

## Action Fiche for West Bank and Gaza Strip

### 1. IDENTIFICATION

Title/Number	<b>Support for governance / rule of law and social sector institutions</b> <b>(ENPI/2012/023-774)</b>		
Total cost	EU contribution: EUR 20,500,000		
Aid method / Method of implementation	Project approach - Direct centralised Management, Partial decentralised Management, and Joint Management		
DAC-code	15030 15210 16010	<b>Sector</b>	Legal and Judicial Development Security Social/Welfare services

### 2. RATIONALE

#### 2.1. Sector context

The overarching objective of EU financial support to the Occupied Palestinian Territory (OPT) is the implementation of the two-state solution and the creation of a viable, contiguous and democratic Palestinian State living peacefully with the State of Israel.

In the Palestinian Development Plan 2011-13 "Establishing a State, Building our Future", the Palestinian Authority (PA) commits to the effective protection and promotion of the fundamental values of human rights, democracy and the rule of law. For the Justice Sector, the PA is taking significant measures to improve efficiency in the judicial process, for instance in the areas of case management, IT and office infrastructure. Progress in the justice sector includes: increased institutional and professional capacity of judges, prosecutors and lawyers; reduced time frame in court cases, decrease of overall number of detainees held in pre-trial detention, and growing public confidence in the Palestinian judicial system. A number of key problems continue: an outdated and inefficient legal framework, significant backlog of cases, non-compliance of security forces with decision of civilian courts, arbitrary arrests and detention, insufficient court house infrastructure, absence of a functioning legal aid system, insufficient accountability mechanisms for judges and development of a different justice system under the *de facto* government in the Gaza Strip.

With regards to the Security Sector, the reform agenda places as one of the priorities building up capacities within the Palestinian Civil Defence (PCD) to have a reliable disaster response system and improve PCD's efficiency and effectiveness for civil protection.

Considerable progress has been achieved in the implementation of the national social protection sector strategy 2011-2013, notably the reform of the cash transfer programme run by the Ministry of Social Affairs, which remains the main provider of social assistance to relieve poverty of poorest and most vulnerable groups. Rising levels of poverty, unemployment and social exclusion, combined with a weak social

security framework, are putting an increased burden on the PA budget. In this context, the need for fundamental reforms to secure efficient, gender-sensitive protection and care to all Palestinians while maintaining overall sustainability of the social benefit system is high on PA's agenda.

In the area of civil service development, the PA envisions a public sector reputable for integrity, equity, good performance and responsiveness through the cost-effective delivery of high quality public services to citizens, as well as efficient and effective management of national resources. The project will provide full support to the priorities and objectives of the Palestinian National Plan (PNP) for 2011-2013 and the Administrative Development Sector Strategy (ADSS) to help the PA to modernise human resource management policies, practices and systems, optimise the structure and functions of the public administration and contain the total cost of the public sector.

## **2.2. Lessons learnt**

EU support has a record of successful delivery in activities related to the promotion of PA policies and actions in the field of justice, security and social protection<sup>24</sup>. Recommendations for future actions include provision of further support to the PA and other justice sector institutions, particularly in the area of infrastructure and legal aid, to complement previous EU actions and contribute to their sustainability. In addition, reports to the Ad Hoc Liaison Committee have also commended the achievements of the PA on the improvement of reform and modernisation of the cash transfer programme – and recommends continuation and extension of these developments while moving towards a more comprehensive, equitable and sustainable social protection system. The envisaged EU assistance builds on these recommendations, fully in line with the national sector strategies.

Other lessons learned include that donor co-ordination is essential and ownership at both technical and political level is key to success. In some areas, PA's absorption capacity is limited. In addition, due to Israeli restrictions it is important to be able to reallocate resources to other projects when obstacles arise and not start activities unlikely to be implemented in absence of mitigating measures. In the area of infrastructure, it is important that the PA secures land ownership prior to the start of the project where EU investments will be made. In the Rule of Law sector, specific attention must be given to gender issues, including the multiple dimensions that prevent – or may encourage - Palestinian women from seeking and obtaining justice.

## **2.3. Complementary actions**

This action complements programmes under 2010 and 2011 Financing Agreements in support of Governance and Rule of Law sectors, as well as the 2010 Infrastructure Facility.

With regards to Rule of Law, this action complements the following ongoing and pipeline EU Funded projects: "Seyada II" programme to support the Justice Sector (EUR 4.7 million), aiming at building capacity of PA's High Judicial Council (HJC), Palestinian Judicial Institute (PJI) and Palestinian Bar Association (PBA); Senior

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<sup>24</sup> Result Oriented Monitoring assessment of 2010, 2011 and PEGASE (*Mécanisme "Palestino-Européen de Gestion et d'Aide Socio-Economique"*) mid-term evaluation, and mid-term evaluation of the EUR 4.4 million EU justice project Seyada II.

Advisor Group to Ministry of Justice, HJC, and PBA, providing expertise mainly in the area of civil and administrative justice (EUR 1.5 million); EU grants to the PJI and PBA (EUR 1.5 million each); Juvenile justice programme (EUR 2 million); grants under the European Instrument for Democracy and Human Rights projects; support to the EU Police Mission to the Palestinian Territories (EUPOL COPPS) (EUR 4.7 million); and infrastructure projects such as Nablus muqata complex (EUR 14 million); Jenin muqata complex (EUR 10 million); technical assistance programmes to strengthen institutional and organisational capacity of the Palestinian Civil Police (EUR 3 million) and Palestinian Civil Defence (EUR 1 million). In addition, it will be complementary with programmes implemented by other EU Member States (mainly Denmark, France, Italy, Sweden, UK), Canada, Switzerland, US and United Nations (UN) agencies such as United Nations Development Programme (UNDP).

The support to the Palestinian Civil Defence will be built upon results of the upcoming technical assistance project funded under the Financing Agreement 2010, which will determine among other needs the capital investment ones. In the past two years PCD has been mainly supported by the UK Department for International Development (DFID) and the United States Security Co-ordinator (USSC), with training and institutional assessments, and funding from Malta for the construction of district headquarters.

Reform-oriented interventions in social protection complement EU's longstanding support to the PA budget to ensure the regular payment of social allowances to Palestinians living in absolute poverty (over EUR 152 million since 2008), and will build on the ongoing technical assistance to Ministry of Social Affairs (EUR 2.2 million) in close co-operation with the World Bank, World Food Programme, UN Relief and Works Agency (UNRWA) and UNDP.

In the area of civil service, this action complements the EU's ongoing financial support (over EUR 840 million for PA salaries/pensions). Other partners: UNDP is implementing a complementary Capacity Development Initiative and supported the development of Human Resources Management System (HRMS) with the Ministry of Finance and Pension Agency; the French Development Agency (AFD) will support the establishment of the National School of Administration. Other donors: WB and UK DFID.

#### **2.4. Donor co-ordination**

High level international donor co-ordination takes place at the level of the Ad Hoc Liaison Committee (AHLIC). At the local level donor co-ordination takes place in various forums under the Local Development Forum (LDF) and its four "Strategy Groups" (amongst which Governance is co-chaired by the EU Delegation). More specifically, enhanced and targeted technical assistance is co-ordinated through Security (UK co-chair) and Justice (Netherlands co-chair) sector working groups (SWGs). The EU also co-chairs the Social Protection Sector SWG. The Public Administration & Civil Service SWG will be the main instrument of co-ordination for the civil reform project, PA and the donor community at the technical level. In addition, EU policy is co-ordinated through regular meetings of the EU Heads of Co-operation.

### 3. DESCRIPTION

#### 3.1. Objectives

The **overall objective** of the action is to build capacity in the institutions of the Rule of Law, Social Protection and Public Administration sectors, as part of the foundations of an independent, democratic, and viable Palestinian state living side by side in peace and security with Israel and its other neighbours.

The **specific objectives** are:

- To improve the administration of justice in accordance with international standards, including access to justice for vulnerable groups.
- To increase capacity of Palestinian Civil Defence (PCD) to effectively carry out its duties in disaster preparedness and citizen protection in case of natural disasters, taking into account the specific needs of men and women.
- To achieve an equitable, efficient, comprehensive and sustainable social protection system that contributes to improved living conditions and well-being of poor and vulnerable<sup>25</sup> Palestinians.
- To improve the legal framework of civil service management, modernise civil service human resources management (HRM) system, and improve capacities of administrative bodies to streamline structures and internal work procedures, in a gender balanced perspective.

#### 3.2. Expected results and main activities

- Component 1 – Justice

##### *1.1. Capital investments for the justice institutions*

Expected results: Court infrastructure conducive for litigation, up to international standards.

Activities: Design and construction of court houses and headquarters of justice institutions.

##### *1.2. Support to the capacities of the High Judicial Council and other Justice Institutions*

Expected results: The institutional capacity of the High Judicial Council is enhanced.

Activities: Technical assistance to enhance special units of the HJC, especially those in charge of asset and courthouse management, as well as building other capacities at the HJC and other institutions to enhance quality and equitable access in the administration of justice.

##### *1.3. Support the establishment and operation of the Palestinian Legal Aid Programme*

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Categories targeted include women-headed households, the elderly, the chronically ill and the disabled.

Expected results: Access to justice for all marginalised and vulnerable groups.

Activities: Technical advice to the PA in the in establishing a functioning legal aid system and an independent legal aid body administering legal aid, e.g. technical advice concerning the development of secondary legislation, regulations and procedures, as well as providing training to all relevant actors; after the establishment of the independent legal aid body, support to this body to provide quality and gender-sensitive services.

- Component 2 – Security

Expected results: Palestinian Civil Defence (PCD) is equipped to carry out its duties disaster preparedness and protection of all citizens in case of natural disasters.

Activities: Provision of equipment, including rescue vehicles and other equipment e.g. hydraulic tools, ladders, spreaders etc.

- Component 3 – Social Protection

Expected results: i) Sustainable and equitable social benefit system; ii) Improved local service planning/delivery systems through institutionalised public-private partnership; iii) Improved functioning of Ministry of Social Affairs at central/local level, with a focus on de-concentration of services.

Activities: i) Modernising policy planning, management, delivery and monitoring of social benefits; ii) supporting pilot processes of public-private partnership, with a focus on commissioning of services; iii) streamlining of administrative processes at central and sub-national levels.

- Component 4 – Civil Service Reform

Expected results: i) Improved civil service (CS) legal framework; ii) Modernised CS HRM system and procedures (job classification/qualification, performance appraisal, promotion, career and training & professional development); iii) Enhanced capacities of stakeholders to apply new HRM procedures; iv) Organisational functional reviews and subsequent re-organisations carried-out at pilot level.

Activities: i) Analysis of legal framework and assistance in drafting and enforcing new legal acts; ii) Assistance in modernising CS HRM system and procedures; iii) Trainings/seminars to enhance General Personal Council (GPC) capacities to lead the civil service reform process and strengthen the implementation of a HRM function in line ministries and agencies; iv) Assistance to administrative entities to conduct organisational functional reviews and subsequent structural re-organisation.

### **3.3. Risks and assumptions**

The main risks to the actions foreseen originate in: i) the occupation by Israel of the territory, ii) the division between West Bank and Gaza, iii) the renewal of violent conflict between Palestinians and Israel and between Palestinian factions. The actions foreseen in this fiche are based on the assumption of limited accessibility for goods and people and the difficulty of co-ordinating in the absence of the PA in Gaza.

The commitment to reforms of the successor of the 13<sup>th</sup> Government is not a given, especially concerning the reduction of donor dependence, and hence the donor community should hold the Government to this line. A further risk is the structural weaknesses in services and departments and the low absorption capacity, especially of the Ministry of Public Works and Housing and the PCD in term of instruction/implementation/supervision of projects, which could also delay and impact negatively on the timing and possibly on the quality of intended projects. As a mitigating circumstance, the upcoming EU Funded project Capacity Building to the PCD shall reinforce for institutional basis for the action proposed.

Commitments for EU support to establishment of a Legal Aid Programme in the OPT have been made since 2008, and preparation for it was part of the activities of the ongoing *Seyada II* project. However, implementation of this component depends on the PA's adoption of the Legal Aid Law (currently on the status of Final Draft) and establishment of the institutional set up. Delays or failures on those measures could make implementation of this component impossible and funds would have to be reallocated. Finally, the infrastructure component is based on the assumption that the HJC actually owns the land allocated for construction. An ownership check will be carried out.

#### **3.4. Cross-cutting issues**

The specific challenges and priorities identified by the Cross Sectoral Palestinian Gender Strategy (2011 – 2013) will be duly taken into consideration in all components, so that the actions under this programme will effectively support the PA efforts to advance women's rights and gender equality. Environmental sustainability is a central cross-cutting issue, although the PA lacks control over most aspects of the environment. On infrastructure projects, environmental impact assessment of projects will be performed where necessary within feasibility studies. Good governance and Human Rights are also key cross-cutting issues and will be mainstreamed throughout this fiche. Specifically, vulnerable groups will be addressed through the legal aid as well as social protection activities.

#### **3.5. Stakeholders**

Main partners are: the Prime Minister's Office, the Ministry of Finance as well as the Ministry of Planning and Administrative Development in its co-ordination role. Key partners and direct beneficiaries of these actions are: i) Ministries of Interior, Finance, Justice, Public Works; Social Affairs ii) PA institutions in the areas of security and justice, such as the Civil Defence, the High Judicial Council, the Attorney General's Office, the Palestinian Judicial Institute, Palestinian Bar Association; iii) Civil society organisations and other independent institutions. All the above-mentioned have been consulted in the programming process. The institutional capacity of these organisations is mixed and institutional weaknesses will be addressed through technical co-operation envisaged. EUPOL COPPS will be a strategic partner for the Justice component. Co-ordination with relevant donors will be reinforced.

## 4. IMPLEMENTATION ISSUES

### 4.1. Method of implementation

The project will be implemented through the signature of a Financing Agreement between the European Union represented by the Commission and the Palestinian Authority.

**Direct centralised management** will apply for all components with the following exceptions:

- (a) For *Components 1.1 (Capital Investments for the justice institutions)* and 2 (*Security*): partially decentralised management, in accordance with Articles 53c and 56 of the Financial Regulation.

The Commission controls ex-ante all the procurement and grant procedures. Payments are executed by the Commission.

- (b) For *Component 1.3*: joint management through the signature of a contribution agreement with an international organisation in accordance with Article 53d of the Financial Regulation. The organisation identified for that purpose is UNDP. This organisation has specific expertise in the area of legal aid in the oPt. It currently supports the justice sector in the oPt, and specifically in the area of legal aid, through its "Rule of Law and Access to Justice Programme". Their high level of involvement to date in the Legal Aid Working Group and supporting the drafting of the new Law makes them a crucial actor in supporting the implementation of the Legal Aid programme, for which they hold specific expertise. The international organisation complies with the criteria provided for in the applicable Financial Regulation and is covered by the Financial and Administrative Framework Agreement (FAFA) concluded between the UN and the Commission.

**A derogation** to launch an international tender for Technical Assistance with a suspensive clause prior to the decisions has been requested for *Component 3 (Technical Assistance to Ministry of Social Affairs)*: given the importance of maintaining the momentum and trajectory of ongoing reform and modernisation, and the need to ensure continuous Technical Assistance support and seamless transition between the ongoing and the new project the tender should be launched as soon as possible.. This will allow substantial progress in the tender procedure and will keep the gap between the two projects for Technical Assistance to the Ministry of Social Affairs to a minimum.

The change of management mode constitutes a substantial change except where the Commission "re-centralises" or reduces the level of tasks previously delegated to the beneficiary country, international organisation or delegated body under, respectively, decentralised, joint or indirect centralised management.

### 4.2. Procurement and grant award procedures

#### 1) Contracts

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by

the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the European Neighbourhood and Partnership Instrument (ENPI) Regulation (EC) No. 1638/2006. Further extensions of this participation to other natural or legal persons by the concerned authorising officer shall be subject to the conditions provided for in Article 21(7) of the above mentioned Regulation.

## 2) Specific rules for grants

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EU external actions. They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the General Budget. When derogations to these principles are applied, they shall be justified, in particular in the following cases:

- Financing in full (derogation to the principle of co-financing): the maximum possible rate of co-financing for grants is 80 %. Full financing may only be applied in the cases provided for in Article 253 of the Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the General Budget.

For joint management:

All contracts implementing the action are awarded and implemented in accordance with the procedures and standard documents laid down and published by the relevant International Organisation, with specific attention to ensuring coherence and harmonised efforts to achieve all Millennium Development Goals.

### 4.3. Indicative budget and calendar

The maximum indicative contribution of this programme is EUR 20,500,000. The duration of this programme is estimated at 78 months after signature of the Financing Agreement, including an operational phase of 60 months and a closure phase of 18 months. The exact calendar of operations will be determined in consultation with the Ministry of Finance, the Ministry of Planning, other ministries and other institutions, as well as implementing agencies, with regard to budgetary appropriation needs and availability.

Component		Method of Implementation / Type of contract	Amount (EUR)
<b>Component 1 –Justice</b>	<i>1.1. Capital investments for the justice institutions</i>	Partially decentralised (Works)	7,800,000
	<i>1.2 Support to the capacities of the High Judicial Council and other Justice</i>	Direct centralised (Service)	1,000,000



	<i>Institutions</i>		
	<i>1.3 Support the establishment and operation of the Palestinian Legal Aid Programme</i>	Joint Management (Contribution Agreement)	3,500,000
<b>Component 2 – Security</b>	<i>2.1 Provision of equipment for Palestinian Civil Defence</i>	Partially Decentralised (Supply)	3,800,000
<b>Component 3 – Social protection</b>	<i>3.1 Technical Assistance Ministry of Social Affairs</i>	Direct Centralised (Service)	1,700,000
<b>Component 4 – Civil Service Reform</b>	<i>4.1 Technical assistance to the General Personnel Council</i>	Direct Centralised (Service)	1,500,000
<b>Audit/Evaluation</b>		Direct centralised (Service)	100,000
<b>Visibility</b>		Direct centralised (Service)	100,000
<b>Contingencies</b>			1,000,000
<b>TOTAL</b>			<b>20,500,000</b>

#### 4.4. Performance monitoring

The action will be monitored with reference to standard performance indicators in the sectors relevant to the action. Gender-sensitive logical frameworks including objectively verifiable indicators will be developed in the Technical and Administrative Provisions of the Financing Agreement and included in the contracts or contribution agreements for each activity under the programme. The Commission may carry out Results Oriented Monitoring via independent consultants.

#### 4.5. Evaluation and audit

An external final evaluation, covering all the activities of the action will also be carried out in accordance with the EU procedures. Continuous monitoring and evaluation systems could be set up if deemed necessary. Where appropriate, external audits of the full programme or of specific components/contracts of this programme will be undertaken.

#### **4.6. Communication and visibility**

The action will follow the visibility guidelines of the EU<sup>26</sup>. Progress implementation will be communicated to all stakeholders, including through the regular Operations (PEGASE) bulletin.

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[http://ec.europa.eu/europeaid/work/visibility/index\\_en.htm](http://ec.europa.eu/europeaid/work/visibility/index_en.htm).