

## Action Fiche for West Bank and the Gaza Strip

### 1. IDENTIFICATION

Title/Number	Support to the Rule of Law Sector – Security / Justice / Elections		
Total cost	EU contribution: EUR 20,000,000		
Aid method / Method of implementation	Project approach - centralised (direct) management, and centralised (indirect) management with GIZ or joint management with UNOPS		
DAC-code	15040 15030 15062	Sector	Government Administration Legal & Judicial Development Elections

### 2. RATIONALE

#### 2.1. Sector context

The overarching objective of EU financial support to the West Bank and Gaza strip (WBG) 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. Prime Minister (PM) Fayyad's state building plan confirms the Palestinian Authority's commitment to build the institutions of a future state, crucial for ensuring a brighter economic future for Palestinians which is necessary to combat marginalisation and radicalisation. This plan is fully aligned with the priorities set out in the current ENP Joint Action Plan (JAP) and provides the basis for ongoing preparations of a new JAP.

In recent years, the Palestinian Authority (PA) made further progress in the implementation of the objectives of the Palestinian Reform and Development Plan (PRDP), most notably in the field of Rule of Law (RoL). Reforms were however limited to institutions in the West Bank.

EU assistance in 2011 will support PM Fayyad's state-building agenda with more focused programmes than in 2010, within a multi-annual strategic framework, based on the PRDP, the programme of the 13<sup>th</sup> government, the priorities laid out in the document "Moving Forward" and the sector strategies adopted in 2010 upon which the new Palestinian National Development Plan 2011-2013 is based. In the broad sector of RoL, two major sector strategies, one for the security sector and one for the justice sector have been adopted in 2010 and form the basis of the programmes presented in this document.

Under the current political split, democratic governance in the WBG has eroded. The key institutions of democratic governance, such as the Central Elections Commission (CEC) and the Secretariat of the Palestinian Legislative Council (PLC), remain technically operational and the EU engaged itself to sustain and enhance the capacities of both in view of future elections.

Flexibility in implementation is crucial in order to allow enhanced activities in Gaza if conditions change and to be able to respond to possible political developments.

## **2.2. Lessons learnt**

This new envelope for technical assistance activities will build upon the technical assistance activities already in progress and is aligned with the current reform priorities of the PA.

Donor co-ordination is essential and ownership at both technical and political level is a key to success. In some areas the PA's absorption capacity is limited. The lack of a functioning PLC limits the possibilities for legislative reform and executive oversight and, thus, improvements in governance.

Support to public infrastructure has been provided since 2005 through three consecutive financial facilities (2005, 2008 and 2009) aimed at supporting service provision and infrastructure. The flexibility of the approach has proven to be a key element of success. Due to Israeli restrictions it is important to be able to reallocate resources to other projects when obstacles arise and not to start activities which are unlikely to be implemented due to Israeli restrictions in the absence of mitigating measures. Moreover, donors are requested to provide direct, tangible and visible interventions in these sectors. At the same time, co-operation should be progressively aimed at serving mid-term and longer-term policy objectives.

## **2.3. Complementary actions**

This action complements the programme *EU support for the PA Two-Year Plan for Statehood (2010 funds, EUR 31,000,000)*, which provides technical assistance for enhancing the performance of the Palestinian Administration in several sectors, amongst which are Security, Justice and Elections. It also complements the 2010 Infrastructure Facility, with around EUR 13,000,000 allocated for construction of infrastructure for the Justice Sector.

Current estimates of the total EU (including Member States) spending in the rule of law area are around EUR 113,000,000 (including the EUR 40,000,000 of project support from the EU budget). This does not include the costs of the EU Police Mission in the occupied Palestinian Territory (EUPOL COPPS) (EUR 6,500,000). Overall total donor funding (current commitments) in this sector exceeds EUR 150,000,000.

The European Instrument for Democracy and Human Rights, with projects providing training on human rights or torture prevention to security services, or trainings of judges or lawyers support the EU actions in the field of the rule of law.

Several EU Member States have provided support – both training and equipment – to the Palestinian police with EUPOL COPPS coordination.

In the justice sector, Italy is developing a human rights unit at the Ministry of Justice, as well as arbitration chambers; Sweden is providing "quick impact" projects and support to the Independent Commission for Human Rights, and France and Belgium support university law schools.

## **2.4. Donor coordination**

High level international donor co-ordination takes place at the level of the Ad Hoc Liaison Committee (AHLC). At the local level donor co-ordination takes place in various forums under the Local Development Forum and its four "Strategy Groups" (among which governance is co-chaired by the EU Delegation). More specifically, enhanced and targeted technical assistance is coordinated through Security and

Judiciary working groups. The UK and the Netherlands respectively play a leading role in these forums. The EU is also co-chairing the Elections Sector Working Group.

In addition EU policy is coordinated through regular meetings of the EU Heads of Co-operation which are currently preparing EU response strategies to guide the coordinated EU response to the Palestinian National Development Plan 2011-13. These response strategies are also co-ordinated with the other major donors, in particular Canada, Japan, Norway, Switzerland, US and the World Bank.

### 3. DESCRIPTION

#### 3.1. Objectives

The **overall objective** of the action is to build the institutions in the Rule of Law sector as one 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 action will provide support to the priorities and objectives of the PRDP and its successor, the Palestinian National Development Plan (PNDP) and to the PA to take forward objectives agreed in the European Neighbourhood Policy Joint Action Plan.

The **specific objectives** are:

- to enhance civilian and public oversight of the security sector and the development of strategic oversight mechanisms.
- to support the infrastructure and equipment needs of the Palestinian Civil Police (PCP)/ General Administration of Reform and Rehabilitation Centres (GARRC) and the Palestinian Civil Defence (PCD).
- to improve the administration of justice and the capacity of judicial institutions to delivery quality services according to international standards by supporting legal and judicial education and training.
- to support free, fair and transparent legislative and presidential elections.

#### 3.2. Expected results and main activities

Expected results and main activities by component are as follows::

**Component 1- Security:** Law and order in the WBG is maintained and the safety of citizens effectively addressed in an accountable and transparent manner.

The **main activities** consist of:

- Capital Investments: construction/refurbishment and provision of equipment (including IT/Communication) for the PCP including the GARRC and for the PCD; these interventions will include construction of police stations and district headquarters, reform and rehabilitation centres, PCD regional buildings including the equipment to make them operational and support to the elaboration of communications and IT support systems in both institutions. In the context of EU donor coordination the preferred option for carrying out these activities is by EU approach through an EU implementing partner.

- Provision of technical assistance for improved civilian and public oversight of the security sector.

**Component 2 – Justice:** The Palestinian justice sector has a trained pool of professionals in conformity with international standards and thus ensuring quality of the services.

The **main activities** consist of designing, establishing and delivery of the first postgraduate programme in Legal/Judicial Education in the WBG.

**Component 3 – Electoral processes:** Free, fair and transparent elections are undertaken in conformity with international standards.

The **main activities** consist of a direct financial contribution to electoral operations conducted by the Central Elections Commission (CEC) in case of Presidential or legislative elections. Alternatively and in continued absence of electoral activities, part re-allocation of funds to maintain and further capacities of institutions and organizations involved in electoral and democratic processes (CEC, NGOs and other independent institutions).

In the event of political, security or other significant changes, in particular as regards access to and the PA's effective control over the Gaza Strip, the objectives, expected results and main activities as well as the budget and calendar described in this action could be modified or added, following the relevant procedures.

### 3.3. Risks and assumptions

The main risks to the actions foreseen consist of the Israeli occupation of the territory, the division between West Bank and Gaza, and the renewal of violent conflict between Palestinians and Israel, and between Palestinian factions. The free movement of goods and persons are subject to unpredictable policies of Israel.

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. As a mitigating measure, the donor community should hold to government to this line. Insufficient donor financing remains a risk. In addition, the risk remains high that donors will not allocate resources in line with PA priorities. The elaboration of the EU's development programme for the PA in 2010, in line with PA priorities, is, in itself, an important means of mitigating this risk.

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.

General elections are extremely difficult to predict. The EU will therefore retain funds to allocate in support of possible snap elections in the absence of which these funds could partly be reallocated to maintain and further the operational capacities of the CEC or other institutions relevant for the promotion of democratic governance.

Finally structural weaknesses in services and departments and the low absorption capacity of the Ministry of Public Works and Housing in term of instruction/implementation/supervision of projects could also delay and impact negatively on the timing and possibly on the quality of intended projects.

### **3.4. Cross-cutting Issues**

Gender equality will be mainstreamed into the governance sector through the planned establishment of the Governance Department within the Ministry of Planning and Administrative Development.

The EU will ensure that appropriate measures are taken to ensure that security services supported respect human rights and that the United Nations (UN) Minimum Standards for Treatment of Prisoners are respected, either with EU funds or through accompanying measures from other donors.

Environmental sustainability is a central cross-cutting issue, although the PA lacks control over most aspects of the environment. Without political progress therefore, the actions under this fiche will have limited impact on improving the environmental situation of the WBG. On infrastructure projects, environmental impact assessment of projects will be performed where necessary within feasibility studies.

Good governance is a key cross-cutting issue and mainstreamed throughout this fiche. Support for the rule of law activities will provide support specifically to ensure respect for children's rights by addressing juvenile justice issues. Good governance principles will guide the implementation mechanisms.

### **3.5. Stakeholders**

Main partners will be the Prime Minister's Office, the Ministry of Finance as well as the Ministry of Planning and Administrative Development through its co-ordination role. Key partners and direct beneficiaries of these actions are: i) Ministries of Interior, Justice, Public Works; ii) PA institutions in the areas of security and justice, such as the Palestinian Civil Police and Civil Defence, the General Administration for Reform and Rehabilitation Centres, the High Judicial Council, the Attorney General's Office, the Palestinian Judicial Institute, Bar Association; iii) civil society organisations and other independent institutions, such as Central Elections Commission, the Independent Commission for Human Rights and universities. All the above-mentioned have been consulted in the programming process.

The institutional capacity of these organisations is mixed. The institutional weaknesses will be addressed through technical co-operation envisaged. EUPOL COPPS will be a strategic partner in the implementation of this actions and coordination with other relevant donors will be reinforced. The possibility of contributions to this programme by other EU Members States should be foreseen.

## **4. IMPLEMENTATION ISSUES**

### **4.1. Method of implementation**

A Financing Agreement will be concluded between the European Union represented by the Commission and the relevant authority of the PA.

#### ***Component 1- Security***

- (a) Centralised management will apply for assistance to PCP, GARRC and PCD delivered through a third party implementer who will deliver the capital investments (infrastructure/equipment and connected services) and the technical assistance necessary for their technical and policy preparation.

In view of the recently emerging preference by the EU donor community for a strong EU approach the preferred implementation option is as follows:

- Indirect centralised management through a Delegation Agreement with the *Gesellschaft für Internationale Zusammenarbeit* (GIZ) in accordance with Article 54(2) of the Financial Regulation, due to their world-wide experience including in the WBG with police support programmes and the confidence and endorsement they have on the part of the Ministry of Interior.

However, given the ongoing progress discussions on the above option and to ensure in any case the operational implementation it is prudent at this stage to keep the following implementation mode available:

- Joint Management, through the signature of a Contribution Agreement with the United Nations Office for Project Services (UNOPS) in accordance with Article 53d of the Financial Regulation. This is justified as UNOPS has been performing well the same activities including its involvement in support to the PCP and close collaboration with EUPOL COPPS, the Common Security and Defence Policy advisory mission to the PCP.

The decision on the management mode will be made on the basis of the progress discussions on option one, and will be included in the Financing Agreement.

- (b) Capacity building to support civilian (public) oversight and strategic civilian oversight will be carried out under the direct centralised management mode and implemented respectively by the Independent Commission for Human Rights (ICHR) and the Geneva Centre for Democratic Control of Armed Forces (DCAF) through a direct grant to each organization on the basis of Article 168.1 (f) of the Implementing Rules, each for an estimated amount of EUR 500,000.

The ICHR is chosen for its unique position as reputable independent human rights monitor founded by the Palestinian Authority. DCAF is chosen for its unique position as an international organization that has acquired specific experience as main partner in the elaboration EU policies on security sector reform especially on matters of civilian oversight.

### ***Component 2 – Justice***

Direct centralised management: support to the establishment and delivery of the post-graduate degree in law and judicial education will be done through service contracts for the design phase and grants for the actual implementation of the post-graduate program.

### ***Component 3 – Electoral processes***

The direct centralised management mode will be used through grant contracts.

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 delegatee 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 Regulation (EC) No 1638/2006. Further extensions of this participation to other natural or legal persons by the relevant 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 (PRAG). They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the general budget of the EU. 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 90% of the total accepted costs of the Action. 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.

Component 1:

- 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.

## **4.3. Indicative budget and calendar**

The maximum contribution to the beneficiaries of this programme is EUR 20,000,000. The duration of this programme is estimated at 84 months after signature of the Financing Agreement, including an operational phase of 60 months and a closure phase of 24 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.

The indicative breakdown of the overall budget is as follows:

<b>Component</b>	<b>Activities</b>	<b>Method of Implementation / Type of contract</b>	<b>Amount EUR</b>
Component 1 – Security	Capital investment and technical assistance to PCP, GARCC and PCD	Centralised management Delegation agreement with GIZ, or Joint management: Contribution agreement with UNOPS	14,500,000
	Capacity building	Direct centralised management Mainly Grant contracts	1,000,000
Component 2 – Justice	Technical assistance	Direct centralised management Mainly Service or grant contracts	1,800,000
Component 3 – Electoral processes	Technical assistance	Direct centralised management Mainly Grant contracts	2,000,000
Visibility, audit and evaluation		Direct centralised management	200,000
		Service contracts	
Contingencies			500,000
<b>TOTAL</b>			<b>20,000,000</b>

#### **4.4. Performance monitoring**

The action will be monitored with reference to standard performance indicators in the sectors relevant to the action, specifically the European Commission's Standard Indicators. Logical frameworks including objectively verifiable indicators will be developed in the TAPs and included in the contracts or contribution agreements for each activity under the programme.

#### **4.5. Evaluation and audit**

An external final evaluation, covering all the activities of the action, will be carried out in accordance with European Commission procedures. Where appropriate, external audits of specific projects will be undertaken.

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

The action will follow the visibility guidelines of the European Commission. Each contractor will be responsible for implementing those guidelines in line with the relevant templates.