

# **MOLDOVA: CO-OPERATION IN REGIONAL DEVELOPMENT**

Review of Moldova's Regional Development Legal Framework

Background paper 5: RD Call for Proposals Procedure

**DRAFT: NOT FOR QUOTATION**

Colm McClements



Oxford  
Policy  
Management

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## **Abbreviations**

AIP	Annual Implementation Plan
CHU	Central Harmonisation Unit
DFID	Department for International Development
EU	European Union
FY	Financial Year
GoM	Government of Moldova
GDRD	General Directorate for Regional Development
IPP	Institute for Public Policy
OPM	Oxford Policy Management
M&E	Monitoring and Evaluation
MCRD	Ministry of Construction and Regional Development
MDRD	"Moldova: Cooperation in Regional Development" Project
ME	Ministry of Economy
MoF	Ministry of Finance
MTEF	Medium Term Expenditure Framework
NBS	National Bureau of Statistics
NDS	National Development Strategy
NCCRD	National Coordinating Council for Regional Development
NFRD	National Fund for Regional Development
NPC	National Participatory Council
NSRD	National Strategy for Regional Development
PPA	Public Procurement Agency
RD	Regional Development
RDA	Regional Development Agency
RDC	Regional Development Council
RDS	Regional Development Strategy
RDL	Regional Development Law
ROP	Regional Operational Plan
SADI	Small Area Deprivation Index
SAI	Supreme Audit Institution
SPD	Single Programming Document
WG	Working Group

## **Introduction**

This paper is part of a broad legal review of RD law and regulations, undertaken between October 2010 and February 2011 by the DFID & SIDA funded MDRD project, together with the MCRD and other Moldovan government stakeholders. The review focuses on the Regional Development Law and on Regulations to this Law as well as on other documents governing the regional development interventions. The purpose of the review is to draw lessons from progress to date in the implementation of the RD policy and propose areas where the RD law can be strengthened.

A key aim of the review is to look for ways to simplify procedures. But the papers elaborated for the review also focus on the institutional framework and conceptual matters and their mutual relationships or implications. This is because the institutions and concepts are important for RD policy and its implementation and because the legislation – even if well designed – need not cover all situations.

The objectives of the Moldova RD legal framework review are to:

- identify and analyse good practice and strengths of the current RD legislation in order to build on them in the development of RD policy and interventions;
- identify and analyse weak points and problem areas in the current RD legislation and implementation, including the conceptual and institutional framework;
- propose areas where the Law on Regional Development and RD regulations need to be changed; and,
- provide recommendations for the further improvement of RD policy and its implementation.

## **Background**

The Regional Development Law, adopted in February 2007, was elaborated over a period of two to three years, mainly with the assistance of a previous EU Technical Assistance project, the largest and third such EU TA project in the field of regional development in Moldova stretching back to around 2002-3. The same EU project elaborated a large part of the secondary legislation which, subject to certain amendments, was not adopted definitively until 2010. The focus of the primary RD Law – and indeed of a very large part of the secondary legislation - is mainly on designating key functions, institutions and instruments. The RD Law made almost no direct mention of the process of project preparation, appraisal, and selection. The focus was on programming, not on projects per se. The secondary legislative documents – notably the Framework Regulation on Regional Development Agency, the Framework Regulation on Regional Development Council and even the Regulation on the development and usage of the National Fund for Regional Development resources (all of 8 February 2010) focus on institutional and procedural issues of a mainly

legal-administrative nature. Among the secondary documentation is also the Manual for the National Fund for Regional Development which provides the most elaborate description of the project and programming cycles. The development modalities of the project cycle (and to some extent the inter-related programming cycle) were not covered in detail.

The Regional Development exercise for 2010 was considered by all concerned as an exceptional exercise, driven by severe time-pressure. It was never envisaged by anyone involved in the process that the 2010 exercise would be the normal manner in which to articulate either the programming or project cycles. Under pressure of time and in view of the embryonic nature of regional structures, certain instruments were introduced which had never been foreseen in previous planning. Primary among these were a “national call for project proposal” identical across all regions, a straight-forward and time-pressured project submission process and a rapid and mainly national project appraisal and selection process.

## **Issue 1: The Project Cycle: Project Identification and Development**

## **Issue 2: Project Appraisal and Selection**

**(These two issues are considered together)**

### **Main findings**

In the Moldovan model of RD, the key strategic document at regional level is the seven-year Regional Development Strategy. The key document that seeks to programme actions to meet strategic priorities is the three-year Regional Operational Plan. Specific to the Moldovan RD model is the fact that the core of this document is a list of projects to be proposed to the Ministry for funding from the NFRD. It therefore follows that even if the primary RD law says little about projects and the entire project cycle, including project identification, preparation, facilitation, appraisal and selection into the Regional Operational Plan, these processes are at least implicit in the overall scenario of programming and they are made somewhat more explicit in the secondary legislation (regulations).

Several articles in the primary RD Law are important for what should happen with regard to programming and project cycles at regional and national levels. Articles 11 and 12 give some indication of the key documents (Regional Development Strategy and Regional Operational Plan), their nature and purpose and Articles 7 & 8 describe the roles of the RDC and RDA respectively. Article 10 defines the role of the Ministry with regard to programming (and implicitly project selection) at national level by stating:

*“(1) The Single Programming Document is drafted by the Ministry of Local Public Administration for a three-year period. The Single Programming Document represents a synthesis of Regional Operational Plans and provides for priority projects/programmes for regional development that are to be implemented in the next three years.”*

It is clear from these texts – and this was subject to wide discussion over a two year period around 2006-2007 and influenced preparations of draft documents thereafter - that the “programming” sequence would be as follows:

- A regional development strategy would be elaborated in line with the (somewhat general) National Strategy for Regional Development (and implicitly any other advice that the Ministry would choose to give)
- The RDS would comprise two parts – a strategy part and a second part, i.e. the Regional Operational Plan - variously considered a separate document or annex, but on occasion considered – as in the Law – part of the RDS. Elsewhere it was stated the RDS (first part) would be for a duration of 7 years, and the Operational Plan for 3 years
- Critically the first part of the Strategy (strategy proper) would contain an analysis and priorities of intervention; the second part, i.e. the Regional Operational Plan (sometimes in English translations referred to as an Action or Implementation Plan), would include more detailed programmes, projects and activities.
- In fact the actual templates developed by Technical Assistance and promoted by the Ministry made this distinction clear and unlike EU Operational Programmes, the Operational Plans of Moldovan RD were to contain explicit mention of “projects”. There would be a list of projects, consistent with the Strategy. **This Project List would be the core of the Operational Plan.** To make the ROP and to select projects therefore would in practice largely be one and the same task.

In our view there is no doubt as to the intention of the legislator. In the Moldovan model, the Regional Operational Plan is to be built up from projects. This is where programmes and projects come together. The ROP is in fact essentially a list of projects.

In terms of the project cycle, it is clear that the Law foresees:

- a substantial and meaningful process of project identification, preparation and facilitation at regional level
- a substantial and meaningful process of project selection able to ensure an appropriate three year Regional Operational Plan and (this is the crucial link between project selection and ROP programming)
- a substantial and leading role for the Ministry – related however mainly to setting the framework, supervision and verification of the process in the regions
- an ultimate role for the Ministry and for National Coordination Council for Regional Development in determining finally which projects will be selected for funding from the NFRD from among those submitted to it by the various RDCs in their respective ROPs.

In the legislation the RDC – as stakeholder partnership - occupies the role of supervisor, guide, and ultimate arbiter on main RDA activities in the programming and project cycles. Ultimately it is the RDC which determines – on proposal from the RDA – which projects will go into the ROP. All of this is further reinforced in the Regulation on the RDC (February 2010), specifically in Article 16.

The RDA is conceived as pro-development executive agency working under the direction and supervision of the RDC (decision-making and document adopting including project selecting (into ROP)). It is clearly envisaged in the Law that the RDA would be responsible for drafting the RDS and ROP within specifications given by the Ministry and under the guidance of the RDC – who of course would have to approve both documents and their content. The RDA would “*draft regional development strategies, plans, programmes and projects*” (Article 8, (4), (a)). It was understood at the time of drafting the RD Law that the RDA could actually “identify” projects in addition to other local and regional public bodies – this was, at the time, specifically envisaged to ensure that some “regional” projects, wider than the mere local interest of individual local public administrations, could emerge (Article 12, (2)) “*Programmes and projects shall be identified by the Agencies, by local public administration authorities, NGOs, natural and legal persons*”. RD Law Article 8 (4), b (2007) appears to enable the RDA to facilitate and coordinate project development. Art.7, (6) (b) of the same Law appears to envisage some form of RDC support [doubtless in the form of oversight or approval] to project facilitation. Nothing elsewhere appears to pose any restriction on the RDA or RDC role in this regard. Article 12, (2) appears to envisage a clear role for the RDA in identifying regional development projects. Paragraph 69 of the National Strategy for Regional Development strongly supports a facilitative role by the RDA in support of regional development projects. The RDA is seen as central to these processes in the Law. This centrality is elaborated further in the Regulation on the RDA. Specifically it in the field of regional programmes and projects: it “*...consolidates and mobilizes the regional project ideas;..drafts the project summaries and the projects themselves;..drafts the regional programmes;..contributes to the capacity building of the authorities and the organizations involved in regional development on the identification, the feasibility study and the design of projects* (Article 9 (2)).

Paragraph 69 of the National Strategy for Regional Development (adopted, with some modifications in 2010, but elaborated in its first draft since January 2007), rather succinctly relates the process of programming (RDS and ROP) to a two-stage project development and appraisal/selection process, where the first stage would be at regional level, the second at national level.

*Paragraph 69:*

*In sum, the Strategy's implementation process will have the following characteristics:*

- a. Each Regional Development Agency, through a participatory process, following the establishment of Regional Development Councils, shall develop a Regional Development Strategy and an Operational Plan, to be submitted to the Ministry.*
- b. Local and regional partners will be invited to develop project proposals according to the priorities established in the regional development strategies. These projects will be developed with support from the Regional Development Agencies and, following appraisal and prioritisation process, will be submitted to the Regional Development Councils for approval. The Agencies will monitor and evaluate all projects, under the Ministry's guidance, to ensure effective implementation.*

- c. *The Ministry shall develop the Single Programming Document, based on regional Operational Plans, and will submit it to the National Council for approval. This will be the legal framework for public funding allocated for regional development support.*

This makes clear that there was to be an “appraisal and prioritisation process” at regional level prior to submitting projects for approval by the Regional Development Council. It is also clear that the RDA is to be involved in developing the ROP (and therefore by definition) its projects. But it is also clear there will be a Single Programming Document built on the basis of ROPs from different regions and Paragraph 19 makes clear that at this level there is to be a significant appraisal and selection process:

*“Paragraph 19. The assessment and selection of programmes and projects financed from the Fund are executed through an Evaluation Committee, formed of:*

- a) a representative of the National Council, acting as president;*
- b) a representative of the Ministry for Local Public Administration;*
- c) a representative of the Ministry of Finance;*
- d) two technical experts, specialists in the field of the projects proposed for evaluation”.*

In the end it appears to have been the intention of the authors of both the Law and Strategy that there would be two levels of appraisal (one national, one regional). With regard to project preparation, the RDA would play a role in project identification and facilitation and would be the main instrument to orchestrate the development of both RDS and ROP. Everything the RDA would do would be done with the oversight and approval of the RDC.

The Regulation on the National Fund for Regional Development (the Manual), adopted in Spring 2010 under massive time pressure, partly reiterates the above two-level appraisal approach, but in the end locates the main balance of appraisal at the national level.<sup>1</sup> It does, however, recognise that RDCs are to select projects into the ROP but appears not to envisage or see a need for any corresponding substantive appraisal. Nowhere does it state clearly that the National Council (or anyone else) appraises projects, but it does attribute to the National Council extensive competencies (amounting to at least eight paragraphs of the document) over almost all elements of the RD process. It foresees a strong role for the RDA in assisting preparation of certain (strategic) projects and wide remit in developing regional capacity (in 2010, under pressure of time it was not possible for these roles to be effected). Its Figure 2 proposes a schema for project submission, appraisal, and selection into ROP

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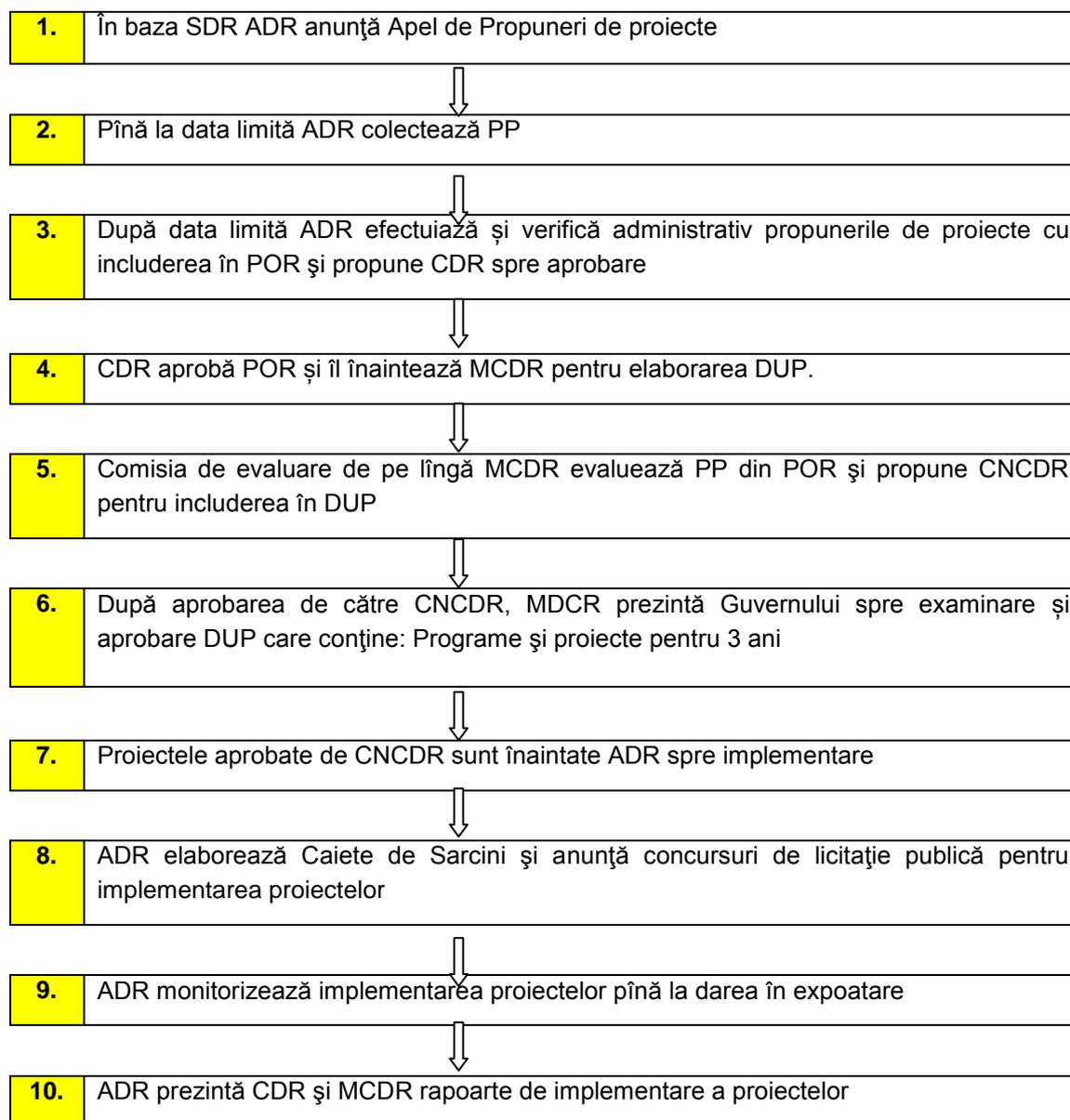
<sup>1</sup> “Regional Council Functions”:

In the field of approval and promotion of the regional development projects, proposed to be included in the regional operational plans:

- a) Examines and approves the selection criteria and the regional development priorities, developed by the Agency
- b) Examines the portfolio of regional projects proposed to the Agency
- c) Estimates the consistency of the regional programs and projects with the strategic objectives and with the actions established in the regional development Strategy;
- d) Approves the regional projects
- e) Promotes the regional projects in the environment of the potential donors and investors;

and then into SPD in six steps and a further four steps related to project management. In our view the project appraisal prioritisation process evident implicitly in the primary Law and the National Strategy for RD, and absolutely essential to the correct programming of the ROP, is not reflected in this schema.

**Manual on NFRD: Figura 2. Etapele prezentării și evaluării propunerilor de proiecte**



The ROP is, according to the Law, a three-year document, the SPD also a three-year document. However, the actual financing decision appears related to the Annual Implementation Plan. Neither the Law nor any secondary documentation addresses the question of what is to happen to projects selected into the ROP but not into the SPD, or selected into the SPD but not into the Annual Implementation Plan. Practically however in each case there is a batch of projects – of variable quality – to which some form of commitment has been given. Given the relatively small level of funding, and the likelihood

that in any one year the RDC will decide to focus only on some (rather than on all) of the RDS priorities (which furthermore may change from year to year), there appears to be little if any benefit and many risks with this complex multi-annual process of “project designation for funding”. The problems relating to this are compounded in cases where the appraisal process may not be as robust as required.

In 2010, there was much debate over the rights and obligations of various bodies. For example, a belief that responsibility for the State Budget (the clear responsibility of the National Council) came to mean that it alone (or virtually alone) had the responsibility and right to undertake necessary appraisal and selection of projects. In the end, an initial screening of projects was undertaken at regional level using a scoring grid based on a number of criteria included in the regional development law and the call for proposals documentation. This enabled the RDC to exclude a number of projects at regional level. However, project appraisal was largely undertaken by a committee at national level. At regional level, Committees can select on the basis of viable project options provided to them after due and professional appraisal. But that appraisal needs to be carried out by appropriate experts (qualified in economic and financial appraisal, accustomed to applying appraisal grids that test the key fundamental considerations of relevance, feasibility, efficiency, effectiveness and sustainability). And they need adequate time to allow them to appraise projects

## **Options or Solutions**

### **We deal with substantive and then with formal points.**

There is no fundamental doubt as to the intention of the legislator throughout most of the legislative framework to ensure a structured and somewhat planned process of Regional Development in Moldova. The fundamental planning framework – and planning here refers not only to RDS but also to ROP and its projects – is indisputably the Region. The ROP is finalised in the Region qua ROP, meaning its projects to be proposed for funding from the NFRD are chosen within the Region. The greater part of the legislation, though vague on the modalities of appraisal, does imply that the RDA will carry out some form of assessment or appraisal that enables the RDC to determine which projects are to be programmed for NFRD funding within the ROP. The Manual on the NFRD (Figure 2) proposes that the ROP will be finalised (i.e. projects will be listed into it for funding from the NFRD) on the basis of administrative verification. This option is quite different, in our view, to that which is implied by the wider legislative framework and most definitely to what is necessary to ensure a ROP that is indeed a regional plan that can be operationalised. It is also an option that is quite different to what was considered in previous drafts of the same manual.

In 2010 a national approach had to be taken for lack of time and lack of structures and resources in the regions. But the overall legislative framework is clear that RD process was to enable development efforts by regional actors in the region. Part of this must mean that they are masters of the ROP. They must choose – through appropriate forms and rigours of appraisal – what is to go into the ROP and what is not. This would provide also a solution to

the problems of far too many, poorly appraised and poorly conceived projects, finding their way into the ROP and even eventually into the SPD.

The primary Law does not make any specification at all as to whether or how projects are to be appraised though it does suggest that the ROP will contain projects, approved by the RDC. Terms such as appraisal and distinctions such as economic/financial appraisal as opposed to administrative compliance appraisal are simply not mentioned.

The following may be considered in order to overcome problems relating to project appraisal and selection into the ROP (and later into the SPD):

- Define the ROP explicitly as mainly a “list of projects to be funded from the NFRD” [in practice some of these projects may be rather large and may have the characteristics of mini-programmes]
- Ensure that programming of the ROP and appraisal and selection of projects [into the ROP] are clearly understood as steps in one and the same process
- Simplify the process of project selection onto “project list”:

List 1: ROP project list should be understood as a “list of projects to be funded from the NFRD”. The list should be for one year only and should therefore contain ready projects only. This would avoid the danger that no real selection is made, in other words that a number of projects are somehow given the expectation of funding at some future stage. The financial requirement to fund these projects proposed in this list should not be much in excess of the expected annual NFRD allocation divided by 3.

List 2: This could be understood as a small “pipeline” of projects the RDC is keen to ensure will happen. These can be added into the ROP annually on the basis of the kind of “Project concept” process originally foreseen in earlier drafts of the Manual for NFRD and the RDA Manual. Modalities of this are proposed below.

- In order to ensure that only appropriate and ready or, in case of List 2, relevant and feasible concepts are inserted in the ROP, then an effective and relatively rigorous appraisal process is required at first level, i.e. prior to finalisation of the ROP. This must be undertaken by the RDA, eventually with appropriate external assessors with requisite skills. The RDC will approve each list.
- Ensure that a secondary appraisal process will take place at national level with regard to compliance with the NFRD rules and wider RD and sectoral policies. This should also re-verify readiness since it is in the interest of no one that projects be admitted into the SPD that are not ready for implementation.

The RD model chosen for Moldova is essentially one that enables local governments to work with each other on the territory of the region and to plan strategic interventions in support of regional development which State Budget resources will, subject to specific conditions and process, support. The model aims to support mainstream public investment by regional/local institutions and encourage partnership-based actions, as appropriate. With such a model it is not appropriate to leave to hazard the generation of projects. Project generation – at least in

part – needs to be seen as part of the regional investment planning cycle itself. It is, in this sense, similar to the national investment planning cycle, whereby particular ministries would plan a framework of specific investments and then proceed to realise these. This is precisely what the Law foresees.

In the particular case of regional development in Moldova the institutional actors are in fact local (or at least rayonal). For this reason there must be a process according to which – within a given cycle – the regional partnership (RDC) is afforded the chance to propose a mechanism by which to ensure and promote appropriate regional development investments. Otherwise the danger is that the RDC is at best a “regional selection committee of local projects”.

There appears to be no case for supporting developing “more projects” but rather a rationale for supporting at least some “different” kinds of projects, especially those that reflect the balance and territorial interest of regional development as set out in the National Strategy for Regional Development, and that have higher regional (rather than local) impact.

A process according to which local governments can propose “project concepts” at an early stage, either individually or in collectively (i.e. partnership-based) would allow the RDC to take a view on which constitute a regional priority. As such, a small number of “priority” project concepts (practically no more than about five per region) could then be facilitated by the RDA, under direction of the RDC, to ensure their development, i.e., offer advice, information and where possible, practical assistance (consistent with its very limited resources). The sole objective of this is to ensure that in every cycle a minimal number and a good balance of good projects (relevant, feasible, of inter-rayonal or regional impact) emerge. Nothing in this process should be seen as guaranteeing eventual inclusion in the ROP, still less in the SPD's Annual Implementation Plan. And nothing in this would exclude any other project being submitted for possible support under any of the priorities in the RDS that are open at a particular time. But the RDA must act with the approval and under the supervision of the RDC in this regard

Such a process was foreseen within the annual cycle described in the draft NFRD and RDA Manuals. Here we suggest two more detailed innovations or refinements to it:

- (a) limit radically (and realistically) the number of project concepts that the RDA may actually facilitate or prepare
- (b) Insist that such prioritised concepts have a strong character of “inter-rayonal” or “regional” impact or that they are considered “strategic to the entire region” or that they are required in order to ensure greater balance within the development effort.

In order to enable the RDC to “prioritise” a small number of such concepts, it will need to receive from the RDA a report as to the current relevance, and potential feasibility and readiness (relative to a particular annual cycle) of proposed project concepts. The RDA will therefore continue to have the task of screening such project concepts according to criteria of potential relevance (to the ROP priorities), feasibility and readiness. This should not be an onerous process, but one to guide a collective RDC decision that should direct that a small number be assisted by the RDA in coming months.

Two objections might be raised against this proposal. The first is the question of resources. The second is a question of how to reconcile this role with that of support to project appraisal at regional level (ie a possible conflict of interest). The first is addressed above: the objective number of such assisted concepts must be very limited: at no stage is it feasible for the RDA to be working on more than around 4-5 such projects and it is never desirable that the List B "pipeline" of such projects, count more than about 10 such project concepts.

To meet the second objection we propose that the RDA play no part whatsoever in appraising projects in which it has had a strong facilitative role or which it has directly prepared. External assessors under the chairmanship of the RDC chairman can best appraise such projects.

It may be appropriate to set aside a % of monies available in each annual cycle that can be invested in projects that conform to the characteristics of: inter-rayonal, or regional or strategic. We would suggest around 15% initially though over time this could increase as capacity develops.

Application of the above proposals would lead to a scenario as follows:

#### **At regional level**

- Projects will be submitted as proposals to the designated Chair of the Appraisal Committee, (possibly the RDA Director except for Regional Projects on which the RDA has worked in which case the Chair could be the RDC Chair). In both cases, the committee will involve mainly professional and independent assessors, though in the cases of projects other than regional-impact projects, RDA staff may also act as assessors and are likely to be in a minority relative to external assessors. Work of the appraisal committee should be *in camera*. Time inputs should be calculated at one half day per project (excluding initial administrative check – which should confine itself to "administrative issues" and which will take at least 30 minutes per project). For 70 projects the assessment team, involving 5 external assessors, would need to work continuously for around 5-6 days.
- A selection committee – involving at least RDC Chair, Vice Chair, representatives of each rayon and at least two other non public representatives, with MCRD as observer, should meet to consider the ranked list of projects after appraisal, as well as summary reports on each project. The ranked list should NOT include any projects that are considered not to meet minimum standards – i.e. to fund them would not be a good use of public money. Summary reports should be made available 48 hours in advance of the meeting. The meeting should take a full day. The RDA Director will give clarification as required. The task of the selection committee is to select a number of projects that have been appraised as relevant, feasible and ready and have a score indicating "good quality". The list of projects submitted by RDA for inclusion in the ROP should ideally (but may not be if the quality of projects is poor) represent projects with estimated yearly (total) budget of no more than 1.5 times the available financial resource. This list will be recommended to the entire RDC for adoption. The final list, adopted by the RDC and

included in the ROP, should not exceed the estimated yearly available financial allocation by more than 1.2 times.

- A separate list of “regional projects” should be approved after appraisal of special “regional” criteria in addition to other criteria. 15% <sup>2</sup>of all resources should be retained for **regional** projects: the RDA working on behalf of the RDC should ensure proactively that enough such concepts are identified and worked on to absorb this 20% in every year. This stream of projects should ensure balance (in other words focus on usually neglected areas and focus on regional/inter-rayonal projects. [*see Issue “Quality of Projects”*])
- A certain number of project concepts having a strong character of “inter-rayonal” or “regional” impact or that are considered “strategic to the entire region” or that they are required in order to ensure greater balance – may be suggested by any rayon, group of rayons, by the RDC itself or by the RDA (with advance approval of the RDC). These will be subject to a screening as to potential relevance and feasibility and to a simple categorisation according to type. The list will be discussed, amended by the RDC and give rise to an on-going pipeline of projects which the RDA will seek to assist in preparation. This list will be appended to the ROP and be updated regularly as projects progress.

#### **At national level**

- The primary responsibility of the MCRD should be to ensure both **appraisal and selection**: i.e. selection to the SPD based on a verificatory appraisal of the eligibility of projects to State Budget Rules on RD and on the general guidelines of RD as set out in the Law and the general philosophy as set out in the National Strategy. To this end, the MCRD should convene a representative appraisal committee. It is not the responsibility of this Committee to make judgements on questions such as “To what extent does the project description correspond to the regions’ priorities?” By contrast it should ask: “Does this project correspond to the requirements of RD exercise as set out in relevant national legislation”?
- Members of this national evaluation committee should receive the project proposals no less than 48 hours in advance. The entire appraisal should be complete within one full day. It should be chaired by the Minister for RD. No new projects may be added to the list. A light scoring should be introduced to ensure that the list of projects entering the (Annual) SPD for any one year is more than 1.2 times estimated yearly allocation.
- A selection committee, made up of the NCCRD should formally select projects after national level appraisal.
- Note: all persons involved in appraisal at regional or national level, including all recruited external assessors, will undergo training/briefing for at least one full day prior to assuming their duties on appraisal committees.

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<sup>2</sup> The Ministry should specify for each year what this 15% corresponds to. The easiest manner in which to do this would be to specify for each region one-third of 15% of the annual estimated resources in the NFRD.

## **Recommendations**

With the exception of the Manual for the NFRD, all other legal texts describe functions and institutional attributions and procedures. We recommend that the primary RD Law contain a section on **Programming and Project Cycles**. This should break down into a short (3 sentences describing each process) and consistent text covering each of the following processes:

### **Programming and Project Cycles**

- **Regional Level:**
  - RDS Programming and adoption,
  - ROP Programming and adoption (including prior project appraisal)
- **National Level:**
  - SPD Elaboration and Adoption (including project verification)
  - Annual Implementation Plan Adoption

Similarly, we recommend a section on Project Preparation. This would require only one paragraph, stating that *“projects to be proposed for inclusion in the ROP and eventually for funding from the NFRD, may be proposed by any eligible public authority. Assistance to project preparation may be offered to certain specified projects by the RDA, eventually working with donors, subject to approval of a preliminary project concept by the RDC and an instruction from the RDC to the RDA to offer such assistance. This assistance may take a variety of forms and may be focused on projects aiming for funding from the NFRD in the same or later years. The RDA will play no part in the appraisal of such projects if and when they are later submitted for funding from the NFRD. In determining which projects should be the object of this preparatory assistance from the RDA, the RDC will take due regard of the need to ensure appropriate balance of regional development interventions in terms of type, scale and strategic importance.”*

We recommend that Paragraph 72 of the National Strategy for Regional Development be inserted into the RD Law with the change below indicated with underlining: *“Within the regional development strategies and operational plans, the proposed measures shall show a **fair balance between infrastructure projects and investments aimed at economic and social development**. In addition the RDC and as required, the Ministry will ensure that resources are not spread too thinly across too many initiatives in a non-strategic manner”*.

**Note: possible text to describe Programming and Project Cycles in the RD Law is proposed in Annex 2.**

## **Issue 3: Quality of Projects**

### **Main findings**

A successful regional development process, strategy or programme depends significantly on supporting investments and other development activities that make optimal positive change. For this reason, and especially because financial resources in support of RD in Moldova are very limited, it is essential to ensure good quality projects.

The RD Law does not make any specification with regard to types or quality of projects. However the National Strategy for Regional Development does assert the multi-sectoral aspect of RD and states that the RD process requires a balance between different kinds of projects:

*"Within the regional development strategies and operational plans, the proposed measures shall show a **fair balance between infrastructure projects and investments aimed at economic and social development**. In addition the Ministry will ensure that resources are not spread too thinly across too many initiatives in a non-strategic manner."*

Art. 8 (4), b of the RD Law (2007) appears to enable the RDA to facilitate and coordinate project development. Nothing elsewhere appears to pose any restriction on the RDA role in this regard. Article 12, ((2)) appears to envisage a clear role for the RDA in identifying regional development projects. Paragraph 69 of the National Strategy for Regional Development strongly supports a facilitative role by the RDA in support of regional development projects.

The Regional Development Strategies themselves should offer a relatively good balance of priorities and logically allow for the kind of balance of projects indicated by the National Strategy. Nevertheless the following issues can be identified in practice. In our view they can be resolved by the process of project identification/preparation and facilitation foreseen under Issue 3 and may additionally be supported by recommendations – of a non-legal nature – made below.

**Problem of Balance:** The emerging picture is of a major focus on infrastructure and a very limited number on soft projects, in other words, precisely the kind of tendency that was identified in the National Strategy as undesirable (Paragraph 72). In 2010 the issue of balance was much less of a priority than the need to find ready projects and this explains in large part the clear focus on infrastructure in that exercise ie there was simply not time to engage in a project preparation process that would deliver soft projects. But subsequent work undertaken since by MDRD project in the regions, allied with the general experience of other countries in Central and Eastern Europe, suggests that finding an appropriate balance is unlikely to be easy. In particular, it is not at all easy to identify projects that are likely to influence the wider conditions for productive investment in agriculture, industry or services.

**Problems of Capacity:** It is indisputable that in the exercise of 2010 the most ready projects had to be chosen to meet the various demanding deadlines. In practice this meant that most rayons submitted projects "off the shelf" some of which, at least in terms of documentation, were incomplete or out of date. Nevertheless in the absence of more convincing and contrary

evidence, the assumption must be that the projects proposed represent a good cross-section of the currently existing project “pipeline” and related project development capacity. Project ideas discussed more recently in MDRD-supported workshops were often inappropriate, were “someone’s idea” but not necessarily the idea of the kind of institution legally competent to take the idea forward.

As elsewhere, there appears to be some lack of understanding that publicly supported projects need to produce results in terms of concrete benefits for quantified and described target groups. Specifically the most obviously lacking measure with regard to many projects and project ideas relates to “need” and “demand”. More widely, interest in and understanding of the need for projects that improve the chances of encouraging productive investment (internal as well as external) in small-scale industry and services (areas that should be within the reach of regional and local actors) is missing.

The overall level of capacity to prepare projects in the quantity, quality and diversity required to support RD is therefore lacking. It needs to be developed and encouraged. Specifically the process of generating projects for the RD process annually and tri-annually for the ROP needs to be massively supported. The promise of money is not enough to ensure project quantity, quality and diversity as required. Substantial proactive help is indicated, going well beyond the rather classical and excessively narrow focus on preparation of feasibility studies.

**Problem of Level:** Linked to the previous two points and especially to the latter, is the reality that the linkages between on the one hand national policies and actors and, on the other regional or local actors and aspirations are very tenuous. In fact so tenuous as to mean that local and regional actors are in danger of acting without reference to whatever national investment frameworks exist. Many local actors falsely identify as useful local project interventions which could only be viable at a higher territorial level. Local and regional actors (and they are often the same, differentiated only by how “concertedly” they act) need to be assisted – as part of training and capacity-building – in understanding appropriate interventions at appropriate levels of scale and territory and in acting accordingly.

## **Options or Solutions**

The following elements could form part of a comprehensive solution:

- **Enhancing Development Skills:** There is a need for more training and capacity building among regional development actors (rayons, other local public authorities, branch offices of State Agencies or Ministries in the Regions, development oriented NGOs) with regard to “**what makes a good regional or local development project**”. These deficits will not be closed on the basis of a single technical assistance project: there is a need for sustained work over many years in this regard.
- **Re-orienting regional and local actors:** many regional development actors are in fact firstly local actors. They become active agents in favour of regional development only if and when they begin to act in partnership and coordination – among themselves and,

in certain cases, with regard to national ministries and agencies. Many need to be guided to do so. Interest and motivation from local actors is not enough to develop regions. There is a need to concretise the existing provisions of the RD Law mandating the RDC to “*promote inter-regional and intra-regional cooperation with public institutions and private organizations*” (Article 7.6 (g)) and the RDA to “*stimulate cooperation of the civil society in the socio-economic area of the region*” (Article 8.4. (g)). In short, there needs to be active support to developing partnerships for project (and programme) development and various other supra-local initiatives.

- This point is closely linked to the foregoing. Given the strong tendency for LPAs to focus almost exclusively on “local projects” it is necessary to be proactive in encouraging certain larger, regional impact projects. To this end at least 20% of all financial resources could be reserved for partnership-based, regional impact projects. Projects of this kind would compete in a stream of their own and be part of a separate List in the ROP. Since it is likely that the RDA will have been involved in the development of many of these, it will have no part in the appraisal whatsoever, not even the administrative check. The MCRD will chair this appraisal committee though the RDA Director may be present as observer. Independent assessors will be used. (see also Issue 1)
- Ensuring appropriate assistance – Role for RDAs: None of the above is possible, however, unless there is some agent to act as focus for the required facilitation and training and capacity-building. These efforts cannot simply be done in a vacuum, driven by ad hoc donor projects, each setting up its own temporary project structure, for the duration of its effort. ***It is vital that at least one public body take responsibility for coordinating and acting as focal point to all of these efforts in the Regions.*** In practice there are not many options. The sole body whose role, legitimacy and mission appear consistent with these efforts is the RDA itself. In short, the RDA – as was originally foreseen and as is clearly indicated in its draft Manual – should be the main driver of relevant skills development and main promoter of good practice and methodology with regard to identifying and developing appropriate regional development projects. Any special TA provision in this area should be built around the RDA. Other actors may also assist: there is nothing to prevent private consultants organising or seeking to offer similar services, nothing except the real likelihood (if not certainty) that nobody has the financial resources to pay for such services. Hence the need for public intervention to promote these skills. That appropriate public body is the publicly established and funded Regional Development Agency, acting as an Agent for Regional Development.
- Clearly the RDA will not have adequate resource (financial or human) to drive forward required training and capacity-building. However the Partners for Projects initiative, currently being undertaken by the MDRD project, offers a model for how such assistance can be given in the future. Additional teams – answering to RDAs and working alongside their staff – can offer on-going, upstream support as suggested. There is nothing to prevent any donor supporting such efforts exactly as DFID has done recently. Nor is there anything to prevent local consultants being involved in such

assistance as part of technical assistance/training/capacity building teams. This is already happening. Post February 2011, the sole problem will be that no donor currently has committed to sustaining and extending such efforts.

In short, any or all of the above solutions can make a real contribution to addressing the key problems that arose – and will continue to arise – with regard to project generation, especially project quality.

## **Recommendations**

- Reflect the current Paragraph 72 in the RD Law with the change indicated with underlining: *Within the regional development strategies and operational plans, the proposed measures shall show a fair balance between infrastructure projects and investments aimed at economic and social development. In addition the RDC and as required, the Ministry will ensure that resources are not spread too thinly across too many initiatives in a non-strategic manner*“. (Same recommendation as for Issue 1).
- Ensure at least for the next three years on-going training/capacity –building in each region to address the issues above. Seek donor support for a running programme, preferably of 6/12 months duration in each year, enrolling different project ideas and actors each cycle. Even though this assistance will doubtless support teams of contracted technical assistance, it is essential that this assistance be located within and be under the management of the RDA, also that relevant RDA personnel be involved with it, so as to learn from it. Learn lessons from the current MDRD support in regions given to trans-national projects. This is the model to follow. It is recommended donors explore how to support this kind of initiative.
- Donor organisations should actively seek to investigate how they can support the recommendation above.

**Note: analysis and recommendations here are synergetic with those given under Issues (1, 2)**

## **Issue 4: Project management**

### **Main findings**

Article 8.4 (b) of the RD Law appears to envisage that the RDA will coordinate implementation of projects (and more generally the regional development strategy, plans and programmes). Beyond this the Law makes no reference to how projects will be managed and how services, supplies and works will be procured. The Law does however make several explicit but fragmented references to monitoring and evaluation.

Article II.4 of the Regulation on the RDA provides relatively detailed guidance on the RDA's role with regard to public procurement and other sections cover project management more generally.

Two main issues are to be considered under this heading – public procurement and monitoring of project implementation. Note we do not touch in this paper the wider question of monitoring and evaluation of the ROP or RDS or indeed of the wider RD process.

The issue of an apparent conflict between the RDAs' role in programming and its role in procuring has also been raised in 2010. Like the other perceived conflict (between project facilitation/preparation and project appraisal), the influence of EU External Assistance Programmes can be detected. In these programmes there is an aversion to the same body being involved in programming and implementation (though it needs to be said that no such conflict is perceived among EU member states even in their implementation of Structural Funds).

In our view there is a priori no problem if the same body is involved in programming and implementation of programmes or projects. By contrast in the context of RD in Moldova, there may well, however, be a practical problem.

It is clear that the RDAs' main task in recent months appears to have been to prepare appropriate tender documentation to procure tenders for the 14 projects to funded. This has been demanding in terms of time. This is a role provided to the RDA in the Regulation on the RDA. But already it is clear it has prevented them playing a fuller role in supporting wider regional development processes. Moreover, each RDA is currently being supported by substantial external assistance.

Even under the proposals made in this paper the RDA (under supervision of the RDC) will be involved in regional development capacity building (within and outside the project cycle), and within the programming/project cycle will be involved in an annual project appraisal process, and have a limited level of involvement in preparing and facilitating a limited number of regional projects.

Currently RDAs have a staff of six persons and there appears to be no appetite to expand them dramatically in the future. In this context, it is hardly credible that in addition to the above tasks appropriate to an "agent of regional development", the RDA should manage the procurement process and as such micro-manage project implementation. Already current experience indicates this is taking up a lot of time and resources with the result the RDAs are unable to adequately assume their wider role in support of development actors – something which is also stipulated by the Law.<sup>3</sup>

As the number of projects builds up over the long-term, the current imposition to act as procurement agency for all regional projects will become an all-absorbing task and risks

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<sup>3</sup> Article 8.4, (f) *"Provide information, methodological and consultation support to the Regional Council and to local public administration authorities with respect to the balanced and sustainable development of the region"*

Article 8.4, (g) *"Stimulate cooperation of the civil society in the socio-economic area of the region"*

pushing the Moldovan RDAs into the situation witnessed in several other states<sup>4</sup> where they effectively become full-time procurement agencies. This would be a fully undesirable outcome as compared to the spirit and letter of the current RD Law and the philosophy on which it was based.

Our proposals and recommendations in Issue (1) would result in strengthening this role for RDAs.

The RD Law covers the issue of monitoring and evaluation but however does not specify with adequate clarity whether it refers to monitoring of regional development strategy, regional operational plan, projects or whatever. References to M&E are found under those sections that specify the tasks of institutions, rather than in a consolidated section which would actually describe the objectives and principles of M&E.

Article 8 stipulates that the RDA shall *“monitor and evaluate the implementation of the regional development strategies, programmes and projects”* and *“provide to Regional Councils, to MLPA and to NCCRD yearly reports on implementation of regional development strategies”*

Article 7.6 (e) stipulates that the RDC shall *“monitor the use of financial resources allocated from the Fund to the respective development region.”*

Article 4.2 (g) stipulates that the Ministry *“in cooperation with the Regional Development Councils, coordinate and monitor the process to develop regional development strategies and programmes”* and Article 4.2 (h) that it shall *“evaluate the process to implement regional development strategies”*.

Even the RDA Regulation is very imprecise on project monitoring. It stipulates that one staff member is to be *“a specialist in the elaboration, implementation and monitoring of projects”* (Article 14 (e)). But it does not give any indication of the purpose or modalities of this.

## **Options or Solutions**

Public Procurement in the area of Regional Development should operate as in any other area and fall by default to the public body responsible for the eventual ownership of the investment, more simply stated the project beneficiary. Situations may arise when this default position is not appropriate and provision to this effect should be made in the appropriate legal document.

A proposal on how project monitoring (and from this wider ROP and eventually RDS) monitoring should take place has been set out in a Paper on the *“Monitoring and evaluation system (M&E) Moldova Regional Development, An overview.”* This provides a solid basis for

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<sup>4</sup> This occurred with regard to almost all Czech Regional Development Agencies. When procurement was eventually delegated to the project beneficiaries, most RDAs were incompetent to assume other tasks and with the onset of a wider process of regionalisation, they were abolished. Particular problems also arose in Hungary for the same reason. In many EU Candidate States until the year 2000, RDAs were routinely used as procurement agencies. This is generally considered one of the main factors in the long-term failure of many of these early RDAs. In Romania, RDAs largely escaped the imposition of the procurement burden and were able to develop as *“agents of regional development”* in a more comprehensive sense.

undertaking project monitoring which, given the relatively small number of projects, should not be an unduly onerous task. Substantial advice on this is also included in drafts of the RDA Manual prepared by the MDRD project. The following are the key issues with regard to project monitoring:

- Physical Progress

Regularly (usually quarterly) the RDA will need to obtain from the project manager (not necessarily the contractor, but rather the beneficiary if the beneficiary is responsible for procurement) a report on progress relative to milestones set out in the detailed and agreed works implementation plan. These will usually be expressed in the form of work phases completed. It is for the RDA to extrapolate from this progress with regard to project deliverables or outputs. If by chance any early results emerge from project outputs in the course of project implementation (theoretically this could be possible for certain soft projects), then these too should be recorded. The RDA will report to the RDC and to the Ministry on this according to the recommendations in the paper mentioned above.

It will prove highly useful to wider monitoring (egg ROP/RDS) if at least one of the project output indicators and one of the project result indicators corresponds to the list of corresponding measure output indicators and measure result indicators respectively.

- Financial Progress

It is essential to record exactly the actual expenditure made in terms of “invoiced and certified”, and to track the projected expenditure. This will assist with both usual financial management and especially ensure that monies are to be absorbed on time. The RDA will report to the RDC and to the Ministry on this.

## **Recommendations**

We recommend that, in general, the RDA withdraw from its function as procurement body. It will retain however a wider supervisory role over project management as is evident in its role on monitoring physical and financial progress. There may be individual cases, however, when the RDA would be the most suitable institution to procure a particular project.

We would recommend that a single article cover the entire question of project monitoring and wider M&E within the RD Law. This may be part of a wider section on Project Management.

## **Annex 1**

### **Terminology**

For purposes of the analysis we will use the following terms consistently:

- RDS Elaboration
- ROP Elaboration
- Project identification
- Project development
- Project facilitation (other projects)
- Project Evaluation<sup>5</sup> (appraisal) for ROP
- Project Selection (into ROP)
- Project Evaluation (appraisal) for SPD/Annual Implementation Plan
- Project Selection (appraisal) for SPD/Annual Implementation Plan.

### **Distinction between appraisal and selection**

**Appraisal** is firstly and most importantly against minimum standards: in cases of over-demand, various “good” projects may also need to compete against each other to determine the “best”. In the case of Moldovan RD, ***the main focus of appraisal must be to ensure adequate quality of projects (in terms of relevance/eligibility, feasibility, readiness) by appraising against appropriate criteria.***

**Selection** refers to the “selection” of appraised projects. This should involve political and other representatives who are asked to confirm the decision of the appraisal panel and **make a choice**. Selection can take account of wider considerations going beyond this or that project, and look, for example, at the need to design a ROP with a balanced list of viable projects. It may legitimately take account of territorial, thematic, or other considerations (within the parameters of the process as agreed in advance). It may not propose projects that have been appraised as non-relevant, non-feasible, or inadequately ready.

Appraisal and selection ***implies a division of labour***. Practically there is a requirement at an initial level for a team of assessors and at a second level for a selection committee. The first needs to be composed of competent assessors and usually relies, at least partly, on external assessors recruited. Both the appraisal panel and the selection committee should be chaired by a designated chairperson and involve clear rules of procedure. For appraisal, it is usual to set aside at least a day for internal training/briefing to ensure that assessors understand their task in the same manner and can therefore apply criteria in a consistent manner. The appraisal process also needs to involve some degree of quality control.

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<sup>5</sup> It is usual in the English language to speak of project appraisal (or assessment) and programme evaluation. In Romanian as in all Romance languages the terms appraisal, assessment and evaluation are expressed by the term “*evaluare*.”

## **Annex 2**

### **Possible Text to Describe the Programming and Project Cycles**

A text based on that below could be inserted into the RD Law (and/or secondary legislation) with the objective of defining the main elements of the programming/project cycles:

#### **Programming and Project Cycles**

- a) *Each Regional Development Agency, through a participatory process, under the supervision of the RDC, shall develop a Regional Development Strategy.*
- b) *The Regional Development Strategy is a seven year document, whose elaboration is led by the RDA with the involvement of the RDC and regional partners. The final RDS is to be approved by the RDC.*
- c) *Annually, local and regional partners, including the RDA itself acting on the instruction of the RDC, will be invited to develop project proposals according to a selection of priorities established in the regional development strategies. A small number of projects may be developed with support from the Regional Development Agencies on advance instruction of the RDC. All projects intended for funding from the NFRD in a given year will be submitted to the RDA for consideration in the (annual) Regional Operational Plan. Following appraisal as to relevance/eligibility, feasibility and readiness for implementation and to other considerations as may be proposed by the RDC, and following a prioritisation process for those projects meeting a minimum standard, the RDA will submit them to the Regional Development Councils for approval and for inclusion within the ROP.*
- d) *Assistance to project preparation may be offered to certain specified projects by the RDA, eventually working with donors, subject to approval of a preliminary project concept by the RDC and an instruction from the RDC to the RDA to offer such assistance. This assistance may take a variety of forms and may be focused on projects aiming for funding from the NFRD in the same or later years. The RDA will play no part in the appraisal of such projects if and when they are later submitted for funding from the NFRD. In determining which projects should be the object of this preparatory assistance from the RDA, the RDC will take due regard of the need to ensure appropriate balance of regional development interventions in terms of type, scale and strategic importance*
- e) *The modalities of appraisal at regional level will be confirmed by the RDC in consultation with the MCRD but should ensure an effective appraisal to support selection of appropriate projects, consistent with the RDS, with the available funding and with the requirement for early implementation.*
- f) *Procedures for addressing any real or perceived conflicts of interest will be determined by the RDC on advice from the MCRD. The RDA will not be involved in appraisal of any projects which it has technically facilitated or prepared.*
- g) *The Regional Operational Plan will be discussed and approved by the RDC in formal session. Special account will be taken of the need to ensure an appropriately balanced ROP including a minimum number of "regional projects" and appropriate procedures in this regard must be followed.*
- h) *The ROP will then be submitted by the RDC to the MCRD who will ensure appraisal of the document including its project list as to general conformity to the RD policies and to relevant sectoral policies. It will verify readiness of projects. On this basis it will draw up an Annual Implementation Plan made up only of projects deemed ready for implementation and submit it the NCCRD for approval. This will be the legal framework for public funding allocated for regional development support in any given year.*