for the implementation of the relevant legal framework on copyright and industrial designs.		
Activity 2.2: Organization of 1 (one) study visit to develop a comparative analysis and exchange of knowledge and experience with specialized judges and prosecutors on intellectual property in EU Member States		
Activity 2.3: Translation of important case laws of Court of Justice of the European Union and other international judicial decisions on copyright and industrial designs.		

Result 3: Increased awareness among public and private stakeholders on the significance of relationship between an effective intellectual property system and development of creative and copyright based industries.		
Activity 3.1: Increasing awareness of private sector and all stakeholders on effective functioning of the creative economy through organizing awareness raising seminars with all key partners.		
Activity 3.2: Establishment of a sustainable coordination and cooperation with copyright holders and the SME's within the institutional approach.		
Activity 3.3: Drawing of a roadmap for the acceptance of "Intellectual Property" as an interdisciplinary research program in our country's academic structure.		
Result 4: More effective and transparent/accountable Collecting Societies		
Activity 4.1: Improvement of systems to ensure effective and fair licensing and distribution.		

Activity 4.2: Preparation of a comprehensive advisory report by comparing all collecting societies in Turkey and the pioneer collecting societies of EU member states.		
Activity 4.3: Organization of workshops/seminars/ wrap up sessions on the basis of activities 4.1 and 4.2 including case studies and best practices in the field of collective management.		

ANNEX II: INSTITUTIONAL FRAMEWORK:

The Implementing Agency for this Project will be the Central Financing and Contracting Unit (CFCU), who will be responsible for all procedural aspects of the tendering processes, contracting matters and financial management (including payments) of the Project activities. CFCU will be responsible for financial implementation of the project, ensuring full transparency in financial transactions, management and reporting and will also monitor and supervise the project implementation.

Every three months, a Steering Committee will assess the progress of the project, verify the achievements of the outputs and mandatory results and discuss any other which might affect a smooth implementation of the project. The exact composition of the Steering Committee is to be

defined in the Twinning Contract. However, the following persons should at least be a member: beneficiary Country Project Leader, Member State Project Leader, BC Counterpart to the RTA, RTA, representative of the Twinning Programme Administration Office (PAO), representative of the EU Delegation. Representatives of other donors and relevant projects may be invited to participate as observers in the Steering Committee meetings. Beyond this coordination mechanism, informal contacts with other projects and donors, for exchange of information on respective work programs, etc. are encouraged so as to ensure the best synergy.

ANNEX III: PROFILE AND TASKS OF THE PROJECT LEADER (PL)

Project Leader shall be responsible for the overall co-ordination of the implementation of the twining project activities as well as for the accomplishment of the mandatory results defined in this project. The PL will allocate a minimum of 3 days per month including one visit every 3 months to Turkey as long as the project lasts. He/she will participate as representative of the MS partner in the quarterly Steering Committee meetings and will be responsible for an efficient and effective implementation of the Twinning project with the Beneficiary Country Project Leader.

Profile:

The MS PL shall

- be an expert with broad knowledge and experience in the area of copyright and/or copyright based/creative industries.
- be a senior staff member from a MS institution in charge of copyright issues and/or copyright based/creative industries,
- have a good command of English in word and in writing;

Tasks:

The main responsibilities of the MS PL are to ensure:

- the overall coordination of the project;
- the timely achievement of project results; delivery of the project inputs in timely and effective manner and in respecting contract and EU procedure
- the timely input of resources on the MS side.
- executing administrative issues (i.e. signing reports etc.).
- co-chairing, with the Turkish PL, the regular project implementation steering committee meetings;

PROFILE AND TASKS OF THE RTA

The Resident Twinning Advisor (RTA) will be based for 18 months in Turkey to provide fulltime input to the project for the entire duration of the project.

Profile:

The RTA shall

- have at least 5years professional experience in the copyright area and/or copyright based/creative industries
- have a university degree in law, public administration, political sciences, economics or equivalent,
- have experience in technical assistance/twinning projects in the area of copyright and/or copyright based/creative industries;
- be familiar with the legal issues and have a solid knowledge of the principles of EU law and best practices in the field;
- have experience in project management;
- have an excellent command of written and English.
- have a good record in organisational leadership, staff motivation and communication
- have good inter-personal skills and experience in training, public speaking, diplomatic and written communication;
- post graduate degree on relevant area will be an asset,

Tasks:

- Overall supervision of the project implementation and coordination of all activities, as well as management of the project administration,
- Coordination of activities of the team members in line with agreed work plan to ensure timely completion of project outputs;
- To plan and coordinate outputs.
- To nominate and mobilize the short term experts.
- To manage the day-to-day coordination and progress of activities of the project in Turkey;
- Provide technical input to the Project whenever needed and provision of advice in his/her field of expertise;
- Liaison with MS and BC Project Leaders; daily contact with the BC RTA counterpart;

- to report to the MS Project Leader;
- Liaison with other relevant projects and Turkish institutions.

In his/her daily work in Turkey, the RTA will be supported by an RTA Assistant, to be recruited and funded by the project.

PROFILE AND TASKS OF THE RTA ASSISTANT

Profile:

- University level education
- Fluency in Turkish and an excellent command of written and spoken English
- PC Computer literacy with significant knowledge of common software applications such as MS word, excel and power-point
- Good inter-personal skills
- At least 3 years of professional experience
- Prior experience/background in EU twinning projects
- Experience and skills in translation of written documents;

Tasks:

The Assistant of the RTA will be responsible for providing logistical/administrative support, technical translation and interpretation services to the RTA to facilitate the implementation of the activities of the work plan. She/he will in particular assist in the preparation of working documents, organise and participate in work sessions held with the staff of the Directorate General for Copyright (DGC), participate in field visits, prepare and assist in the conduct/reporting on Steering Committee meetings and handle all logistic arrangements for seminars and training activities in consultation with RTA counterpart.

The Assistant to the RTA will be of Turkish nationality and work full time, for a duration of 18 months in Turkey and will be based at the DGC office in Ankara. The Assistant to the RTA will be salaried through the Twinning budget.

A full time language assistant may also be recruited and funded by the project. This interpreter/translator will perform most of the services necessary for the project (e.g. interpretation for missions of short-term experts, translation of documents to and from the Turkish language). For the seminars and the workshops, simultaneous interpreters will be procured and funded by the project.

PROFILE AND TASKS OF THE SHORT-TERM EXPERTS

Successful implementation of the twinning project activities will to a larger extent depend on the input from Short Term Experts. Total estimated Short Term Experts input is 300 working days.

Profile:

The STE's shall have:

- a university degree in a relevant subject;
- a minimum of five years experience in their respective field;
- have professional qualifications and the appropriate experience in the area and subjects that they are selected for,
- an excellent command of written and spoken English;
- experience in international projects relating to copyright area would be an advantage.

To achieve the results and carry out the activities planned, short term experts' (STEs) profiles will be needed to cover the following areas, *inter alia*:

- EU Copyright Acquis
- Digital Piracy
- Collecting Societies
- Copyright based/ creative industries
- Media and communications
- Training.

Tasks:

- To contribute to the project with specialist knowledge in the area of copyright and copyright based/creative industries
- To prepare training course modules;
- Delivery of selected training modules to the experts.
- To provide necessary documents translated into Turkish about specific issues within the concept of Acquis EU
- To provide technical inputs in specific areas of project implementation of the activities listed in the twinning fiche, including organization of workshops, training, coaching, drafting of methodological and handout materials as per the work plan provided by the RTA prior to each mission;