

TWINNING PROJECT FICHE

OCTOBER 8, 2009

STRENGTHENING INSTITUTIONAL CAPACITY

OF THE MINISTRY OF HOUSING AND MUNICIPAL ECONOMY OF

UKRAINE

**TO STREAMLINE THE WATER SERVICES MANAGEMENT AT
MUNICIPAL LEVEL**

List of Abbreviations

BC	Beneficiary country
CBA	Cost-Benefit Analysis
DW	Drinking Water
DABLAS	Danube Black Sea Task Force
EBRD	European Bank for Reconstruction and Development
EC	European Commission
EECCA	Eastern Europe, Caucasus and Central Asia Countries
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood Policy Instrument
EU	European Union
FDI	Foreign Direct Investments
ICPDR	International Commission for the Protection of the Danube River
LDP	Local Development Programme
MDG	Millenium Development Goals
MHME	Ministry of Housing and Municipal Economy
MS	Member State
MTE	Medium term expert
NGO	Non-Governmental Organisation
NM	Natural Monopoly
OECD	Organisation for Economic Co-operation and Development
O&M	Operation and Maintenance
PA	Project Assistant
PAO	Programme Administration Office
PCA	Partnership and Cooperation Agreement
PPP	Public Private Partnership
QQT	Qualified, Quantified and Timely bounded indicators
RTA	Resident Twinning Adviser
SGEI	Services of General Economic Interest
SLD	Sustainable Local Development
SSC	Sub-sector Co-ordinator
SMART	Specific, Measurable, Achievable, Relevant and Timely bounded indicator
STE	Short term expert
TA	Technical assistance
TOR	Terms of Reference
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
USAID	United States Foreign Aid Programme
WFD	EU Water Framework Directive – 2000/60/EC
WSO	Water Services Observatory
WSS	Water Supply and Sanitation
WW	Wastewater

1. Basic Information

- 1.1. **Programme:** European Neighbourhood and Partnership Instrument (ENPI) – National Action Programme 2007 for Ukraine
- 1.2. **Twinning Number :** UA09/ENP-PCA/EN/20
- 1.3. **Title:** “Strengthening institutional capacity of the Ministry of Housing and Municipal Economy of Ukraine to streamline the water services management at municipal level”
- 1.4. **Sector:** Environment
- 1.5. **Beneficiary Country :** Ukraine

2. Objectives

2.1. Overall Objective

Municipal policy in Ukraine in the sphere of water supply and sanitation is to be improved by setting out conditions according to EU standards.

2.2. Project Purpose

To support Ukrainian MHME approximating the main characteristics of the EU water policy (as described in the Preamble of the EU Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community Action in the field of water policy).

2.3. Contribution to National Development Plans and Action Plan

- **The Relationship between EU and its Member States and Ukraine is strengthened owing to the future Twinning Project**

The principal objective of cooperation between the EU and Ukraine at this stage is to develop an increasingly close relationship, going beyond past levels of cooperation to gradual economic integration and deeper political cooperation. EC assistance will therefore aim at supporting Ukraine’s ambitious reform agenda on the basis of the policy objectives defined in the Partnership and Cooperation Agreement (PCA) of April 1998 and the EU-Ukraine Action Plan of February 2005. In this context the EC-Ukraine Country Strategy Paper (CSP) for 2007-2013, which was adopted by the Commission on 7th March 2007, provides a comprehensive overview of future EC assistance priorities encompassing all instruments and programmes and following the structure of the joint EU-Ukraine Action Plan which is divided into six main chapters. The National Indicative Programme (NIP) for 2007-2010 defines in greater detail the focus of operations under the national envelope of the new European Neighbourhood and Partnership Instrument (ENPI). It is intended to guide planning and project identification by defining a limited number of priority areas, together with the objectives and results to be achieved.

Ukraine was the first country of the former Soviet Union to conclude a PCA with the EU in June 1994. Ukraine is now a priority partner country within the European Neighbourhood Policy (ENP). The EU has encouraged the country to implement the PCA fully before discussions begin on an association agreement.

The joint EU-Ukraine Action Plan was endorsed by the EU - Ukraine Cooperation Council on 21st February 2005 in the framework of the ENP. It is based on the PCA, which provides a comprehensive and ambitious framework for joint work with Ukraine, in all key areas of reform. The PCA with Ukraine went into force on March 1, 1998. It is now terminated, but negotiations on a new enhanced agreement with Ukraine are currently under way. The successor agreement to the PCA has started to be discussed in Brussels on 5th March 2007. Several negotiating rounds have since been organised, alternately in Brussels and Kyiv

Based on the previous PCA, it is possible that environment will remain a key sector of cooperation, as it was the case in the 2004 - 2008 PCA. For instance, for the sake of the protection of the environment, it's Art. 63 identified certain sectors of EU assistance, which are placed now under the control of the MHME, such as: water quality; waste reduction, recycling and safe disposal, implementation of the Basle Convention.

Over the last three years, the European Union's assistance to Ukraine has been increasingly geared towards supporting the achievement of key policy objectives as outlined in the EU - Ukraine 3-year Action Plan. The aim of the given Plan is to encourage and support Ukraine's objective of integration into the European Single Market and of participation in some EU policies. In particular, its implementation will accelerate the approximation of Ukrainian legal, administrative and regulatory frameworks, to that of the European Union. Ukraine is one of the priority countries in the ENP process, the objective of which is to foster the political and economic reform process, promote closer economic integration, legal and technical approximation and sustainable development.

As indicated in the EU - Ukraine Action Plan, new cooperation tools like Twinning will play an essential role in achievement of Action Plan priorities. These instruments, together with other types of assistance in the context of SWAP, will be available and used whenever appropriate.

According to the EU - Ukraine Action Plan, Twinning allows support to adapt state legislation to the norms and standards of EU including grant of technical assistance.

The ENP has now a dedicated financial instrument, which will significantly improve the quality of its assistance and provide more funds to support its partners' reforms (i.e. the European Neighbourhood and Partnership Instrument - ENPI). In this context the EU - Ukraine Country Strategy Paper for 2007-2013, which was adopted by the Commission on 7th March 2007, provides a comprehensive overview of future EC assistance priority areas.

Public administration reform and public finance management have been determined as sub-priority 1 of ENPI National Indicative Programme for Ukraine for 2007 - 2010.

At the EU - Ukraine Summit held on September 9 2008 in Paris under the French Presidency, both Parties have defined that the new agreement between EU and Ukraine will be an Association Agreement, which leaves open the way for further progressive development in EU - Ukraine relations.

- **Through the Twinning Project, the Cooperation with UNDP is Enhanced for reaching the Millennium Development Goals (MDG) till 2015 in the Drinking Water Sector**

In September 2000, the largest-ever gathering of world leaders ushered in the new millennium by adopting the Millennium Declaration. Ukraine also took the responsibility of reaching the MDG till 2015. The global MDGs were adapted to the Ukrainian context taking into consideration the particularities of the country's development. They were translated into 6 "priority areas" and 13 specific "long-term targets".

For Ukraine, one of the six priority areas ("Goal 3") is to "ensure sustainable environmental development" whereas the corresponding target ("Target 5") aims at "increasing the proportion of people with access to clean drinking water by 12% from 2001 to 2015".

This Ukrainian commitment is technically of the utmost importance when it comes to the water sector. Although the MDG, especially in this sector, has no legally binding force, it should be implemented by all countries because all serious action in this field depends on the commitment being met. A country that does not adopt a strategy would leave room for one to doubt its determination to fulfil its international obligations and would not be able to complain if it did not receive aid to attain the water-related goals.

- **The Implementation of the Work Action Plan of the MHME in the water sector is made easier with Twinning Assistance**

In 2008, the MHME adopted its Work Action Plan for the years 2008 - 2012 ("*Plan Robote Strategic*").

This document describes a series of actions to be carried out in the field of municipal economy and therefore lists *inter alia* the various "*Normativne Akte*" and reform programmes to be prepared, passed and enforced. It also prescribes, notably in the municipal water sector, a new management structure and a policy of involving private sector and it lays down *inter alia* new requirements of the system for regulating drinking water supply, and the alternatives for reforming it.

It is an official Work Action Plan based on the "Protocol" No 34 dated July 9, 2008 of the Cabinet of Ministers of Ukraine.

The Work Action Plan identifies a total amount of 112 legal statutes (namely statute laws, governmental decrees "*Postanova*", governmental instructions / "*Nakaz*" and "*Gosstandard*", resolutions and programmes) to be prepared during the period 2008 - 2012). Out this large number of 112 statutes, approximately two dozens of them deal with water supply, waste water treatment and in general drinking water management.

An insight into the action plan is given below under the section 3.1.

3. Description

3.1. Background and Justification

During the last decade, Ukraine's infrastructure sector has been in a state of transformation. Since switching to market principles, the country has been actively restructuring enterprises in the municipal infrastructure sector, including water service sector. Under water service sector is understood - in line with Directive 2000/60/EC of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy (to be referred as the Water Framework Directive, WFD) - the drinking water production, treatment and distribution as well as wastewater collection, treatment and disposal, including sludge disposal carried out by a public utility companies.

Among the goals of this reform process were to bring about the financial recovery of these companies and to ensure uninterrupted delivery of essential services.

A key feature in reforming the communal services sector is to set up an independent regulatory body and / or a sequence of sector-specific regulatory procedures¹. A new management structure and a policy of involving private sector, as indicated in the reform programme, establishes new requirements of the system for regulating water supply, and the alternatives for reforming it. Good regulation aims at balancing the interests of service providers and service

¹ The experience of EU countries gives evidence that there can be a wide range of possible regulatory procedures in the sector of drinking water and waste water treatment, ranging from a centralized regulatory authority (like the British OFWAT) to a number of indicators of achievements placed under the ruling of miscellaneous administrative bodies. Regulatory related issues are therefore to be regulated according to the "principle of subsidiarity" and comprise a set of national and not of community competence.

users. Indeed, it is a necessary pre-condition for successful private sector involvement. A reformed regulatory system should eventually help raise the efficiency of the entire sector and attract investment.

Those are the key features of the EU water service management towards which the Ukrainian public authorities are striving to approximate. However, much still remains to be done when it comes achieving this goal. Following is a short list of the main shortcomings to be found in the municipal sector of drinking water supply in Ukraine.

- As a rule, the power to regulate communal services has not been clearly divided between elected local governments and local state administrations, which are part of the executive branch. The local government bodies combine the functions of: (i) a property owner, (ii) an asset manager, and (iii) a regulator. Combining the first two functions in a regulatory body leads to a conflict of interests when implementing regulatory policy.
- The local government tries at the same time to protect consumers and to maximize the corporate interests of the companies it owns. It is not always possible to maintain the necessary balance under these conditions.
- In order to provide water services to low-income individuals, the Central Government resorts to cross-subsidizing or direct support for parts of the population.
- However, the current level of quality of communal services differs from region to region of Ukraine and is still very low in general.
- Tariff policy in the sphere of communal services is not united; there is no methodology for planning and accounting of original cost of communal services. As a result in the regions difference in prices for the same services is more than twice.

Several above listed features and institutional /organizational arrangements are not in line with EU standards or practices.

For today water supply of inhabited localities in rural areas is a complicated and still unsolved problem. Main disadvantages in this field are: down coverage level of collective water supply services for population, poor services quality of collective water supply, discrepancy of existing water quality standards, absence of owners and / or running enterprises, disparity of water supply tariffs and real cost price, lack of unified law field for cohesion of economy agents of water supply in rural areas. Therefore the MHME has elaborated a draft decree performing a new model of water supply system in rural areas of Ukraine with the relevant recommendations of its implementation. The model is based on consistent implementation of measures in the following directions: solution of the problems with water supply systems properties and putting them into conformity with existing legislation, securing of water supply systems effective management, achievement of sustainable technical and financial-economic development of companies of the water supply and sanitation field in rural areas on basis of an effective tariff policy, implementation of optimal technological diversion schemes, drinking water treatment and distribution.

The function of “water regulator” must therefore be reviewed in the light of the EU standards as well as the current practices of cross subsidies and state aids, and the establishment of a favourable environment for Foreign Direct Investments in the municipal water sector.

The future Twinning project in the drinking water sector may help out in these different segments of central and municipal interventions. The ways and means of assistance shall comprise an overall assistance in the legal and institutional field.

At the present moment, there is a range of primary and secondary legislation, including Presidential Decrees and Regulations of the Cabinet of Ministers, covering different aspects of the development, functioning and reforming of the

water services. A review of several of these documents, such as the Law of Ukraine “On the National Programme ‘Drinking water of Ukraine for 2006-2020’ from 3 March 2005 No 2455-IV’ and the Law of Ukraine “On drinking water and water supply’ from 10 January 2002” No 2918-III, indicates that there is room for improvement and enhancement to ensure that the legal framework is consistent, comprehensive and in line with EU standards and standards.

Based on the recent debates that have taken place within the MHME, it is likely that this Ministry, together with the State Water Committee of Ukraine, is interested in a centralized regulatory model that could include a full-fledged mechanism of “water observatory”. As a rule this model is to be found in countries where local governments are weak, compare to the central government. In this case, the central government intervenes to protect the users of piped water from possible abuse of dominant position. To do this, the centrally based regulatory authority is setting “price caps” limits. Through this mechanism the regulatory authority or the regulatory procedures may control a rather large number of water service providers (either from the public or the private sector.)

Mindful of the MHME’s current Work Action Plan, the future Twinning project shall therefore contribute to the refurbishment and improvement of the various pieces of legislation and regulation, and shall focus on their specific conditions of enforcement, with a view to also attracting future foreign direct investments.

The most important legal tool of intervention in the field of municipal achievements in the drinking water sector is most probably to date the “umbrella ” or “general” Law “On the National Programme Drinking Water of Ukraine for the years 2006-2000 ”, dated March 3, 2005 (No 2455 - IV). According to this law, the programme is calculated for fifteen years; it will be financed by the national budget, and will be realised all along a period of 14 years divided into three periods.

▪ **First period (2006 – 2010)**

- Improvement of financial and economic situation of the existing water service providers through the refurbishment of tariff regulation in the field of water supply and wastewater disposal taking into consideration the cost of capital investment.
- Refurbishing of technical standards in the field of drinking water supply and wastewater disposal through approaching towards EU standards; development of legal and other normative acts, implementation of State standards in the field of drinking water.
- Performing activities in researches and protection of drinking water sources (inventory and ecological evaluation of the status of surface and groundwater sources, development of their quality forecast).
- Embarking upon pilot project in main fields of reforming and development of water service providers.

▪ **Second period (2011 - 2015)**

- Implementing a new system of State regulation on the market of water services.
- Extending the scope of activities on revival, reconstruction, construction of water supply and wastewater disposal system that provide gradual improvement of drinking water quality, including extension of scope of use of underground waters.

▪ **Third period (2016 - 2020)**

Finalization of the most capital-intensive activities with a view to thoroughly improving the provision of quality drinking water in favour of the population of Ukraine.

As an echo to this “umbrella water law”, the above mentioned “Work Action Plan” of the MHME provides an itemized list of laws and regulations in the water sector that must be either amended or prepared within a prescribed indicative period of time.

Reference number in the MHME Work Action Plan	Name of the legal statute to be prepared or amended	Deadline for Completion of Legal Action
71.	Law of Ukraine "National Program on Drinking Water of Ukraine" for 2006-2020"	2008 or 2010
73.	Law of Ukraine "On drinking water and drinking water supply" dated 10 January 2002 No.2918-II	
58.	Law of Ukraine on peculiarities of rent and concession of the facilities of district water supply, heat supply and wastewater disposal that are in communal ownership	(Approved by the Cabinet of Ministers of Ukraine, 2008)
59.	Law of Ukraine on transfer in private property of facilities of State and communal ownership used for activities of district water supply, heat supply and wastewater disposal	Elaborated, 2008
72.	Law of Ukraine on collective water supply and waste water disposal.	Under elaboration, 2008-2009
74.	State Standard of Ukraine on "Drinking Water Supply. Requirements and quality control"	Under elaboration, 2008-2009
75.	State Standard of Ukraine on "Drinking Water of improved quality". Requirements and methods of control.	Under elaboration, 2008-2009
76. *	Introduction of amendments and addenda to the Sector technological standards of drinking water use in companies of water supply and wastewater disposal of Ukraine.	In the process of coordination with the Ministry of Justice, 2008
87. *	Order of State Enterprise (<i>Derjpidpriemnytsva</i>) and Ministry of housing and municipal economy "On introduction of amendments to the license conditions of carrying out economic activity of collective water supply and wastewater disposal"	In the process of coordinations with other ministries, 2008
94.*	Order of State Enterprise (<i>Derjpidpriemnytsva</i>) and Ministry of housing and municipal economy "On introduction of amendments to the Procedure of control over observance of license conditions of carrying out economic activity of district water supply and wastewater disposal"	Under elaboration, 2008
99.	Decree of the cabinet of Ministers of Ukraine "On introduction of amendments to the rules on provision of services and Model Contract on provision of district heat supply, cold and hot water supply and wastewater disposal".	In the process of coordination with other ministries, 2008
103 *	Order of Ministry of housing and municipal economy "On introduction of amendments and addenda to the rules of technical operation of water supply and wastewater disposal systems of the localities of Ukraine	In the process of coordination with the Ministry of Justice, 2008-2009
104 *	Order of MHME "On approval of Rules of use of district water supply and wastewater disposal systems in localities of Ukraine" (new version)	In the process of coordinations with the Ministry of Justice,

Reference number in the MHME Work Action Plan	Name of the legal statute to be prepared or amended	Deadline for Completion of Legal Action
		2008-2009
107 *	Methodology of calculation of rates for district water supply and wastewater disposal	Is planned to be realized in 2009
112 *	Development and approval of the Procedures of calculation of rates for water supply and wastewater disposal, district water supply and wastewater disposal	Is planned to be realized in 2010

*These juridical acts will be elaborated before the beginning of implementation the present project

Mindful of the MHME's current Work Action Plan, the future Twinning project shall therefore contribute to the refurbishment and improvement of the various pieces of legislation and regulation, and shall focus on their specific conditions of enforcement. At this stage, two most critical issues are thus subject to possible sources of discussions between the Ukrainian and the EU experts. They deal with the concept of "natural monopolies" and the law making process in Ukraine.

- **Concept of natural monopolies (NM)**

In the EU and the national legislation of its MS, the concept of NM appears to be a mere economic concept as a rule, and not a legal or an institutional one as in Ukraine. The main principle underlying and inspiring the community legislation is that in legal terms, it is simply impossible to identify a monopoly that has remained so from time immemorial, and may remain so for eternity. On the contrary, a monopoly that looks natural one day become most counterproductive and economically inappropriate the following day, owing to technical progress.

In the EU, the concept of "Services of General Economic Interest" (SGEI) is a substitute to natural monopolies and the priority is now competition in all economic sectors, except, according to the recent concept of SGEI (which dates back to the Amsterdam Treaty of 1997), public authority in the MS may grant special rights, in particular monopole rights, to public or private undertakings to perform SGEI. These special rights generally correspond to responsibilities linked to the performance of the public utility entrusted to the undertaking. However, the special rights must not go beyond what is strictly necessary for the performance of that service. Otherwise, from the point of view of the Community law, they would create illegal situations that restrict competition.

- **Law making process**

There are still many differences in this field between the law making process in the greatest majority of EU MS and in Ukraine. The main difference is of constitutional essence and has to be found in the specific definitions given to the concept of "statute law".

In Ukraine, a strict delimitation of the concept is not found in the Constitution, whereas the Parliaments of EU Member States are somehow submitted (either explicitly or implicitly) to a kind of "self-restraint obligation".

This self-restraint prevents the Members of Parliaments to enter into a lot of details, as frequently does the *Verkhovna Rada*, when passing a law. The difference in the law making process in both Ukraine and in the EU could cause difficulties when implementation the Twinning cooperation.

3.2. Linked Activities

The MHME of Ukraine has good experience in co-operation with international financial institutions and donor organizations and is constantly developing its links. This should lead to strengthening coordination of the future twinning agreement at two different levels: (i) at multilateral level, and (ii) within the existing projects, which are currently by the community of fund donors.

3.2.1. Strengthening cooperation at multilateral level in the water sector (“Multilateral linked activities”)

Ukraine is actively either participating in a number of activities of several international organisations in the field of water supply and sanitation (WSS) in connection with the MDG. Therefore, the future Twinning shall have to pay tribute to these activities. Following is an insight into the “multi lateral linked activities”.

- **The Danube Black Sea Task Force (DABLAS)**

The DABLAS was set up in 2001 with the aim to provide a platform for cooperation to ensure the protection of water and water-related ecosystems in the Danube and the Black Sea. This was in response to a Communication adopted by the European Commission in 2001, which highlighted priority actions required to improve the environmental situation in the region. The DABLAS Task Force comprises representatives of the countries in the region, the International Commission for the <Protection of the Danube River (ICPDR) Secretariat, the Black Sea Commission, International Financing Institutions, the EC, interested EU Member States, other bilateral donors and other regional/international institutions. Also the civil society is involved in the various tasks carried out by the DABLAS Task Force.

Its overall goal is to develop financing mechanisms for the implementation of investment projects for pollution reduction and the rehabilitation of ecosystems in the wider Black Sea region. In 2004, a new DABLAS project assisted the ICPDR in evaluating the accomplishments realised in 11 countries in the Danube River Basin, in terms of policies, legislation, regulations, and investment projects, which have been implemented in line with the ICPDR Joint Action Programme and taking into account EU water related directives, in particular the EU Water Framework Directive.

The ICPDR-DABLAS database has been revised to include municipal, industrial, agro-industrial, wetland restoration, and agricultural & land use projects, including in Ukraine. The ICPDR - DABLAS database is linked with the ICPDR Emission inventory database.

- **United Nations Economic Commission for Europe (UNECE)**

The Twinning activities shall also have to take in consideration the broad aim of UNECE’s environment activities to safeguard the environment and human health, and to promote sustainable development in its member countries in line with Agenda 21. The practical aim is to reduce pollution so as to minimize environmental damage and avoid compromising environmental conditions for future generations. To this end, its Committee on Environmental Policy brings together governments to formulate environmental policy and support its implementation by organizing seminars, workshops and advisory missions and providing a forum for sharing experiences and good practices.

Through its environmental performance reviews, UNECE assesses individual countries’ efforts to bring down pollution levels and manage their natural resources, and makes recommendations to improve their environmental performance. Specific focus shall have therefore to be placed during the twinning on the three following conventions negotiated under the initiative of UNECE, as they have an impact on the supply of water: Convention on Environmental Impact Assessment in a Transboundary Context; Convention on the Protection and Use of Transboundary Watercourses and International Lakes; Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

- **OECD**

Although Ukraine is not an OECD Member State, financing strategy of urban and rural WSS has also to be considered as an important effort and shall have to be coordinated with the Twinning. Let us remind at this stage that the OECD Secretariat seeks to increase the reliability of investment needs assessment, using robust methods to assess, manage and forecast demand for water supply and sanitation services. It also strives to ensure that tariff policies are sustainable from an economic and social point of view.

3.2.2. Strengthening cooperation with on-going projects in the water sector

EU, UNDP, USAID and other important bilateral fund donors are providing assistance to Ukraine through technical projects, which shall have therefore to be taken into account on the occasion of the twinning.

- **EC Project "Municipal Services Support, Ukraine"**

In terms of municipal economy, the most important project has been perhaps the EC Project "Municipal Services Support, Ukraine", which ended by the end of 2006. The project involved detailed analysis of status of municipal services comprising water supply, waste water discharges, district heating and solid waste management for 10 cities in the Eastern Regions of Ukraine.

- **EC Project "Sustainable Local Development in Ukraine" (SLD Project)**

This Project began in October 2006 and will terminate by October 2010. It has three main components, which are applied in four pilot cities of the country: capacity building on the basis of prior experience in each pilot territory, monitoring of infrastructure, modernization activity and paving the way for sustainable development in each territory.

Its team leader is Mr Bernard Froelicher (Tel.: + 38 044 235 98 06 / www.sld.org.ua).

EC project: "Support to Sustainable Regional Development" The project with the budget of 6 million Euro for Services and 10.5 million Euro for works is directed at improvement of the policy of regional development and effective management of the regional growth.

"Sustainable regional development in Ukraine" implies introduction of three main components, such as:

- a. To strengthen the Ukrainian authorities' capacity in policy formulation and decision-making process
- b. To establish a National financial instrument for regional development; and
- c. To assist the Ukrainian authorities in implementing the plan of activities for sustainable regional development.

The team leader of this EC project is Mrs Tanja Zabukovec Kovacic (Tel.: +38 063 99 50 588 / tanjaz@siol.net).

- **EC - UNDP project: "Community Based Approach to Local Development"**

This project, which is financed by the European Union, is being implemented by the United Nations Development Programme (UNDP). Its aim is to implement the very successful approach developed in many countries by UNDP, mobilising local communities around their development priorities and ensuring that their common priority project is achieved and owned by the community.

Water management is one of the “priority areas” of the EU - UNDP project. Therefore, the MHME, which is the lead ministry when it comes to water supply in the country, is the empowered key stakeholder in the sector, although the joint EU - UNDP is working exclusively in communities of less than 10,000 inhabitants.

The contact person for this project is Mrs Ganna Yatsyuk, Communication specialist (Tel.: +38 044 502 1197 / <http://cba.org.ua>).

▪ **USAID Project: “Local Development Project” (LDP)**

US AID provides financial and technical support to several NGO working at municipal level and engaged in the provision of certain municipal services.

It is also about to begin a project in the sub sector district heating. An important set of activities of this fund donor in the LDP is the mid term budgeting and budget management support in 76 cities of Ukraine to help local decision makers to better manage municipal resources.

The Chief of Party of the LDP is Mr Howard Ockman (Tel.: 38 044 425 4433 / www.led.net.ua)

▪ **Insight into other projects funded by the World Bank, or the EBRD in the municipal economy sector (either concluded projects or in their implementation phase)**

- Concluded projects funded by The Word Bank: (i) “Lviv water and wastewater project”. Its objective is to improve the efficiency of water and waste water systems, to ensure provision to inhabitants with drinking water, to implement rational technologies for energy efficiency, production efficiency and decrease of loses by means of structural, technological and equipment renovation of Lviv City Communal Enterprise “*Lviv Vodokanal*”. Coordinator: Ministry of Housing and Municipal Economy of Ukraine. (ii) “Kyiv district heating improvement project”. Its objectives were to reconstruct and develop of central heat supply system in Kyiv under the coordination of City State Administration.
- EBRD Project in current implementation: “Investment and development programme for water supply and water refinement systems in Zaporizhzhia”. Its objectives are to improve the operation of city water supply and wastewater management systems, to increase efficiency and safety of the above systems. The project is coordinated by the Ministry of Housing and Municipal Economy of Ukraine.
- World Bank project in current phase of implementation: “Urban infrastructure project”. Its objective is to assist communal enterprises with the purpose to ensure its sustainable operation for reliability of high quality residential/communal services provision, and improvement of ecological situation. The project is implemented by means of selection and further investment into projects for rehabilitation of water supply, wastewater and solid waste systems. The coordinator of the project is the MHME.

3.3. Results

The present twinning activity is expected to have substantial impact on the following areas: improvement of the existing legislation, elaborating new methods for more efficient financial management of service providers, and facilitating the reform procedure in the field of water services.

The following mandatory results are foreseen:

R.1. The *existing* legal, institutional and organisational framework of municipal water services is reviewed in the light of EU standards with a view to providing better services to users.

R.2. Support for financial management of municipal water service sector is provided according to EU standards

R.3. The legal framework of municipal water service is supplemented by *additional reforms* complying with EU standards.

3.4. Activities

▪ Rationale underlying the activities

The activities to be carried out shall have to take the following objectives in consideration.

By the end of the Twinning Project, the Ukrainian municipal water sector will have approximated towards the main principles of the EU water policy, as identified in the Preamble to the EU Water Framework Directive (Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community Action in the field of water policy).

The said concept of approximation shall not mean that the new expected Ukrainian policy in the sector “drinking water and sanitation” must be similar to that pictured by the said Directive. It merely implies that:

- There will no longer be any serious discrepancies between Ukraine and the EU in the field of water and sanitation policy, in terms of access of undertakings “to” and “for” the market of drinking water services and sanitation
- Foreign Direct Investments will be more interested to invest in Ukraine for the supply of drinking water and for sanitation services at municipal level.
- A number of components of the water and sanitation policy of Ukraine are fully consistent by the end of the twinning with the above mentioned EU water framework directive and this can be verified, while using so-called “screening methods” as they have been utilised on the occasion of the latest enlargement process of the EU in 2004.

In order to facilitate the implementation of the above listed three mandatory results, the activities to be carried out during the twinning period will be grouped accordingly (the letter “A” will stand for “Activities” and there will be a total amount of 3 groups of activities). To make sure that the twinning results are mandatory, it is needed to remind here the definitions of the concept of “activity” and of “output”.

An activity: it is a sequence of tasks to be carried out by the twinning partners leading to an “output” in compliance with a strategy aimed at achieving the agreed mandatory results.

When an output takes the form of an official survey report, this report must be endorsed by the competent Ukrainian authority or it must take the form of a draft statute law, or of a regulation, or of a resolution in compliance with the agreed result. The Annex 1 to this report (i.e. Logical Framework Matrix) provides an insight into the expected characteristics of the output.

Over the project period the following twinning tools will be put into operation for the sake of efficient training or capacity building in their different forms.

- **Medium term expert's mission**

One or two medium term experts provide assistance to the beneficiary twinning partner in elaboration the methodology of carrying out the given activity, or drafting legislation, or outline the organisational framework and procedures. Interpretation and translation of the output materials is foreseen for facilitation the experts' mission. The duration of the mission is 20-40 days.

- **Short term expert's mission**

One or two short term experts provide assistance as described above, but the length of the mission is foreseen 10 days.

- **Seminars**

Series of 1-day seminar are organised for enhancing the knowledge in the given activity for the staff of the beneficiary ministry, the regional and local organs. The estimated number of participants is 20-30 persons. The seminar is held by 2 MS short-term experts and handouts are prepared in advance of the seminar. The experts' presentation is published on the website of the Ministry in order to facilitate the sustainability of the given activity. Simultaneous translation is provided during the sessions.

- **Trainings**

Series of 5-days training are organised for developing the theoretical knowledge and practical skills of the staff of the ministry and the regional and local organs. The training is conducted by 2 MS short-term experts. The estimated number of participant is 15-20 persons. Written materials and handouts in English and Ukrainian are prepared in advance of the training sessions.

The experts' presentation is published on the website of the Ministry in order to facilitate the sustainability of the given activity. Simultaneous translation is provided during the sessions.

- **Study tours**

Series of 5-days study tours are organised to the twinning partner country for developing the hands-on knowledge of the beneficiary ministry, the regional and local organs. Number of participants at each trip is 5 persons. Interpretation is foreseen over the tour.

- **Traineeship**

A specific traineeship is planned for the Ministry's officials in the MS partner administration to contribute to further reinforcement of the structural links between the partner's administrations involved in the Twinning project. The foreseen length of the traineeship is 3 months.

3.4.1 Activities oriented towards achievement of mandatory result R.1.

The following eight activities are foreseen to achieve the first mandatory result. Deliverables are also identified in order to facilitate the progress of implementation.

A.1.1. Review of existing legislation on municipal water services and identification of gaps with regards to European standards on specific key areas

This activity can be broken down into the following tasks, and will be carried out by 2 short term experts visit for 10 days each on gap analysis and 2 middle term experts to carry out comparison to EU legislation.

- **The existing legislation on drinking water production, treatment and distribution on the key areas is reviewed and gaps are identified on the following issues:**
 - Licensing
 - Monitoring and analysis
 - Technical improvement (energy efficiency, use of modern materials and equipment)
 - Provide reliable forecast of demand for drinking water

- **The existing legislation on wastewater collection, treatment and disposal, including sludge disposal on the key areas is reviewed and gaps are identified on the following issues:**
 - Licensing
 - Monitoring and analysis
 - Technical improvement (energy efficiency, use of modern materials and equipment)
 - Provide reliable medium and long term forecast of quantity and quality of wastewater and sludge

- **The existing legislation on drinking water supply and waste water disposal will be entirely reviewed, in order to approximate towards the corresponding components of the EU standards**

There are a significant number of primary and secondary legislation on the field of municipal water services, including drinking water supply and wastewater disposal. It is necessary to review them in the light of European standards and identify gaps with regard to stipulation and enforcement as well. There are four key areas where the review needs to focus: licensing of the services, monitoring and analysis of services, technical improvement, necessary for a better quality services and improvement of planning of volume of services based on more reliable short, medium and long term forecasts.

The review will focus on the above listed pieces of legislation as indicated in the Work Action Plan of the MHME, with more specific focus on the Law of Ukraine "On the National Programme Drink water of Ukraine for 2006-2020 "from 3 March 2005 No 2455-IV, and the "Law of Ukraine On drink water and water supply" from 10 January 2002 No 2918-III

On the occasion of the Twinning, it will be of the utmost importance to identify the geographical locations where the stipulations of the Ukrainian law contradict those of the European legislation and elaborate recommendations for their correction.

This review and the corresponding recommendations will be the input information for the experts preparing seminars and workshops on the issues of:

- Licensing,
- Monitoring and analysis
- Tariff policy
- Financing of investments
- Conditions for concessions and delegated management of water services

The proposals regarding the improvement of the legal framework will be based on EU Water framework Directive. There will also be considered principles and approaches of other directives of the municipal water services as the Drinking Water Directive (Directive 98/83/EC) and the Urban Wastewater Directive (Directive 91/271/EEC) stipulate.

Output: The expected output corresponding to this activity shall be embodied in a “gap analysis” showing the main possible discrepancies between the Ukrainian management of the drinking water sector and the EU, with a view to establishing a diagnosis and to justifying a far-reaching programme of technical, financial, managerial and legal reforms.

A.1.2. Elaboration of proposals for improvement of legislation, organization and methodology for municipal water services based on identified gaps on the key areas

This activity can be broken down into the following tasks, and will be carried out by 2 medium terms experts visit for 20 days each.

- **Elaboration of proposals for improvement of legislation, organization and methodology for drinking water production, supply and distribution on the key areas as follows:**
 - Licensing
 - Monitoring and regulatory procedures
 - Technical improvement (energy efficiency, use of modern materials and equipment)
 - Provide reliable medium and long term forecast of demand for drinking water.

- **Elaboration of proposals for improvement of legislation, organization and methodology for wastewater collection, treatment, disposal, including sludge disposal on the key areas as follows:**
 - Licensing
 - Monitoring and regulatory procedures
 - Technical improvement (energy efficiency, use of modern materials and equipment)
 - Provide reliable medium and long term forecast of quantity and quality of wastewater and sludge

Based on the gap analysis provided by activity A.1.1., several proposals shall be elaborated for the identified key areas both in drinking water and wastewater sub-sector.

The activities following the review of legislation going to focus on organizational and methodological support to beneficiary ministry and its regional and local organs.

Output: The output corresponding to this activity shall be taking the form of survey providing an insight into the conditions, through which the existing Ukrainian legislation in the realm of drinking water and sanitation has approximated towards that of the EU in this specific sector.

A.1.3. Support for implementation of EU standards or best practices

This activity can be broken down into the following tasks, and will be carried out and 2 short term experts for conducting 1-day seminar in organisational framework and by 1 medium term experts visit for 20 days for elaboration of human resources development issues.

- **Support is provided for the staff of the Ministry, the regional and the local authorities in establishing organizational framework (internal procedural documents: who-what-where) for the standards in the field of drinking water production, treatment and distribution on the following areas:**

- Licensing
 - Technical improvement
 - Monitoring and regulatory procedures
 - Tribute to the protection of the environment
 - Forecasts of quantity of the municipal water consumption
- **Support is provided for the staff of the Ministry, the regional and the local authorities in establishing organizational framework (internal procedural documents: who-what-where) for the standards in the field of wastewater collection, treatment and disposal on the following areas:**
 - Licensing
 - Technical improvement
 - Monitoring and regulatory procedures
 - Green approach
 - Forecasts of the municipal wastewater and sludge quantities
- **Support is provided for the Ministry, the regional and the local authorities in the area of human resources development in order to introduce standards in the field of drinking water production, treatment and distribution:**
- **Support is provided for the Ministry, the regional and the local authorities in the area of human resources development in order to introduce standards in the field of wastewater collection, treatment and disposal, including sludge disposal:**

The given activity is aimed at providing an organisational support to the MHME in implementation of European standards in the water service sector.

Organisational support consists of the following tasks:

- Elaboration of proposals for improvement of organisational structure in the ministry, regional and local organs, functional description of job(s)
- Description of internal procedures of each kind of tasks
- Description of tasks, responsibilities, result areas, required qualification of the personnel.

The human resources development includes:

- Functional description of the job;
- Tasks, responsibilities, authorities, result areas, required qualification of the person fulfilling the job.

Output: The output corresponding to this activity shall be made visible by a specific report giving evidence of the improved organizational structure, and providing a description of internal procedures, tasks, responsibilities and the level of required qualifications of the personnel dealing with the supply of drinking water and sanitation.

A.1.4. Capacity building in water services licensing

This activity is broken down into the following tasks, and will be carried out by 2 short term experts facilitating a 1-day seminar.

- **Capacity building provided for the staff of the Ministry, the regional and the local authorities on licensing of drinking water production, treatment and distribution**
- **Capacity building is provided for the staff of the Ministry, the regional and the local authorities on licensing of wastewater collection, treatment and disposal of treated wastewater and sludge**

On the seminar is going to be presented the detailed licensing procedure of drinking water supply and wastewater disposal in EU countries. On the seminar examples and case-studies will be presented from the MS practices.

Output: The output corresponding to this activity shall be provided under the form of a report showing the improved licensing procedures and the outcomes of the efforts done in terms of capacity building of personnel.

A.1.5. Capacity building in technical improvement of water services

This activity can be broken down into the following tasks, and will be carried out by a 5-day study tour to the partner administration.

- **Capacity building provided for the staff of the Ministry, the regional and the local authorities on reduction of losses and improvement of energy efficiency in the field of drinking water production, treatment and distribution**
- **Capacity building provided for the staff of the Ministry, the regional and the local authorities on improvement of energy efficiency in the field of wastewater collection, treatment and disposal of treated wastewater and sludge with focus**
- **Capacity building provided for the staff of the Ministry, the regional and the local authorities in terms of in “green approach” in order to best use of energy efficiency and materials and pollution prevention to lower costs and increase productivity**

The activity aims at presenting the best practices in the MS for improvement of energy efficiency and reduction of losses in water service sector.

Output: The output corresponding to this activity shall be provided under the form of a report providing an insight into the improved energy efficiency, the pollution prevention and the prevention of losses, as part of the technical improvement of water service provision and sanitation.

A.1.6. Capacity building for monitoring of water services

This activity can be broken down into the following tasks and will be carried out by a 5-day study tour to the partner administration.

- **Capacity building provided for the staff of the Ministry, the regional and the local authorities on monitoring and analysis of drinking water quantity and quality.**
- **Capacity building provided for the staff of the Ministry, the regional and the local authorities on monitoring and analysis of collected and treated wastewater quantity and quality, as well as the quantity of the sludge.**

The activity that aims at presenting standards available in the MS, in the field of monitoring and analysis consists of two tasks above.

Output: The output corresponding to this activity shall coincide with a report on improved monitoring procedure and provision of pragmatic knowledge as a result of the study tour.

A.1.7. Capacity building for medium and long term forecast of water services

This activity can be broken down into the following tasks and will be carried out by one medium term expert's mission for assisting elaboration of models and 2 short term expert mission for conducting seminar in training the application of the models.

- **Capacity building provided for the staff of the Ministry, the regional and the local authorities on medium and long term forecast of drinking water consumption and wastewater emission**
- **Capacity building provided for the staff of the Ministry, the regional and the local authorities on medium and long term forecast of collected and treated wastewater quantity and quality, as well as the disposable sludge**

The activity is aimed at providing methodological assistance for the Ukrainian party in modelling of the medium and long term forecast of drinking water consumption and wastewater emission and sludge quantities. It is foreseen to develop a suitable forecast model for the strategic planning of the Ministry with the assistance of a middle term expert.

Output: Forecasts models elaborated jointly and implemented at the MHME on long term and medium term forecasts of water services and the training of personnel in using the models.

A.1.8. Methodological support to enhancement of public participation in the municipal water sector

This activity can be broken down into the following tasks and will be carried out by 2 short term experts on 10-day mission each to elaborate documents in public participation in line with EU WFD.

- **Explore the possibility 'water is available nationwide for affordable price' and elaborate proposals for its introduction in municipal water sector of Ukraine**
- **Provide assistance to public participation in water sector as it is stipulated in Water Framework Directive (2000/60/EC, Article 14.) and elaborate proposals for its introduction in municipal water sector of Ukraine**
- **Subsidizing the water prices - European practice is to provide subsidies for users instead of providing subsidies for companies. Elaborate proposals for introduction of subsidies in the municipal water sector of Ukraine in line with European practice.**

The tasks consist in the studying of the existing situation in the water sector on each of the four issues above, and elaborate proposals for each of them. Short term expert may assist in issues of public participation as it is stipulated in EU Water Framework Directive 2000/60/EC.

Output: the output corresponding to this activity shall be a report outlining the proposals towards improvement in public involvement. .

3.4.2. Activities oriented towards achievement of mandatory result R.2.

The following two activities and the number of tasks will be carried out in order to facilitate the result 2. Outputs are also identified in order to facilitate the progress of implementation.

A.2.1. Elaborate model concession contract and lease contract for municipal water service providers

This activity can be broken down into the following tasks and will be carried out by 2 middle term experts of 20-day mission.

- Drafting model concession / lease contracts for drinking water supply and wastewater treatment :

Based on information collected from reviewing legislation, from interviews with representatives of water service providers a model contracts are elaborated for:

- Drinking water service
- Wastewater service
- Combined water services

A.2.2. Provide trainings on enforcement of model concession contracts and lease contracts

This activity can be broken down into the following tasks and will be carried out by 2 short term experts conducting four 5-day trainings for the staff of the ministry and service providers.

- Training on application of model contracts:
 - One 5-day training is to be carried out in Kyiv.
 - Three 5-day training are to be carried out in countryside

Output: The corresponding output will appear in form of model concession contracts elaborated jointly with the Ukrainian twinning partner and tested in several 5-day trainings involving all the possible stakeholders.

3.4.3 Activities oriented towards the achievement of mandatory result R.3.

A. 3.1. Elaboration of full-fledged water observatory model

This activity can be broken down into the following tasks and will be carried out by 2 middle-term expert for 40-day mission each for elaboration methodology and draft legislation.

- **Review of existing laws, regulations which are / supposed to be in connection with the future regulatory body - based on results of A.1 and elaborate organisational proposals for setting up this body in Ukraine, bearing in mind the existing State Water Committee.**

- **Elaboration of organisational and human resources development for the full-fledged water observatory model, including tariff setting rules. The existing State Water Committee could take on the functions of the proposed Water Observatory**
- **Elaboration of draft legislation on the full-fledged water observatory model.**

The organisational and human resources development will be assisted by middle term experts from the Member State in order to facilitate the implementation of EU standards.

The proposals on improvement of legislation on tariff setting shall need to be based on the EU Water framework Directive. It will also be useful to pay tribute to other directives in terms of municipal water services as the Drinking Water Directive (Directive 98/83/EC) and the Urban Wastewater Directive (Directive 91/271/EEC) stipulate.

Output: The corresponding output will be a study on a full-fledged water observatory model and a set of draft “Normative Akte” laying down a new regulatory organ for municipal water services.

A. 3.2. Training of the operation of the full-fledged water observatory model

This activity can be broken down into the following tasks and will be carried out by 2 study tours and one traineeship.

- **Two Study tours in the MS where the Water Observatory Model operational**
- **A 3-month traineeship for one specialist from the MHME at local level of the concerned Member State (local level means where the water is supplied to users)**

Over the training means above - based on elaborated proposals and legislation - practical experience is to be gathered on operation of a full fledged Water Observatory Model.

Output: The corresponding output will be a set of proposals for implementation of the elaborated full-fledged Water Observatory model in Ukraine.

A. 3.3. Support for comparison and analysis the content of “competition” vs. ”natural monopolies” in the market of services of general economic interest (municipal water services).

In order to facilitate Ukrainian legislation moving towards EU standards, expert mission is provided by one MS economic expert and one MS legal expert for provision of methodological study and drafting appropriate pieces of legislation.

Output: The corresponding output will be a study on comparison and analysis of legal and economic approaches in Ukraine vs. EU MS, as well as draft legislations

3.5. Means / Inputs from the Member State Partner Administration

3.5.1. Profile and Tasks of the Project Leader

The Project leader shall be a high ranking officer of the state machinery or a high ranking staff of semi-public body in the sector of drinking water and sanitation having proven prior in-depth experience or responsibility in:

- The transposition into national MS legislation of the Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

- The elaboration and implementation of work programmes with stakeholders in the water and sanitation sector, namely:
 - (i) Parliament of Ukraine (Verkhovna Rada). (It should be underlined at this stage that the the MHME elaborates new or amended legislative acts but the Verkhovna Rada is a decisive body in Ukraine only to make a final adoption of every new draft law including the water sector. Therefore the Parliament's functioning and final decisions are beyond the MHME competence, but its must not prevent MHME to assist the Parliament draft the best efficient legislation on water supply and snitation, whenever decided so.
 - (ii) National government (individual Ministries with some jurisdiction over water-related matters, for example Health, Environment, Urban and Economic Development),
 - (iii) Provincial or local governments with actual or potential roles as grantors of private sector participation contracts
 - (iv) Regulators,
 - (v) Partners or financiers of the utility
 - (vi) Established regulatory bodies (such as Water Commission, Environmental Agencies, Competition / Fair Trading Commissions...);
 - (vii) Consumer organizations
 - (viii) Labour unions and civil society organisations developing activities in the field of municipal services
 - (ix) Political parties or individual politicians (where water and sanitation is a major political issue, electoral interests in water and sanitation sector performance can be important.

3.5.2. Profile and Tasks of the Resident Twinning Adviser (RTA)

The RTA is a civil servant or equivalent staff seconded to work and to be based in Ukraine, Kyiv for 15 consecutive months.

The RTA provides technical advice and assists the administration or other public sector bodies in Ukraine in the context of a predetermined work plan. She / he is in charge of the day-to-day implementation of the project in Ukraine. All rights to any work done by RTA in the performance of his/her duties become the property of Ukraine. The MS and the Commission will be permitted to use the results of the work elsewhere by permission of Ukraine. RTA is made available by Member States' administrations and mandated bodies to counterparts in Ukraine through EU funding. RTA must in principle be nationals of a Member State of the EU.

The specific knowledge, skills and competencies required from the RTA are:

- Experience in the development and implementation of municipal sector initiatives in the sub sector of water service related issues.
- Proven experience of organizational audit of central Ministries and their regional offices.
- Good legal knowledge.
- Knowledge of governance and accountability frameworks, including monitoring and evaluation arrangements, suitable for municipal service delivery.
- Excellent project management, team building and communication skills – specific competency in monitoring the work of multi-disciplined inter-ministry groups and the sector working groups.
- Prior knowledge of the Ukrainian environment related to the municipal sector would be an asset.

- PC computer literacy with significant knowledge of common software applications such as MS Word, Excel and PowerPoint.
- University degree / post-graduate degree in the relevant discipline or equivalent experience.
- Fluent knowledge of English
- Knowledge of Ukrainian or Russian language would be an advantage.
- Minimum number of professional experience (10 years on the relevant professional field and at least 3 years in the administration).

The tasks of the RTA are to provide technical advice to the MHME).

More particularly the RTA will be responsible of the following missions.

- Organization of training for employees of ministry, regional and local authorities (about 20-30 persons each seminar or workshop)
- Organization of the short and medium term experts for elaboration of methodology, foreseen pieces of legislation by each activity.
- Review of the relevant legislation and documents within the scope of the twinning project.
- Provide advice on request of BC, of PL or of the RTA counterpart within the scope of the twinning subject.

3.5.3. Profile and Tasks of the Short / Middle - term experts

Profile of the Short / Middle term expert	Tasks	Type of the mission
2 STE on review of legislation 2 MTE on definition of status of legislation on the field of DW, WW	Review of existing legislation on DW, WW issues, gap analysis Status evaluation reporting	1 x 10-day missions 1 x 20-day mission
2 MTE on draft legislation	Elaboration proposals for improvement, draft legislation on DW, WW	1 x 20-day missions
2 STE for seminar 1 MTE on organisational framework, human resources development	Review of existing organisational structure, elaboration internal procedures, human resources development for the DW and WW management	1 x 1-day seminar, 1 x 20-day mission
2 STE for training / workshop on licensing DW and WW issues	Presentation best European practices, case studies, etc.	1 x 1-day seminar
2 STE at the MS Ministry for presentation technical issues	Discussion the best European practices energy efficiency, reduction of losses, etc., case	5-day Study tour

Profile of the Short / Middle term expert	Tasks	Type of the mission
	studies based on study trip, conclusions, lesson learned for Ukrainian cases, etc.	
2 STE at the MS Ministry for presentation monitoring issues	Discussion the best European practices in monitoring, case studies based on study trip, conclusions, lesson learned for Ukrainian cases, etc.	5-day Study tour
1 MTE for forecast modelling 2 STE for conducting seminars	Elaboration of forecast model and training. Presentation best European practices, case studies, models etc.	1 x 20-day mission 1 x 1-day seminar
2 MTE on enhancement of public participation in the water sector	Review of existing legislation, elaboration proposals for improvement	1 x 10-day mission
2 MTE on model concession contracts 2 STE on training of application of model contracts	Elaboration model concession / lease contracts and training of their application in practice	1 x 20-day mission 1 x 5-day training in Kyiv 3 x 5-day training in countryside
2 MTE on full-fledged Water Observatory Model 2 STE at the MS Ministry for presentation of WOM	Elaboration new regulatory organ for water service sector (organisational, human resources, and draft legislation) including tariff setting rules	2 x 20-day missions 2 x 5-day Study tour 1 x 3-month traineeship
2 STE on competition vs. natural monopolies, economist & legal expert	Elaboration proposals for legislation on competition rules in market of services of general economic interest	1 x 10-day mission

3.5.4. Profile and Tasks of the Project Assistant

One local assistant will be hired on a full-time basis and remunerated by the TWG budget by a MS. She/he will assist the RTA, short-term experts and RTA counterpart in achieving a smooth implementation of the Twinning project.

The RTA assistant should have an excellent command of English.

4. Institutional framework

The project will be implemented through the MHME, which shall provide a counterpart team and facilitate contacts with other organisations. As a rule, MHME is responsible, directly or indirectly, for the regulation of municipal services, in compliance with the Decree of the Council of Ministers No 717 of May 12, 2007 relating to the MHME.

4.1 History of MHME

In March 2007, the Ministry of Construction, Architecture, Housing and Municipal Economy of Ukraine was split into Ministry of Regional Development and Construction of Ukraine and MHME of Ukraine. The primary tasks of MHME are to reform municipal infrastructure and to regulate the natural monopolies' activity in this sector.

The MHME has branch offices at regional level represented by Oblast and Raiyon departments of housing and municipal economy. The heads of these departments are appointed by the chief of the relevant state administration (Oblast State Administration and Rayon State Administration) as agreed by Ministry. The MHME is responsible *inter alia* for:

- Designing, implementing and steering the residential services sector policies,
- Reforming the municipal infrastructure,
- Technical regulation in the area of communal infrastructure,
- Regulation of natural monopolies activity in the communal services sector,
- Provision of energy saving measures in the area of communal infrastructure.

4.2 Priorities, Responsibilities and Organization of MHME

- (i) Definition of housing policy oriented to the citizens needs
- (ii) Legislative settlement of issues relating the fund for complex reconstruction of houses in bad state; methodological and organisational assistance in implementation of the "Territory of high-quality life" local programmes
- (iii) Stimulation of effective ownership of habitations by promotion of owners associations and education of their members
- (iv) Liquidation of monopoly of housing and municipal offices and creation of owners associations.
- (v) Introduction of the government control system of activity of subjects of natural monopolies in a sphere of heat supply, water-supply and overflow-pipe, in particular the economic grounded realization of tariff policy in the sphere of grant of housing and municipal services, improvement of the licensed terms and control system after their inhibition, defence of rights for consumers.
- (vi) Introduction of household hot and cold water, heat meters. Optimization of volumes of resources consumption in a housing fund.
- (vii) Modernisation of municipal economy with introduction of energy efficiency technologies and equipment.

▪ Management and decision making within the MHME

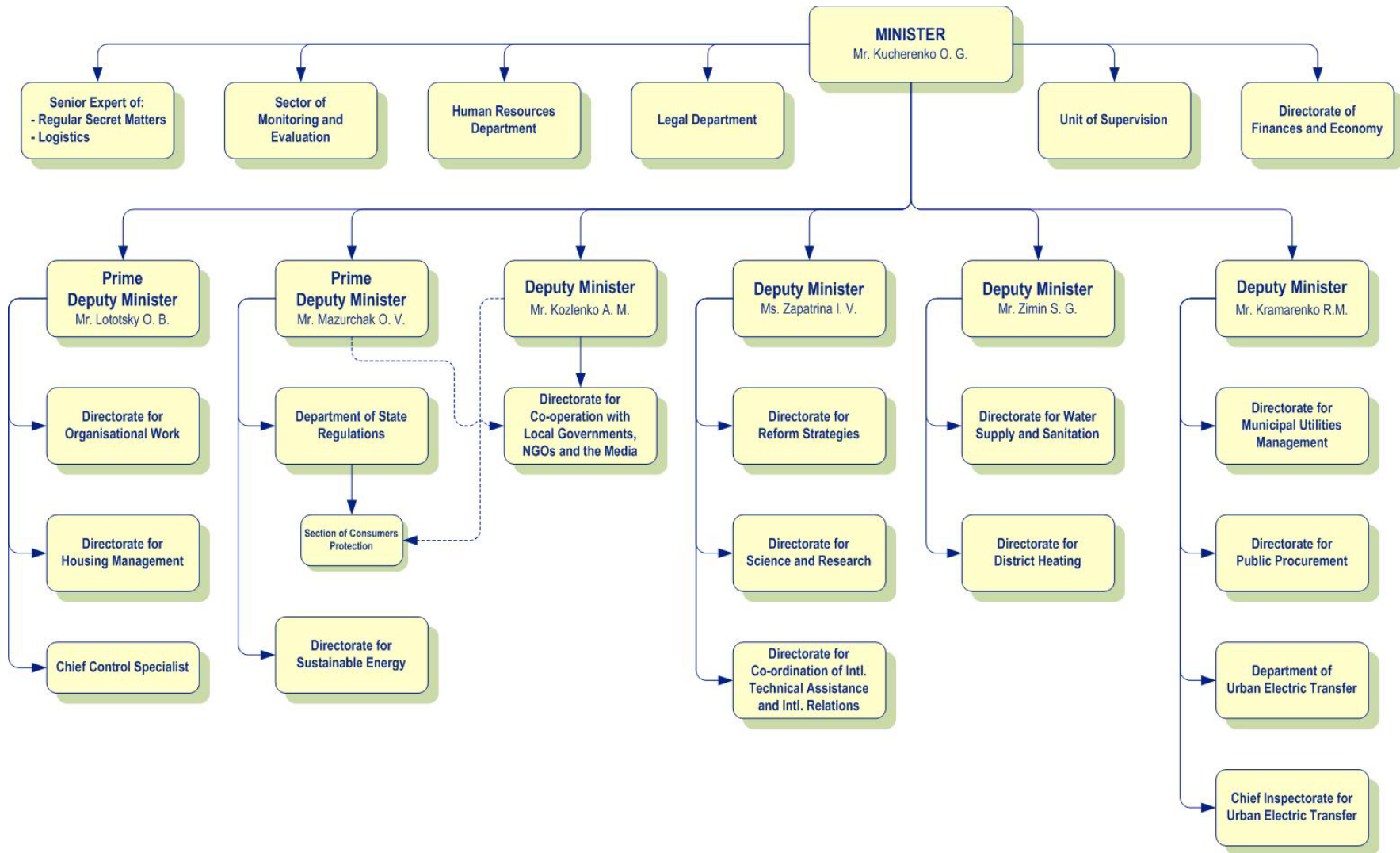
A document called "Internal Regulation of the MHME" in force, dated June 6, 2008 provides a number of key rules to follow for efficient ministerial work.

- Technical and Organizational Measures (Art. 8 - 14): A specific ministerial working group is responsible for the preparation of these measures, which must be approved by the Minister. The said measures are requested to abide by the ministerial guidelines in force.
- Advisory arrangements within the MHME (Art. 19 - 21): The Minister may set up any needed working groups. However, there are three standing Ministerial Councils: The Ministerial College competent for overall policy formulation, the "Scientific Council" competent for scientific issues, and the Strategic Council, which is empowered to address all municipal economy related issues.
- Approximation towards the "Acquis Communautaire" (Art. 34): According to Art. 34, each draft legal Normative Akt must comply with the *Acquis Communautaire* prior to its entry into force.

- Decision making within the MHME (Art. 37-51): Among the numerous stipulations, one is worth being quoted. It deals with the obligation to complete minutes of all meetings no later than 48 hours after the meetings have taken place.
- Inter-ministerial coordination (Art. 52 - 56): At least two days prior to inter-ministerial meetings, the agenda of the meetings are sent to the participants.
- Relationship with Verkhovna Rada (Art. 57) and the Council of Ministers (Art. 59): These articles stipulate how the relationships with the Parliament and the Council of Ministers must be organised.
- Cooperation with the media and the population (Art. 62 - 68): The Regulation provides a number of stipulations in order to secure good information of the public through the media.

In the current organisation of the MHME, the key technical stakeholders for the Twinning Project will be two: the Directorate for Water Supply and Sanitation and the Directorate for Reform Strategies, as shown in the following organisational task chart of the Ministry.

**Organisational Chart of the Ministry of Housing and Municipal Economy
according to Ministerial Instruction no. 250. of 18 August 2008**



4.3. Other stakeholders

The Ministry of Environmental Protection (the Department of Water Resources) is responsible body in the field of environmental protection and the MHME co-ordinates its activity with in the issues of water supply and sanitation within the framework of the Inter-department commission on implementation of the National Program "Drinking Water of Ukraine" for 2006-2020 approved by the Governmental Resolution as of 8 Feb. 2006 No.118.

Improvement of the law making process refers to the Verkhovna Rada, the Parliamentary Committee on Construction, Municipal Engineering, Housing and Municipal Economy and Regional Policy, and to the Ministry of Finance, the Department of Cooperation with International Financial Organizations.

Strategy of delegated management of public utilities and pertaining refers to the duty of the Ministry of Economy, the Department of Foreign Technical Assistance and Cooperation with International Financial Organizations, the Department of Regional Development, the Department of Planning and Development of Economy, and to the Association of Towns of Ukraine.

Concept of "Regulatory Authority" refers to the National Electricity Regulatory Commission of Ukraine (NERC), to the Ministry of Economy, the Department of Regulatory Policy, and to the Ministry of Finance, the Department of Finances, Transport, Communications, Construction and the Sphere of Services.

Liaison with all stakeholders for providing training to raise awareness of the competent Members of Parliament and participation in the parliamentary work of preparation of draft laws should be ensured where it is possible.

5. Budget

The total budget foreseen for the implementation of the twinning project is € 970 000.

6. Implementation Arrangements

6.1. Implementing Agency

The Implementing Agency responsible for tendering, contracting and accounting is the European Commission represented by the Delegation of the European Commission to Ukraine. The person in charge of this project at the Delegation of the European Commission to Ukraine is:

Mr Dominik Papenheim
Sector Manager - Regional & Local Development
Delegation of the European Commission to Ukraine
10 Kruhouniversitytetska Street, Kyiv, 01024, Ukraine
Tel.: + 380 (44) 390 80 10
Fax: + 380 (44) 253 45 47
International fax line: + 380 (44) 230 23 9
E-mail: Dominik.PAPENHEIM@ec.europa.eu
Website: http://www.delukr.ec.europa.eu

The Programme Administration Office (PAO)

The PAO is a designated unit within the administration of the beneficiary country which has been nominated to assist the Delegation with the overall management of twinning projects. In Ukraine the PAO is available by the following coordinates:

Programme Administration Office (PAO)
15, Prorizna Street, Kyiv
01601, Ukraine
Tel. + 38 (044) 279 29 26
Fax: +38 (044) 278 03 21
Mrs Tatyana Kovtun, PAO Director
E-mail: tatyana.kovtun@center.gov.ua
Mrs Nataliya Kyrychenko, Project Coordinator
E-mail: nataliya.kyrychenko@center.gov.ua

The functions and responsibilities of the PAO are as follows.

- It has an essential role in the whole Twinning cycle of the project. For instance, the drafting of the ToRs of the Framework contracts and the quality of Twinning Fiches and Contracts.
- It is the focal point of communication between the EC and the Ukrainian administration and between the MS Administration and the Ukrainian administrations.
- It drafts a reference programming document for the Twinning projects.
- It assists the EC Delegation to check that the detailed proposals meet the required standards.
- It checks that the good management of the Twinning project is in compliance with EC rules.
- It receives and examines all Twinning reports.
- It assists the RTA to ensure his / her arrival, registration, stay and position during his / her activities in Ukraine (if required).

6.2. Main Counterparts in Ukraine

The Final Beneficiary of the project is the Ministry of Housing and Municipal Economy and the qualifications of the main Twinning actors on Ukrainian side are as follows.

6.2.1. The Ukrainian Project Leader

The nominated Project Leader for Ukraine:

Mrs Iryna Zapatrina
Deputy Minister
Ministry of Housing and Municipal Economy of Ukraine
24 Dymytrova Str. Kyiv,
03150 Ukraine
Tel: +38 044 207 19 21
Fax: + 38 044 207 18 33
E-mail: irina.zapatrina@gmail.com
Website address: http://www.minjkg.gov.ua

6.2.2. The RTA Counterpart

The RTA Counterpart is a senior civil servant who will work with the RTA on a daily basis to ensure proper coordination and implementation of all the activities of the project and achieve an efficient transfer of knowledge. He will be involved in one or more of the components of the twinning process. The nominated RTA counterpart is:

Mr Alexander Karbachinsky
Head of the International Cooperation Division
Ministry of Housing and Municipal Economy of Ukraine
24 Dymytrova Str. Kyiv,
03150 Ukraine
Tel: +38 044 207 19 29
Fax: + 38 044 207 18 33
E-mail: a.karbachinsky@gmail.com

6.3. Contracts

Only one Twinning contract is foreseen for this project.

7. Implementation Schedule (Indicative)

7.1. Launching of the call for proposals

October 2009.

7.2. Start of the project activities

July 2010

7.3. Project completion

October 2011

7.4. Duration of the implementation period

15 months

8. Sustainability

The twinning project will have to seek for sustainable solutions and approaches, which shall ensure adoption of best practices and thus prepare grounds for Ukraine's full compliance with the best European practices.

The twinning project shall enhance the capacity of the Ministry of Housing and Municipal Economy of Ukraine.

The achievements of the Twinning project (i.e. the mandatory results) shall be kept as a permanent asset to the public authorities of Ukraine after the end of the Twinning Project. It is presupposed inter alia that effective mechanisms are put in place by the Beneficiary Ukrainian administration to disseminate and consolidate the results of the project.

The MHME will ensure that activities undertaken will have adequate follow up and support to continue advancing towards alignment with EU policy and best practice. Beneficiary institution will allocate the sufficient and experienced staff and financial resources to maintain the achieved results.

9. Crosscutting Issues

Equal opportunity Opportunity both for men and women to participate in this project will be guaranteed on equal basis and the project will further encourage the active participation of men and women in environmental and water management

Environment The programme has no negative effect on the environment. It will provide the basis for the enforcement of the environmental protection.

Referring to the environmental sustainability in accordance with the National Program "Drinking Water of Ukraine" for 2006-2020 and the National Program of Water Economy Development (actually its measures scheduled till 2011) the MHME has developed the technology for pollution lessening of water objects at the expense of wastewaters better treatment under invariable power of treatment plants and also for potable water refining aimed at living standards rise of the population. The regulation system improvement in the environmental sustainability process is of great importance for Ukraine in order to avoid shifting the existing pollution tasks on shoulders of the future generations.

10. Conditionality and sequencing

The Beneficiary institution (MHME) will allocate the sufficient and experienced staff and financial resources to maintain the administrative function developed by this twinning project.

▪ **Staff Inputs**

Significant staff time shall be made available for the various components of the project:

- At the broadest and most senior level, there must be political commitment and support within the Ukrainian administration for the Twinning project as a whole;
- The current Twinning project has got a nominated Ukrainian Project Leader with sufficient authority to administer and properly implement the project in practice. This person will also be named in, and sign, the Twinning Workplan and Budget, as the figure ultimately responsible for its implementation;
- Ukrainian staff inputs should be detailed as far as possible within the Twinning work plan to ensure that there is full recognition of both the practical and political commitments required to achieve the desired results.

▪ **Infrastructure Inputs**

The MHME will make available the necessary infrastructure for the twinning MS partner(s) to carry out their tasks.

- The provision of office space, the provision of equipment (including access to a computer, telephone, fax etc.) and the professional use of that equipment shall be made available as from the RTA's day of arrival.

- All infrastructure requirements will be subject to the Twinning Contract, Twinning work plan and budget.

The anticipated sequencing of the activities is as follows:

- Review of existing legislation, gap analysis, status report
- Assessment of the relationship with the above “external stakeholders” listed in section 4 (more specific attention shall be drawn to the need of coordination with: Parliamentary Committee on Construction, Municipal Engineering, Housing and Municipal Economy and Regional Policy, and Ministry of Finance, (Department of Cooperation with International Financial Organizations)
- Elaboration of proposals for enhancement of existing legislation, drafting amendments
- Elaboration of model concession and lease contracts
- Elaboration of methodology of autonomous regulator

The following activities can be carried out after completion of the relevant legislation or methodology:

- Training of elaborated administrative and management methods (licensing, technical improvement, forecast modelling, monitoring and analysis, model contracts)
- Training in regulation (trainings and traineeship)

The following activities can be carried out flexibly over the implementation period:

- Enhancement of public participation
- Competition vs. natural monopolies
- Coordination and co-operation with the “external stakeholders” listed in section 4, especially with the Ministry of Environment.

ANNEXES TO PROJECT FICHE

ANNEX 1 - Logical Framework

Overall objectives	Objectively verifiable indicators	Sources of verification	Assumptions (external factors that could affect the progress or success of the twinning but over which the project manager has no direct control)
Municipal policy in Ukraine in the sphere of water supply and sanitation is to be improved by setting out conditions according to EU standards	By the end of the twinning project the Ukrainian municipal water service regulation will be "consistent" with EU selected best practices.	<ul style="list-style-type: none"> -Ministry of Housing and Municipal Economy records as presented or highlighted in ministerial reports; - EU assessment reports - Reports from all on-going projects funded by the IFI and having a link with WSS. This specific source of verification shall have to be sought by the twinning team. - Potable Water Standard and the Standard of the Collective Water Supply Sources. Both of them are to be approved by the State Committee on Technical Regulation and Consuming Policy. Also to be mentioned: the laws and subordinate legislation which is drafted by the MHME in cooperation with the Ministry of Health Protection and the National Academy of Sciences. 	
Project purpose:			
To support Ukrainian MHME approximating the main characteristics of the EU water policy (as described in the Preamble of the EU Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community Action in the field of water policy).	Civil society organisations (minimum 5 civil society organisations showing a good degree of representativeness) will provide positive statement about municipal water sector policy by the end of the	<ul style="list-style-type: none"> - A survey report on municipal water sector approval; - Yearly National Report "On drinking water quality and status of drinking water supply in Ukraine". - Reports from all on-going projects 	<ul style="list-style-type: none"> -The necessary legislative provisions, administrative arrangements and adequate financial resources are not provided to ensure the reform process continuation. -Lack of involvement, support and

	twining project	funded by the IFI and having a link with WSS. This specific source of verification shall have to be sought by the twinning team. - Note must be given here that each civil society organization in Ukraine has its own representatives or affiliated societies throughout all regions and therefore covers all territory of the country.	commitment of external stakeholders for activities related to the reform process
Results:			
R.1. The <i>existing</i> legal, institutional and organisational framework of municipal water services is reviewed in the light of EU standards with a view to providing better services to users.	- A draft law on collective water supply and wastewater treatment (amending the existing relevant laws) is prepared and ready to be handed out to the Council of Ministers by the middle of the twinning project realization.	- Yearly National Report "On drinking water quality and status of drinking water supply in Ukraine - Assessment of progress reports by EU and other donors - Reports from all-on-going projects funded by the IFI and having a link with WSS. This specific source of verification shall have to be sought by the twinning team.	Limited involvement and commitment of Ministry, Municipalities and service providers Limited cooperation with Ministry of Environment
R.2. Support for <i>financial</i> management of municipal water service sector is provided according to EU standards.	- At least 1 (one) contract on delegated management or concession is prepared by the end of the project and shall be used as a model for all further draft concession contract. The main purpose of the twinning project is equally seen, e.g. to develop a contract model but to sign any contract as well as to elaborate a legislation frame providing possible appropriate maintenance.	- Ministry's records - Municipalities' records - Service providers' record - Reports from the on-going EC funded projects in the field of municipal interventions. This specific source of verification shall have to be sought by the twinning team.	Lack of involvement and commitment of Ministry, Municipalities and service providers Smooth cooperation with Ministry of Environment
R.3. The legal framework of municipal water services is supplemented by <i>additional reforms</i> complying with EU standards	Draft legislation on autonomous regulatory organ is elaborated and "internally" approved by the end of the twinning project by the Ministry in charge of WWS	-Assessment of progress reports by EU and other donors -Interim and progress reports prepared during the course of twinning -Evaluation of training carried out by	Insufficient involvement and commitment of Ministry, Municipalities and service providers Difficult cooperation with Ministry of

		<p>STE</p> <ul style="list-style-type: none"> -Ministry's record -Municipalities' records -Reporting from other EC projects in the sphere of WSS. This specific source of verification shall have to be sought by the twinning team. - Legislative benchmarking with other similar cases within selected EU Member States. 	<p>Environment.</p>
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Activities:	Specification of inputs – Means	Specification of costs	
<u>Activities facilitating Mandatory Result 1</u>			
A.1.1. Review of existing legislation on municipal water services and identification of gaps with regards to European standards on specific key areas	2 STE for 10-day mission 2 MTE for 20-day mission	Reports from the on-going EC funded projects in the field of municipal interventions. This specific source of verification shall have to be sought by the twinning team.	Lack of cooperation with MHME in law reviewing process and exchange the information. All relevant documents are available, translated into designated language for review.
A.1.2. Elaboration of proposals for improvement of legislation, organization and methodology for municipal water services based on identified gaps on the key areas	2 MTE for 1 x 20-day mission	Reports from the on-going EC funded projects in the field of municipal interventions about the possible improvements. This specific source of verification shall have to be sought by the twinning team.	Insufficient cooperation with MHME in law reviewing process and exchange the information. All relevant documents are available, translated into designated language for review.
A.1.3. Support for implementation of EU standards or best practices	2 STE for 1 x 1-day seminar for training of organisational procedures of selected EU practices 1 MTE for 20-day mission on human resources development	Reports from the on-going EC funded projects in the field of municipal interventions, and / or reports from trainees or from the participants in the seminar. This specific source of verification shall have to be sought by the twinning team.	-Training facilities are not well equipped with video projector, paper boards and other training means by the BC -Technical support from MHME is insufficiently provided to facilitate the implementation of training activities provided. The list of participant is prepared by the MHME covers except from central the local organisations/service providers as well - Not all relevant documents are available, translated into designated language for review.
A.1.4 Capacity building in water services licensing	2 STE for 1 x 1-day seminar for	Reports from trainees or from	Training facilities equipped with video

	training of licensing procedures in the field of DW and WW, based on EU practices	participants in the seminar on their degree of satisfaction of the outcomes of the seminar. This specific source of verification shall have to be sought by the twinning team.	projector, paper boards and other training means by the Ukraine are missing. Technical support from MHME is rarely provided to facilitate the implementation of training activities provided. The list of participant is prepared by the MHME covers except from central the local organisations/service providers as well
A.1.5 Capacity building in technical improvement of water services	a 1-week study trip to MS on DW, WW technical improvement issues (energy efficiency, reduction of losses, etc.) and “green approaches” issues	Reports from the trainees or from the participants on the outcomes of the study trip. This specific source of verification shall have to be sought by the twinning team.	The participants of study tour are not properly selected according to needs of central and local levels
A.1.6 Capacity building for monitoring of water services	a 1-week study trip to MS on DW and WW monitoring and laboratory analysis issues	Reports from the trainees or from the participants on the outcomes of study tour.	-The participants of study tour are not properly selected according to needs of central and local levels
A.1.7 Capacity building for medium and long term forecast of water services	1 MTE for 20-day mission 2 STE for 1-day seminar for DW and WW forecast modelling	Reports from trainees and / or from participants in the common activities with the STE and MTE. This specific source of verification shall have to be sought by the twinning team.	-Training facilities equipped with video projector, paperboards and other training means by the BC. -Technical support from MHME is not adequately provided to facilitate the implementation of training activities provided.
A.1.8 Methodological support to enhancement of public participation in the municipal water sector	2 STE 10-day mission on public participation, and affordability issues.	Reports from trainees or from participants in the meetings with the STE . This specific source of verification shall have to be sought by the twinning team.	- Not all relevant documents are available, translated into designated language for review.
<u>Activities facilitating Mandatory Result 2:</u>			
A.2.1 Elaborate model concession contract and lease contract for ser-	2 MTE for 20-day mission for	Availability of model contracts	Lack of cooperation with MHME in

vice providers	drafting model contracts	“internally” approved by the ministry in charge of supervising the WSS sector.	law reviewing process and exchange the information. Not all relevant documents are available, translated into designated language for review.
A.2.2 Provision of trainings on model contracts, their enforcement in practice	2 STE for 4 x 5-day training for discussion with stakeholders the elaborated contracts in 1 in Kyiv and 3 in the countryside	Comments from the participants on the outcomes of the training on the draft contracts as presented by the STE.	Training facilities equipped with video projector, paper boards and other training means by the Ukrainian twinning partner are missing -Technical support from MHME is not adequately provided to facilitate the implementation of training activities provided. The list of participant is prepared by the MHME covers except from central the local organisations/service providers as well
<u>Activities facilitating Mandatory Result 3:</u>			
A. 3.1 Elaboration of full-fledged Water Observatory Model	2 MTE for 20-day mission 2 MTE for 20-day mission	The organisation of the Water Observatory, including he cost of the needed human resources, is available under the form of a working paper to ready be presented to the Council of Ministers by the Minister in charge of teWSS sector.	Lack of effective cooperation with MHME in law making process and exchange the information. Service providers are involved into law making process. Not all relevant documents are available, translated into designated language for review.
A. 3.2 Training of the operation of the full-fledged water observatory model	2 STE for 2 x 5-day study tours to observe the operation of a regulatory organ in a MS 1 x 3-month traineeship in MS administration	Estimated Costs of the Twinning Project:	The participants of study tours and the trainee are not properly selected according to needs of central and local levels
A. 3.3. Support to comparison and analysis the content of “competition” vs. ”natural monopolies” in the market of services of general economic interest (municipal water services). Proposals to be	2 STE for 10-day mission	1. RTA – 299,000 € 2. Preparation - 25,000 € 3. Coordination - 37,000 €	Lack of effective cooperation with MHME in law making process and exchange the information.

<p>elaborated in order to facilitate Ukrainian legislation moving towards EU standards.</p>		<p>4. Activities - 475,000 € 5. Translation, interpretation - 90,000 € 6. Provision, 2.5% - 24,000 € BUDGET TOTAL: 950,000 €</p>	<p>Not all relevant documents are available, translated into designated language for review.</p>
<p><i>Preconditions:</i></p> <ol style="list-style-type: none"> 1. The Twinning contract is prepared and sign within the timeframe 2. The beneficiary shall also provide all possible assistance to solve unforeseen problems, which the MS/RTA may encounter. 3. Office premises for RTA, assistant and MS experts properly equipped, connected to internet and available from the beginning of the project. Proper translation/interpretation is available for smooth communication between twinning partners. 			