**TWINNING PROJECT FICHE**

***List of abbreviations***

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| --- | --- |
| **AA** | Association Agreement |
| **BC** | Beneficiary Country |
| **EU** | European Union |
| **EUD** | European Union Delegation to the Republic of Moldova |
| **EU Directive** **2016/680** | Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA |
| **GDPR** | General Data Protection Regulation (EU Regulation 2016/679) |
| **MS** | Member State |
| **NCPDP** | National Centre for the Protection of Personal Data |
| **PDP** | Personal Data Protection |
| **PL** | Project Leader |
| **RM** | Republic of Moldova |
| **RTA** | Residence Twinning Adviser |
| **SOP** | Standard Operating Procedure |
| **STE** | Short Term Expert |
| **w/d** | Working day |

**1. Basic Information**

1.1 Programme: **2013/024-403 Framework Programme in support of EU – Republic of Moldova Agreements 2013**

1.2 Twinning Number: **MD 13 ENPI JH 03 17 (MD/29)**

1.3 Title: **Capacity Building of the National Centre for Personal Data Protection of the Republic of Moldova**

1.4 Sector: **Justice and Home Affairs**

1.5 Beneficiary country: **Republic of Moldova**

**2. Objectives**

*2.1 Overall Objective:*

Ensuring a high level of personal data protection and respect of the right to privacy in the Republic of Moldova, in accordance with the European Union’s legal framework and standards in the subject matter's field as well as supporting the lawful exchange of personal data between EU MS and the Republic of Moldova beyond May 2018 when the General Data Protection Regulation becomes applicable and when, in EU MS, Directive 2016/680 will need to have been transposed in national legislation.

*2.2 Project purpose:*

* To harmonise the Republic of Moldova's national legislation in the field of data protection with the European Union’s legal framework and standards (e.g. the EU Regulation 2016/679 – General Data Protection Regulation – and EU Directive 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data).
* To strengthen the National Centre for Personal Data Protection's capabilities
* To raise awareness around data protection legislation among data subjects, data controllers and data processors.

*2.3 Contribution to the EU – Republic of Moldova Association Agreement and the Republic of Moldova and to the Single Support Framework for EU support to the Republic of Moldova (2014-2017)*

Cooperation on personal data protection and ensuring a high level of personal data protection in accordance with the EU standards are objectives both laid out in the main documents governing the relations between the EU and the Republic of Moldova:

**(1)** The EU – Republic of Moldova Association Agreement (including the National Action Plan for Implementing Association Agreement)

 The Twinning project aims directly at fulfilling one of the main provisions found in the European Union – Republic of Moldova Association Agreement (AA) which states in Article 13(1) that *"the Parties agree to cooperate in order to ensure a high level of protection of personal data in accordance with the European Union, Council of Europe (CoE) and international legal instruments and standards"*. Furthermore, it is mentioned in Annex I of this agreement that *"the Parties shall, in the context of the implementation of this or other Agreements, ensure a legal level of data protection which at least corresponds to that set out in Directive No 95/46/EC on the protection* *of individuals with regard to the processing of personal data and on the free movement of such data"*. The GDPR repeals and replaces Directive 95/46/EC, meaning that – in order to further guarantee a lawful exchange of personal data between both sides – the Moldovan side has to ensure a level of personal data protection in line with the provisions laid down in the GDPR.

**(3)** The Single Support Framework for EU support to the Republic of Moldova (2014-2017)

Lastly, the project falls under the Section 5 of the current Single Support Framework (2014-2017), which lists as an important objective "c*omplementary support for capacity development and institution building (…) which will be especially focused on approximation to EU legislation and technical standards"*. The present Twinning project falls within the scope of capacity development.

**3. Description**

*3.1 Background and justification:*

The Republic of Moldova's National Centre for Personal Data Protection[[1]](#footnote-1) (the Centre) has been operational since 2009. It is the national authority responsible for the compliance control of personal data processing activities with the present legislation, namely Law nr. 133 of 08/07/2011 on personal data protection (Law nr. 133). The latter states that the Centre is an autonomous public authority, independent of other public bodies, natural persons and legal entities, in the spirit of article 28 of the Directive 95/46/EC.

The Centre’s main objective is to protect the fundamental freedoms and rights of natural persons, especially the right to privacy regarding the processing and trans-border transfer of personal data. The Centre’s staff is composed of public servants, employed through civil service competitions, according to the relevant provisions of the current applicable legislation. The Centre is structured in four departments – as shown in the organisational chart below – and it is managed by a Director appointed by the Republic of Moldova's Parliament. The current Director's mandate started in April 2016[[2]](#footnote-2).

**Organisational chart of the National Centre for Personal Data Protection**

**of the Republic of Moldova**



In order to respond to the rapidly evolving nature of the data protection and privacy issues, as well as to the obligations towards the EU, the Centre has undertook a process of modernisation of the national legislation. This initiative mainly consists of a new draft law *Draft* *Law on the National Centre for Personal Data Protection of the Republic of Moldova* – that aims at reforming and improving the legal provisions governing personal data protection in Moldova and enhancing the status of the Centre. This legislative initiative was approved by Parliament in first reading in December 2016 and now awaits final parliamentary adoption in second reading in the course of the first few months of 2017. It needs to be understood however that this new law will only be a partial response to the changing EU personal data protection trends and requirements and that more work is therefore needed.

In parallel with this national initiative, the EU’s General Data Protection Regulation (GDPR) was adopted on 14April 2016, entered into force on 24 May 2016 and will be directly applicable throughout the European Union as from 25 May 2018 onwards. The GDPR will replace previous EU legislation governing personal data protection, namely the 95/46/EC Directive. As mentioned here previously, Law nr.133 is heavily inspired by Directive 95/46/EC and it can reasonably be expected the GDPR will make necessary considerable changes to the Republic of Moldova's national legal framework in order to maintain current levels of exchanging personal data between both sides. One such example concerns stricter requirements in order to get the consent for processing personal data, the obligation to notify data breaches to the national authority for personal data protection and significantly higher fines for the non-respect of the GDPR provisions.

Considering the above, it becomes apparent a clear need exists to adapt national legislation and practices in order to guarantee a level of personal data protection in line with applicable EU standards. This process of adapting the national legislation will have to go hand in hand with training the Centre’s staff (capacity building), as the GDPR is an extensive and complex regulation. Furthermore, the GDPR will have a substantial and practical impact on personal data controllers. Indeed, as described above, several new obligations will arise for this category and the regulation will incrementally increase the sanctions for non-compliance. Combined with the elements of extraterritorial application from article 3(2) of the GDPR, private sector companies will be one of the personal data controller categories the most impacted. Indeed, as a considerable proportion of Moldovan companies are aiming to access the Single Market and sell goods and services to EU citizens, compliance with the GDPR will become a very palpable problem in the medium-term future for companies processing this type of personal data.

Moreover, the Republic of Moldova assumes its obligation to ensure a high protection of personal data, for instance by having ratified the Council of Europe's Convention 108 of 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data[[3]](#footnote-3), by striving to fully implement the goals stated in the Association Agreement between the European Union and the Republic of Moldova, by obtaining visa liberalization schemes for citizens of the Republic of Moldova, by harmonizing national legislation on personal data protection to European standards and instruments and by approving the National Strategy regarding personal data protection for the years 2013-2018 and the Action Plan for its implementation, including the National Action Plan on the implementation of the Association Agreement Republic Moldova-European Union between 2014-2016.

*The* ***National Development Strategy for the development of the field of Personal Data Protection Development 2013-2018*** *currently is the main policy document tackling problems in the field of personal data protection. It looks in depth at the potential impact data security breaches can have on various levels, ranging from individuals to the state-level. At the same time, the document develops a framework in which tools to address challenges are identified and it lays out a number of mid-term objectives and tasks to ensure a high level of protection of personal data. Moreover, it sets up and consolidates a dialogue with interested stakeholders (public and private sector) in order to raise awareness around the importance and need of having in place effective data protection measures*

*The current National Development Strategy lists the following priority sectors and actions:*

***(a)*** *strengthening the legal, institutional and social frameworks to ensure protection of individuals’ fundamental rights and freedoms related to personal data processing, especially the right to inviolability of intimate, family and private life, enshrined in Article 28 of the Constitution of the Republic of Moldova.*

***(b)*** *establishing the mechanisms necessary to enforce Law no. 133 of 8 of July 2011 on Personal Data Protection and for data controllers and other processors to implement its provisions.*

***(c)*** *raising awareness among the general public (data subjects) about their rights and the tools that exist to take (informed) decisions concerning the use and disclosure of their personal data.*

***(d)*** *strengthening of the National Centre for Personal Data Protection's institutional capacities in order for it to be able to ensure its functioning, independence and impartiality.*

In light of the above, the Republic of Moldova's European aspirations lead the country to harmonising legislation regulating, among others, personal data protection in line with the European *acquis*, so as to ensure a level of protection and enforcement of the subjects’ rights to processing of personal data. Based on experience gained through the Centre's operations over recent years however, it has become apparent that in the Republic of Moldova the right to personal data protection, a component of the right to privacy, is seen at a lower level compared to European Union Member States. An important deficit – not in the least among the general public – exists in terms of awareness around the protection of personal data.

Currently, modern technologies allow both private and public sectors to use personal data on an unprecedented scale, and like elsewhere in the world, Moldovan citizens too make their personal information public without being fully aware of the risks involved. Hence, a need exists for additional efforts to protect the right to privacy, especially of young citizens.

At present time, in spite of the existing normative framework, every personal data controller sets its own security policy (or, in general, tends to neglect this compartment), which in a majority of cases however does not meet minimum legal requirements. This increases the risk of unauthorized access to personal data filing systems, illegal operations for such data processing and breaches of data confidentiality principles. An important number of entities processing personal data (controllers as well as processors) often lack essential knowledge around the legal framework concerning personal data protection and are therefore unable to assume their obligations and responsibilities ensuring processed personal data's confidentiality and security.

 Individuals are daily exposed to situations when banks, tourism agencies, medical institutions, telephone and internet services’ providers, etc., widely use personal data, frequently abusing the volume and the categories of data to be collected and breaching flagrantly the rights set forth in the Law on Personal Data Protection. Personal data subjects are not informed thoroughly so as to fully understand the purpose for which the data are collected and the reasons for which the personal data are to be processed. A special case would be the processing of personal data referring to minors.

Throughout the Centre's experience over recent years, breaches against various personal data processing principles were observed, such as for instance:

**(a)** illegal processing of special categories of personal data by granting unrestricted access and disclosing such data to the general public, as well as by collecting an excessive volume of personal data as compared to the reasons for which such data are processed subsequently;

**(b)** non-compliance with confidentiality and security regimes for personal data processing when databases with personal data are exchanged illegally among controllers, for purposes such as direct marketing, with no prior consent of such data subjects;

**(c)** abusive and unauthorized access to the main state information resources by public and private legal entities, including by law enforcement entities with no legal basis and justified reasons;

**(d)** breaches of the right to information of the individuals and access to information regarding the operations related to their personal data processing, as well as the abusive and unjustified extension of the period set for applying exceptions and restrictions as compared to the moment when the subject has the real possibility to exercise his/her right to access – the period exceeding the limit necessary to achieve the goal of not damaging the efficiency of the set action or objective while exercising the legal competences of public authorities;

**(e)** breaches of personal data protection principles in cases where minors’ data are illegally disclosed by for instance media outlets, medical workers, and teaching staff in the course of interviews. These cases (children's personal data disseminated through the media), represent a serious breach of one's private and intimate life, as well as of personal data protection principles;

**(f)** data controllers’ failure to update processed personal data, which often leads to data subjects being negatively affected. Such inactions can for instance concern cases where individuals cannot obtain passports when the information (personal data) held in the State Register of Population is not kept up to date by competent authorities (e.g. prosecutors, judges or bailiffs). The burden of providing documents or producing evidence to have personal data corrected then falls solely on the data subject's shoulders which can prove a time consuming and cumbersome process that can inflict further disadvantage on the individual concerned.

Moreover, the relatively small number of employees (21 FTEs) and the tight budget the Centre yearly operates do not allow for developing significant projects that can contribute to promoting the subject matter, raising people’s and businesses' awareness about the need, importance, and benefits of personal data protection, while increasing the level of personal data holders’ knowledge about ways to better control personal data linked to them.

*3.2 Linked activities (other international and national initiatives):*

From March 2017 onwards and for a period of approximately 10 months, the Centre will be benefiting from an assistance program from SlovakAid *(Strengthening fundamental rights protection: Support to National Center for Personal Data Protection****)*** aiming at assisting the Centre in drafting guidelines on personal data protection destined for several sectors (communication, media and IT sector) and to gain additional knowledge on safe and legitimate cross-border personal data transfers. The project targets have been carefully aligned with the ones formulated in this Twinning project.

*3.3 Results:*

The project is expected to yield the following three main overall results:

**Result 1: National legislation on personal data protection is harmonized with the EU acquis, including with the provisions of the GDPR** **and EU Directive 2016/680.**

* Delivery of a draft law **(a)** incorporating recommendations and conclusions from the current legislative framework's assessment and **(b)** compliant with GDPR and EU Directive 2016/680 requirements.
* At least 15 amended sectoral laws and at least 50 amended by-laws, compliant with the amended Law on Personal Data Protection nr. 133 dd. 8 July 2011 (or successor law).

**Result 2: Capacity of the National Centre for Personal Data Protection and other relevant stakeholders in enforcing personal data protection law is strengthened**

* Delivery of a new National Strategy on Personal Data Protection 2019-2021
* All NCPDP staff trained in the field of the GDPR's implications in the Republic of Moldova
* Delivery and implementation of manuals (standard operating procedures) for NCPDP staff on data controllers registration, supervision, investigations, complaints handling and international transfer approvals.
* At least 200 representatives (middle and senior level) from other government institutions trained.
* At least 100 representatives from at least 4 different Civil Society Organisations (CSOs) trained on **(a)** new data protection legislation and **(b)** the GDPR's implications in the Republic of Moldova.
* Delivery of 4 codes of conduct/guidelines for processing personal data in specific sectors (health, finance, law enforcement and electoral process).

**Result 3: The level of awareness on the principles, legal provisions and implications of the GDPR among data subjects (general public), data controllers and data processors (private companies, central and local authorities) is increased.**

* Delivery of nation-wide *ex-post* survey on the perception of the right to and enforcement of personal data protection in the Republic of Moldova[[4]](#footnote-4).
* Delivery of an impact study of the GDPR on private sector companies in the Republic of Moldova.
* Organisation of a minimum of ten sector/target group oriented data protection workshops/seminars.

*3.4 Activities:*

The below listed activities correspond to the aforementioned three results (cf. *supra*: 3.3 Results) and follow the same order. Every specific activity is followed by an approximate indication of the inputs required from the MS, together with a brief outline of the expected outputs.

**Activity 1: National legislation on personal data protection is harmonized with the EU acquis, including with the provisions of the GDPR and EU Directive 2016/680**

1.1 Thorough assessment of existing national legislation on personal data protection in view of GDPR requirements, followed by the drafting of a legal concordance table between the aforementioned national legislation, the GDPR and EU Directive 2016/680.

 *Inputs: MS: 2 x STE x 15 w/d each*

*Outputs: Assessment report of existing national personal data protection legislation in view of aligning to the GDPR and EU Directive 2016/680, including a legal concordance table between these three.*

1.2 Organisation of working meetings between NCPDP representatives and the Twinning experts in order to analyse the assessment's findings.

 *Inputs: MS: 2 x STE x 2 w/d each*

*Outputs: Joint report on the assessments findings*

1.3 Assistance in developing a draft law incorporating the recommendations and conclusions of the Twinning experts' and compliant with GDPR and EU Directive 2016/680 requirements (i.e. a new draft law on personal data protection).

 *Inputs: MS: 2 x STE x 20 w/d each*

*Outputs: Draft law that has been consolidated with other relevant key government institutions (Ministries and agencies)*

1.4 Assistance in developing and/or harmonising secondary legislation with a view to rendering them compliant with the new draft law on personal data protection.

 *Inputs: MS: 2 x STE x 20 w/d each*

*Outputs: Draft secondary legislation that has been consolidated with other relevant government institutions.*

1.5 Assistance in developing the following operational NCPDP documents:

(a) Requirements for security measures for protecting and processing personal data within (public and private) information systems, introducing means for their verification and audit.

(b) Regulation regarding the Register of personal data controllers.

(c) Regulation regarding the control of the legality of personal data processing.

*Inputs: MS: 1 x STE x 10 w/d/*

*Outputs: Based on a local assessment of existing practices and procedures within the NCPDP, delivering written guidelines on (a) security measures' requirements for protecting and processing personal data within information systems, (b) setting up regulation regarding the Register of personal data controllers and (c) setting up regulation regarding the control of the legality of personal data processing.*

1.6 Assistance in developing a new National Strategy on personal data protection for 2019-2021

*Inputs: MS: 1 x STE x 15 w/d*

*Outputs: Based on local consultations under the auspices of the NCPDP and in close cooperation with the latter, delivering a draft National Strategy on personal data protection for 2019-2021.*

**Activity 2: Capacity of the National Centre for Personal Data Protection and other relevant stakeholders in enforcing personal data protection law is strengthened**

2.1 Through means of a survey, assistance in identifying the main needs and areas of interest of NCPDP staff, public authorities, civil society organisations and SMEs in terms of aligning working procedures to the GDPR and its implications in the Republic of Moldova.

*Inputs: MS: 1 x STE x 15 w/d*

*Outputs: Work plan for conducting the aforementioned survey (survey design and means for processing information)*

2.2 Set-up study visits for relevant NCPDP staff (and staff/data protection officers belonging to other government institutions) on best practices at the level of one or more EU MS' Data Protection Authority.

*Inputs: 10 BC participants x 10 days*

*Outputs: Thorough introduction to best practices (functions, systems and interactions with data controllers and the general public) within one or more EU MS' Data Protection Authority.*

2.3 Assistance in drafting 4 codes of conduct and/or guidelines for processing personal data in specific sectors (health, finance, law enforcement and electoral process).

*Inputs: MS: 2 x STE x 20 w/d each in two missions*

*Outputs: Draft codes of conduct in the four aforementioned fields.*

2.4 Development and delivery of train-the-trainers sessions for NCPDP staff (including individual certificates upon passing a test following the sessions), specialized in providing subsequent trainings on (a) the sectorial guidelines (cf. *supra:* activity 2.3) for the representatives from those sectors, (b) the GDPR and (c) EU Directive 2016/680.

*Inputs: MS: 2 x STE x 10 w/d each*

*Outputs: Preparation and delivery of train-the-trainers sessions to NCPDP staff*

2.5 Assistance in elaborating training materials for representatives from relevant public authorities, civil society organisations and SMEs on the sectoral guidelines, the GDPR and EU Directive 2016/680.

*Inputs: MS: 1 x STE x 10 w/d*

*Outputs: Ready-to-use concepts of the aforementioned training material.*

2.6 Development and delivery of training for NCPDP staff responsible for the control procedures.

*Inputs: MS: 1 x STE x 5 w/d*

*Outputs: Preparation and delivery of training to NCPDP staff on control procedures*

2.7 Development and delivery of training for NCPDP staff regarding rapid response procedures to personal data protection security incidents (data security breach notification plan), including practical exercises ('dry runs').

*Inputs: MS: 1 x STE x 10 w/d*

*Outputs: Preparation and delivery on data security breach response procedures, including organising and executing with NCPDP staff (possibly together with selected data controllers) practical exercises.*

2.8 Assistance in drafting technical specifications for the modernisation of the Register of personal data controllers.

*Inputs: MS: 1 x STE x 5 w/d*

*Outputs: Based on a local assessment at the NCPDP, delivery of a document listing the existing gaps and outstanding requirements of a moderns Register of personal data controllers.*

2.9 Assistance in developing and implementing manuals (standard operating procedures) for NCPDP staff on (a) data controller registration, (b) supervision, (c) investigations, (d) complaints handling and (e) international transfer approvals.

*Inputs: MS: 2 x STE x 15 w/d each*

*Outputs: Draft manuals/SOPs for NCPDP staff in the aforementioned fields.*

2.10 Development and delivery of training for NCPDP staff focused on communication and awareness building around personal data protection legislation and requirements.

*Inputs: MS: 1 x STE x 5 w/d*

*Outputs: Preparation and delivery of training to NCPDP staff on communication and awareness building around personal data protection legislation and requirements*

**Activity 3: The level of awareness on the principles, legal provisions and implications of the GDPR among the general public (data subjects), data controllers and data processors (private companies, central and local authorities) is increased**

3.1 Assistance in conducting an impact study of the GDPR on private sector companies in the Republic of Moldova.

*Inputs: MS: 1 x STE x 10 w/d*

*Outputs: Impact study of the GDPR on private sector companies, based on consultations – in close cooperation with the NCPDP – local key stakeholders.*

3.2 Assistance in setting up and conducting an *ex-post* survey on the perception of the right to and enforcement of personal data protection in the Republic of Moldova.

*Inputs: MS: 1 x STE x 15 w/d*

*Outputs: Ex-post survey (timing: towards the end of the project's implementation period)*

3.3 Assistance in developing a communication and awareness raising action plan for the NCPDP (cf. also *supra*: activity 2.10), using also various media (radio, TV, internet and printed press).

*Inputs: MS: 1 x STE x 10 w/d*

*Outputs: Draft action plan for the NCPDP in terms of communication and awareness raising around the role and competencies of the NCPDP*

3.4 Assistance in designing and developing educational and communications material, aimed at aiding target groups to adapt to requirements laid down in the GDPR and EU Directive 2016/680.

*Inputs: MS: 1 x STE x 10 w/d*

*Outputs: Ready-to-use concepts of the aforementioned educational and communications material.*

3.5 Training session destined to private sector companies regarding the GDPR impact and provisions (cf. also s*upra*: activity 2.5).

*Inputs: MS: 1 x STE x 10 w/d in two missions*

*Outputs: Preparation and delivery of training to data controllers and other relevant private sector companies on the impact the GDPR will have on their operations.*

3.6 Assisting in modernising the NCPDP web site (e.g. sectoral video spots, live trainings and setting up a periodical newsletter for an audience external to the NCPDP).

*Inputs: MS: 2 x STE x 15 w/d*

*Outputs: Updated and more elaborate NCPDP web site, including the redaction of the first two issues of a periodical newsletter for an external audience.*

3.7 Organisation of a minimum of ten sector/target group oriented data protection workshops/seminars (i.e. at least six in the capital and at least two in two different main cities in the Republic of Moldova) open to the public to present and discuss (a) the draft law on personal data protection and (b) the international experts opinion, with the active participation of representatives from SMEs, public authorities, civil society organisations and the media.

*Inputs: MS: 1 x STE x 35 w/d (possibly spread over various missions)*

*Outputs: A minimum of ten sector/target group oriented data protection workshops/seminars (participants lists are established for every individual session)*

*3.5 Means/ Input from the MS Partner Administration:*

3.5.1 Profile and tasks of the Project Leader

 General profile

* University Degree
* Be a high-ranking civil servant or equivalent staff member in a Member State public administration or mandated body responsible for data protection
* Good working knowledge of written and spoken English
* Experience in implementing similar or related assistance and cooperation projects will be considered an asset.

 Specific experience and skills

* A minimum of 15 years of professional experience out of which having worked at least 5 years for a Data Protection Authority (DPA). Experience working in a senior management position with a DPA will be considered an asset.
* Solid knowledge of the relevant European Union legislative and institutional framework in the field of personal data protection, including EU Regulation 2016/679 (General Data Protection Regulation)

 Tasks

* Conception, general supervision and coordination of all activities that fall within the Twinning project
* Monitoring and steering the project implementation and developing corrective measures if and when needed
* Maintaining a close and permanent professional relationship with the Resident Twinning Adviser and the Beneficiary Country's project leadership

The Project Leader will continue to work at his/her Member State Administration, but will devote time to conceive, supervise and coordinate the overall thrust of the Twinning project and ensure the commitment of the Member State Twinning Partner to the project.

The Project Leader will allocate a minimum of 3 days per month to this task, with a minimum of one on-site visit every 3 months to participate in the Project Steering Committees for as long as the project is ongoing.

3.5.2 Profile and tasks of the Resident Twinning Adviser

 General profile

* University Degree
* Be a civil servant or a staff member in a Member State public administration or mandated body responsible for data protection
* A minimum of 10 years of professional experience out of which having worked at least 5 years for a Data Protection Authority (DPA) in the field of data protection enforcement or in a supervisory role
* Excellent command of written and spoken English
* Excellent written, oral and inter-personal communication skills
* Computer literate (Word, Excel and Outlook)

 Specific experience and skills

* Solid knowledge of the relevant European Union legislative and institutional framework in the field of personal data protection, including EU Regulation 2016/679 (General Data Protection Regulation)
* Excellent drafting skills, with experience in the field of legal drafting
* Proven experience of minimum 1 year in implementing similar or related assistance and cooperation projects will be considered an asset
* Proven experience in managing and monitoring a group of experts

 Tasks

* Daily supervision, monitoring and on-site coordination of the implementation of all activities that fall within the Twinning project, including proposing and implementing corrective measures if and when needed.
* Ensuring professional support for the project's activities
* Contributing to the preparation of reports concerning the project's activities
* Contributing to developing a comprehensive training curriculum in the field of personal data protection, with a particular focus on EU Regulation 2016/679 (General Data Protection Regulation)
* Maintaining a close and permanent professional relationship with the Project Leader
* Maintaining a close and permanent professional relationship with competent programme manager at the EU Delegation

The RTA will be seconded to Chisinau for 24 months. He/she will work closely with the Moldovan Project Leader, the RTA counterpart and the EU Delegation in order to deliver the project as specified in the Twinning Contract. His/her active participation in negotiating the contract and establishing the Work Plan after the project has been awarded is essential. The RTA will be responsible for the selection and supervision of the RTA Assistant language Assistant and the management of the short-term experts input while working in the Republic of Moldova. He/she will draft the quarterly and final project reports for the Steering Committee.

3.5.3 Profile and tasks of the short-term experts (indicative)

 General profile

* University Degree/ or relevant professional experience in the sector.
* Be a civil servant or a staff member in a Member State public administration or mandated body responsible for data protection
* Good working knowledge of written and spoken English
* Excellent written, oral and inter-personal communication skills
* Computer literate (Word, Excel and Outlook)

 Specific experience and skills

* A minimum of 3 years of professional experience in the area relevant to the proposed assignment

 Tasks

* Carry out tasks assigned to him/her by the Resident Twinning Adviser.
* Upon completion of a mission, hand-over of a mission report to the Resident Twinning Adviser.

Short term experts will perform their tasks in accordance with the project Work Plan and their specific terms of references. They will transfer their knowledge via on-the job training, seminars, training sessions and workshops to counterparts and are able to adopt their working approach to the specific needs of staff from beneficiary institutions. Short term experts are reporting the results of their missions to the RTA and the Project Leaders.

**4. Institutional Framework**

As stated previously, the National Centre for Personal Data Protection of the Republic of Moldova will be the main beneficiary of this project. Two departments in particular will be directly involved in this project, namely the Legal and Public Relations Department and the Evidence and Control Department. At present time, these departments have 11 staff members in total, out of the current 21 civil servants working at the Centre.

These two departments are central to the authority’s activity. The ***Legal and Public Relations Department*** is providing legal consultations, responding to inquiries from citizens and is mandated in drafting instructions and provisions related to personal data protection. Moreover, is also responsible for the organisation of awareness raising events. The ***Evidence and Control Department*** is responsible for ensuring that personal data processing in the Republic of Moldova fully observes national legislation and deals with the registration of personal data controllers. In doing so, it has direct contact with a wide array of personal data controllers, including a large number of companies.

Additionally, the staff from the ***External Relations and European integration Department*** of the Centre will be a secondary beneficiary, especially where it concerns training programs delivered on matters related to the GDPR and its new requirements. This department will also be responsible for the coordination of the project at the Centre level and serve as a contact point with the RTA.

Regarding possible changes in the institutional framework, none are foreseen as a result of the project. However, the current draft legislation waiting for approval from the Parliament, more specifically the *Draft* *Law on the National Centre for Personal Data Protection of the Republic of Moldova*, contains important provisions regarding the internal organisation of the Centre. Indeed, it aims at raising its maximum staff capacity by doubling this number - from 21 to 45 persons – but also adding some new divisions/departments and modifying existing ones.

**5. Budget**

The budget allocated to this Twinning project amounts to €1.000.000.

**6. Implementation Arrangements**

6.1 Implementing Agency responsible for tendering, contracting and accounting

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6.2 Main counterpart in the Beneficiary Country (BC)

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6.3 Contracts

 One Twinning contract.is foreseen for the implementation for this contract.

**7. Implementation Schedule (indicative)**

7.1 Launching of the call for proposals

 February 2017

7.2 Start of project activities

 September 2017 (indicative)

7.3 Project completion

 The project will be completed 24 months after the official start of the project activities – (indicatively: August 2019)

7.4 Duration of the execution period

 27 months (i.e. activities implementation period plus three months)

**8. Sustainability**

The Republic of Moldova's National Centre for Personal Data Protection has been operational since 2009 and has a proven track record – within the limits of the resources allocated to it – of successfully fulfilling its role. What the Twinning project aims for is **(a)** strengthening the Centre's capabilities (e.g. in enforcing data protection rules *vis-à-vis* data controllers), **(b)** aligning its know-how and expertise to a changing environment that has the potential of affecting and even disrupting the volume of business between the European Union and the Republic of Moldova (i.e. the EU Regulation 2016/679 – General Data Protection Regulation) and **(c)** raising awareness around data protection legislation among data subjects, data controllers and data processors.

Sustainability of the project's results beyond its lifecycle will be ensured by having a legal commitment (see *infra*: 10. Conditionality and sequencing) to upgrading the Centre's (human) resources, so that it can play its role and exercise its competencies to the fullest.

**9. Crosscutting issues**

9.1 Equal opportunity

In the project's design and regarding access to opportunities that will be created, all parties involved commit to respecting equal opportunity for men and women. An appropriate gender balance will be sought on the managing bodies of the project. During capacity building activities and trainings throughout the project, specific attention will be given to equal treatment and opportunities for women.

9.2 Minorities

The project will address minorities' issues as an integral part of its overall objectives and project purpose. While implementing the project all minority related topics will be respected in raising awareness and training.

**10. Conditionality and sequencing**

Considering a firm legislative legal framework exists already in the Republic of Moldova, no conditionalities as such in terms of new legislation that needs to be adopted *prior* to the start of this Twinning project are formulated. Given however the relative weakness of the Centre in terms of human resources, it is required that the Centre's additional staff – as envisaged in the draft legislation that will amend Law nr. 182-XVI of 10 July 2008 regarding the approval of the Statute, structure, staff-limit and financial arrangements of the National Centre for Personal Data Protection (up to 40FTEs\* from the current 21) – will join the Centre before the Twinning project can start. In doing so, we ensure the project reaches and trains a maximum number of people working within the Centre.

At the same time, the Twinning project requires the SlovakAid project (cf. supra: *3.2 Linked activities*) to make substantial progress and to deliver the *ex ante* survey regarding the perception of the right to and enforcement of personal data protection in the Republic of Moldova.

*\* Exact eventual number of staff will be confirmed or amended before tendering, as it depends also on ongoing discussions in Parliament.*

*Annex to the Twinning Project Fiche: 1*

*- Logical Framework*

*Annex to the Twinning Project Fiche - Logical Framework*

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| --- | --- | --- |
| **Project Title:** Capacity Building of the National Centre for Personal Data Protection of the Republic of Moldova | **Programme name and number:**2013/024-403MD 13 ENPI JH 03 17 (MD/29) | **Duration:** 24 months |
|  | **Contracting period expires:**25 August 2017 |  |
|  | **Budget: EUR 1.000.000** | **ENI financing: 100%** |
| **Overall Objective** | **Objectively Verifiable Indicators** | **Source of Verification** |
| Ensuring a high level of personal data protection and respect of the right to privacy in the Republic of Moldova, in accordance with the European Union’s legal framework and standards in the subject matter's field as well as supporting the lawful exchange of personal data between EU MS and the Republic of Moldova beyond May 2018 when the General Data Protection Regulation becomes applicable and when, in EU MS, Directive 2016/680 will need to have been transposed in national legislation. | * National legislative personal date protection framework aligned to EU Regulation 2016/679 (GDPR) and EU Directive 2016/680.
* Improved level of compliance with national data protection legislation among data controllers.
* Increased number of data subjects exercising their rights before the National Centre on Personal Data Protection.
* Increased awareness around data protection and data subjects' rights among the general public.
 | * Official Gazette *(Monitorul Oficial)*
* New legislative framework (Law on Personal Data Protection no.133 from 8 July 2011 amended and aligned to EU Regulation 2016/679).
* NCPDP annual progress reports
* Reports from the Twinning project team
* Surveys and studies
 |
| **Project Purpose** | **Objectively Verifiable Indicators** | **Source of Verification** | **Assumptions** |
| * To harmonise the Republic of Moldova's national legislation in the field of data protection with the European Union’s legal framework and standards (e.g. the EU Regulation 2016/679 and EU Directive 2016/680)
* To strengthen the National Centre for Personal Data Protection's capabilities (e.g. in enforcing data protection rules *vis-à-vis* data controllers)
* To raise awareness around data protection legislation among data subjects, data controllers and data processors.
 | * Delivery of new draft legislation (including secondary legislation).
* NCPDP staff trained on the GDPR's implications in the Republic of Moldova (theory and practice).
 | * Law regarding the approval of the Statute, structure, staff-limit and financial arrangements of the National Centre for Personal Data Protection (or successor law)
* NCPDP annual progress reports
* NCPDP training reports
* Plan on the training of civil servants outside the NCPDP and other organisations.
* National Strategy on Personal Data Protection for the 2019-2021 period
* National surveys on the perception of the right to personal data protection
 | Parliament and Government grant additional resources (finances) to the NCPDP to increase its staff and occupy appropriate accommodation. |
| **Results** | **Objectively Verifiable Indicators** | **Source of Verification** | **Assumptions** |
| **Result 1****National legislation on personal data protection is harmonized with the EU acquis, including with the provisions of the GDPR and EU Directive 2016/680.****Result 2** **Capacity strengthening of the National Centre for** **Personal Data Protection and other relevant stakeholders in enforcing personal data protection law****Result 3****The level of awareness on the principles, legal provisions and implications of the GDPR among data subjects (general public), data controllers and data processors (private companies, central and local authorities) is increased.** | * Delivery of a draft law **(a)** incorporating recommendations and conclusions from the current legislative framework's assessment and **(b)** compliant with GDPR and EU Directive 2016/680 requirements.
* At least 15 amended sectoral laws and at least 50 amended by-laws, compliant with the amended Law on Personal Data Protection nr. 133 dd. 8 July 2011 (or successor law).
* Delivery of a new National Strategy on Personal Data Protection 2019-2021
* All NCPDP staff trained in the field of the GDPR's implications in the Republic of Moldova
* Delivery and implementation of manuals (standard operating procedures) for NCPDP staff on data controllers registration, supervision, investigations, complaints handling and international transfer approvals.
* At least 200 representatives (middle and senior level) from other government institutions trained.
* At least 100 representatives from at least 4 different Civil Society Organisations (CSOs) trained on **(a)** new data protection legislation and **(b)** the GDPR's implications in the Republic of Moldova.
* Delivery of 4 codes of conduct/guidelines for processing personal data in specific sectors (health, finance, law enforcement and the electoral process).
* Delivery of nation-wide *ex-post* survey on the perception of the right to and enforcement of personal data protection in the Republic of Moldova.
* Delivery of an impact study of the GDPR on private sector companies in the Republic of Moldova.
* Organisation of a minimum of ten sector/target group oriented data protection workshops/seminars.
 | * Official Gazette *(Monitorul Oficial)*
* NCPDP annual progress reports
* NCPDP training reports
* Reports on the implementation of the Plan on the training of civil servants outside the NCPDP and other organisations.
* Manuals and/or standard operating procedures for NCPDP staff.
* National Strategy on Personal Data Protection for the 2019-2021 period
* Work shop/seminar reports, including details on participants.
* Awareness campaign planning and informational materials.
 | Parliament and Government committed to maintain and strengthen the NCPDP's capabilities.Regarding the ex post survey, it is required the SlovakAid project delivers the *ex ante* survey on the same topic (cf. *3.2 Linked activities*)  |
| **Activities** |  |  |  |
| **Activity 1****National legislation on personal data protection is harmonized with the EU acquis, including with the provisions of the GDPR****Activity 2** **Capacity strengthening of the National Centre for Personal Data Protection and other relevant stakeholders in enforcing personal data protection law****Activity 3****The level of awareness on the principles, legal provisions and implications of the GDPR among the general public (data subjects), data controllers and data processors (private companies, central and local authorities) is increased** | * Thorough assessment of existing national legislation on personal data protection in view of GDPR requirements, followed by the drafting of a legal concordance table between the aforementioned national legislation and the GDPR.
* Organisation of working meetings between NCPDP representatives and the Twinning experts in order to analyse the assessment's findings.
* Assistance in developing a draft law incorporating the recommendations and conclusions of the Twinning experts' and compliant with GDPR requirements (i.e. a new draft law on personal data protection).
* Assistance in developing and/or harmonizing secondary legislation with a view to rendering them compliant with the new draft law on personal data protection.
* Assistance in developing the following operational NCPDP documents:

(a) Requirements for security measures for protecting and processing personal data within (public and private) information systems, introducing means for their verification and audit.(b) Regulation regarding the Register of personal data controllers. (c) Regulation regarding the control of the legality of personal data processing.* Assistance in developing a new National Strategy on personal data protection for 2019-2021.
* Through means of a survey*,* assistance in identifying the main needs and areas of interest of NCPDP staff, public authorities, civil society organisations and SMEs in terms of aligning working procedures to the GDPR and its implications in the Republic of Moldova.
* Set-up study visits for relevant NCPDP staff (and staff/data protection officers belonging to other government institutions).
* Assistance in drafting 4 codes of conduct and/or guidelines for processing personal data in specific sectors (health, finance, law enforcement and electoral process).
* Development and delivery of train-the-trainers sessions for NCPDP staff (including individual certificates upon passing a test following the sessions), specialized in providing subsequent trainings on (a) the sectorial guidelines (cf. supra Activity 2.3) for the representatives from those sectors and (b) the GDPR.
* Assistance in elaborating training materials for representatives from relevant public authorities, civil society organisations and SMEs on the sectoral guidelines and the GDPR.
* Development and delivery of training for NCPDP staff responsible for the control procedures.
* Development and delivery of training for NCPDP staff regarding rapid response procedures to personal data protection security incidents (data security breach notification plan), including practical exercises ('dry runs').
* Assistance in drafting technical specifications for the modernisation of the Register of personal data controllers.
* Assistance in developing and implementing manuals (standard operating procedures) for NCPDP staff on (a) data controller registration, (b) supervision, (c) investigations, (d) complaints handling and (e) international transfer approvals.
* Development and delivery of training for NCPDP staff focused on communication and awareness building around new personal data protection legislation and requirements.
* Assistance in conducting **an** impact study of the GDPR on private sector companies in the Republic of Moldova.
* Assistance in setting up and conducting an ex-post survey on the perception of the right to and enforcement of personal data protection in the Republic of Moldova.
* Assistance in developing a communication and awareness raising action plan for the NCPDP (cf. also supra: activity 2.10), using also mass media (radio, TV, internet and printed press).
* Assistance in designing and developing educational material and communications, aimed at aiding target groups to adapt to the GDPR requirements.
* Training session destined to private sector companies regarding the GDPR impact and provisions
* Assisting in modernising the NCPDP web site (e.g. sectoral video spots, live trainings and setting up a periodical newsletter for an audience external to the NCPDP).
* Organisation of a minimum of ten sector/target group oriented data protection workshops/seminars (i.e. at least six in the capital and at least two in two different main cities in the Republic of Moldova) open to the public to present and discuss (a) the draft law on personal data protection and (b) the international experts opinion, with the active participation of representatives from SMEs, public authorities, civil society organisations and the media.
 | Progress reportsProgress reportsProgress reports |  |

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1. Its functioning is governed by Law nr. 182-XVI of 10 July 2008 regarding the approval of the Statute, structure, staff-limit and financial arrangements of the National Centre for Personal Data Protection. [↑](#footnote-ref-1)
2. A NCPDP Director's mandate stretches over 5 years and can be renewed once. [↑](#footnote-ref-2)
3. The Republic of Moldova ratified Convention no. 108 on 28 February 2008 after which it entered into force on 1 June 2008. [↑](#footnote-ref-3)
4. The survey's methodology shall be in line with the one used for the *ex ante* survey carries out under the SlovakAid (cf. *3.2: Linked activities* ) project so that the respective results can be compared in a meaningful way. [↑](#footnote-ref-4)