



ANNEX 1

of the Commission Implementing Decision on the Annual Action Programme 2019 (part 1) in favour of Ukraine

Action Document for the EU Anti-Corruption Initiative in Ukraine (Phase II)

ANNUAL PROGRAMME

This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation and action programme/measure in the sense of Articles 2 and 3 of Regulation N° 236/2014.

1. Title/basic act/ CRIS number	<u>EU Anti-Corruption Initiative in Ukraine (Phase II)</u> CRIS number: ENI/2019/041-726 financed under European Neighbourhood Instrument	
2. Zone benefiting from the action/location	European Neighbourhood region, Ukraine The action shall be carried out at the following location: Ukraine – nationwide, the programme team will be based in Kyiv	
3. Programming document	Single Support Framework for EU support to Ukraine 2018-2020	
4. Sustainable Development Goals (SDGs)	SDG targets Nr. 16, 16.5, 16.6 and 16.a	
5. Sector of intervention/ thematic area	Strengthening institutions and good governance, including the rule of law and security	DEV. Aid: NO
6. Amounts concerned	Total estimated cost: EUR 22.9 million Total amount of EU budget contribution EUR 15 million The action is co-financed in joint co-financing by Denmark for an amount of EUR 7.9 million	
7. Aid modality(ies) and	Project Modality Indirect management with the Ministry of Foreign Affairs of Denmark	

implementation modality(ies)	(DANIDA) Direct management through procurement			
8 a) DAC code(s)	15113, 25010			
b) Main Delivery Channel	10000 PUBLIC SECTOR INSTITUTIONS			
9. Markers (from CRIS DAC form)	General policy objective	Not targeted	Significant objective	Principal objective
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	x
	Aid to environment	x	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and Women's and Girl's Empowerment	<input type="checkbox"/>	x	<input type="checkbox"/>
	Trade Development	<input type="checkbox"/>	x	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	x	<input type="checkbox"/>	<input type="checkbox"/>
	RIO Convention markers	Not targeted	Significant objective	Principal objective
	Biological diversity	x	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	x	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	x	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	x	<input type="checkbox"/>	<input type="checkbox"/>
10. Global Public Goods and Challenges (GPGC) thematic flagships	N/A			

SUMMARY

Combating corruption has been one of the key priorities in the Ukrainian reform agenda since 2014. A comprehensive legal framework was adopted, new corruption prevention and repression bodies have been established and the High Anti-Corruption Court is being set up. Modern mechanisms to prevent corruption, such as an electronic system for asset declarations and a public procurement platform ProZorro, have been introduced. Pressure from a vibrant civil society and international engagement significantly contributed to these achievements. However, tangible results are still limited, in particular as regards adjudication of high-level corruption cases, control of assets and conflicts of interests of public officials and the management of corruption risks in the public and private sector. Ukraine's anti-corruption activists are increasingly put under pressure, especially in the regions. Persistent challenges related to corruption and fragile state of reforms suggest that support to Ukraine's anti-corruption efforts must continue. The proposed EUACI Phase II will capitalise on the work started in the first phase and will aim at ensuring the sustainability of anti-corruption reforms achieved so far and further reinforcement of anti-corruption efforts at the national and local level. It will be a holistic and flexible instrument composed of the following three mutually reinforcing components aimed at fostering the culture of integrity in the society:

- 1) Further support to the institutional development of anti-corruption institutions

- 2) Improved governance, transparency and accountability at the local level
- 3) Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance.

1 CONTEXT ANALYSIS

1.1 Context Description

Since the Revolution of Dignity, combatting corruption has been a top priority in the Ukrainian reform programme and political rhetoric. A comprehensive new legal framework largely complying with European standards was adopted. New anti-corruption (AC) bodies - the National Anti-Corruption Bureau (NABU), the Specialised Anti-Corruption Prosecution Office (SAPO), the National Agency for Corruption Prevention (NACP), the Asset Recovery and Management Agency (ARMA) and a High Anti-Corruption Court (HACC) have been or are in the process of being established. New mechanisms to fight corruption, such as an electronic system for asset declarations, have been introduced. Pressure from an active civil society and investigative media as well as strong international engagement contributed significantly to these achievements.

In parallel, major reforms were launched to reduce the space for corruption, in particular in the energy and banking sectors, VAT administration and health care. A new electronic system of public procurement ProZorro and its spin-off Prozorro Sale, a public asset sale and lease platform, were introduced boosting transparency in previously opaque procurement processes. These reforms allowed Ukraine to save an estimated USD 6 bn or 6% of its GDP¹.

While Ukraine made some good progress over the past five years in reducing the space for corruption, results are still meagre when it comes to the adjudication of high-level corruption cases and fighting the “culture of impunity”. So far, no high-level official has been put to prison for corruption. NABU has brought several hundred investigations in high-level corruption cases to court, but these cases do not advance.

Moreover, implementation of AC laws and policies remains deficient, in particular as regards control of assets and conflicts of interests of senior public officials, as well as management of corruption risks in both public and private sector. Adoption of the new AC Strategy for 2018-2020 has been delayed. NACP has yet to prove its effectiveness and independence following a 2017 whistleblowing scandal. Out of more than 2 million declarations submitted only 400 have been verified as of end-2018. To address this issue and as required by policy conditionality of the 4th EU Macro-Financial Assistance, the Ukrainian authorities upgraded the automated verification system of asset declarations and started using it in 2018. Further progress is expected in 2019, in order to make the verification system fully-functional (notably, by establishing connections to the remaining state registers) and effective in detecting undeclared income and assets.

¹ Institute for Economic Research and Policy Consulting, Ukraine’s fight against corruption: the Economic Front, Kyiv 2018.

It is also of concern that Ukraine's anti-corruption activists and investigative journalists are increasingly put under pressure, harassed and even physically attacked, notably in the regions.

Vested interests of the old and often corrupt bureaucracy in connivance with political forces linked to the monopolistic power structures in industry and business are a major source of resistance to these changes and persistently attempt to undermine the legislative and institutional AC framework. As a result, corruption remains one of the major challenges for Ukraine. Ukraine's score on corruption perception has been improving in recent years but remains relatively low by international comparison². Pervasiveness of corruption in Ukraine imposes significant economic costs on businesses and the population, discourages domestic and foreign investment and stifles a much-needed economic recovery. The lack of real progress in the fight against corruption also leads to a growing frustration and cynicism in the Ukrainian public, which perceives that the fundamentals of the old corrupt system remain unchanged. This undermines public trust in the democratic institutions and the rule of law and weakens the legitimacy of political leadership.

The EU Anti-Corruption Initiative (EUACI) launched at the end of 2016 has effectively contributed to the establishment and operationalisation of AC institutions, sought to engage the Parliament on AC reforms, launched the Integrity City initiative in five selected pilot cities and empowered the civil society and investigative media to expose corruption and promote integrity. The EUACI has succeeded in engaging a number of EU Member States in its activities, thus drawing on best EU practices.

Persisting challenges related to corruption, as well as the fragile status of AC reforms and institutions suggest that support to Ukraine's AC efforts must continue. Reforms in Ukraine have not yet become irreversible and many political, institutional and practical challenges still stand on the way of a real breakthrough on the fight against corruption.

1.2 Policy Framework (Global, EU)

Ukraine is a party to the main international conventions and bodies in the area of anti-corruption: Ukraine ratified the **UN Convention against Corruption** (2006), the **Council of Europe Civil Law Convention on Corruption** (2005) and the **Council of Europe Criminal Law Convention on Corruption** (2009). Ukraine is a member of the Council of Europe bodies **GRECO** (Group of States against Corruption) and **MONEYVAL** (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) as well as of the **OECD's Anti-corruption Network for Eastern Europe and Central Asia** (ACN).

The fight against corruption is a central principle and key area of cooperation between the parties under the **EU-Ukraine Association Agreement** (Articles 3 and 14). Following the signature of the Association Agreement in 2014, the 2015 EU-Ukraine Association Agenda listed more precise short-term priorities, in particular the implementation of the anti-

² Ukraine's score in the annual Transparency International Corruption Perception Index improved from 26 points in 2014 to 32 points in 2018 but Ukraine still ranks 120 out of 180 countries worldwide (below all regional peers, except Azerbaijan and Russia).

corruption legal package adopted in October 2014 and the setting up and effective functioning of both the National Anti-Corruption Bureau and the National Agency for the Prevention of Corruption.

1.3 Public Policy Analysis of the partner country

Ukraine's new political leaders and the civil society successfully pushed for changes after the Revolution of Dignity, which led to the adoption in October 2014 of an **Anti-Corruption legislative package**, including a national strategy covering the period 2014-2017, followed by an action plan to implement the anti-corruption strategy adopted in April 2015. The strategy notably foresaw the creation of three new institutions which presented a major break-through in the reform: 1) the National Anti-Corruption Bureau (NABU) in charge of investigating high-level corruption cases 2) the Specialised Anti-Corruption Prosecution Office in charge of prosecuting NABU cases and 3) the National Agency for the Prevention of Corruption (NACP) in charge of anti-corruption policy development and implementation, anti-corruption screening of draft legal acts, research and training, verifying asset declarations and conflicts of interests of public officials, control of political party finances, whistle-blower protection.

The implementation of Ukraine's new legislative and strategic framework was a core element of the **European Commission's Visa Liberalisation Action Plan (VLAP)** which contained specific benchmarks on anti-corruption. The VLAP benchmarks notably required Ukraine to establish and make fully operational the new anti-corruption institutions and to put in place a mechanism for submitting and verifying electronic asset declarations by public officials. After intense negotiations, the European Commission concluded that significant legislative and institutional changes have taken place and proposed, in April 2016, to grant Ukraine visa-free status. This proposal was subsequently adopted by the European Parliament and the Council and the visa-free regime entered into force in June 2017. In parallel, the European legislator introduced a new suspension mechanism which monitors the continued fulfilment of the Visa Liberalisation Benchmarks in all countries concerned. The first annual report, published on 20 December 2017, concludes for Ukraine that while *"[o]verall, the visa liberalisation benchmarks continue to be fulfilled [...] in view of recent developments, immediate actions need to be taken in order to ensure full implementation and sustainability of past reforms, in particular as regards the anti-corruption benchmark."* In this respect, the report urges Ukraine to:

- Ensure the independence, effectiveness and sustainability of the anti-corruption institutional framework, in particular by setting up an independent and specialised high anti-corruption court in accordance with the Venice Commission opinion and Ukrainian legislation. In parallel, the independence and capacity of NABU and SAP must be ensured and reinforced, reversing current trends undermining their work
- Restore as a matter of urgency the credibility of the NACP and establish an effective verification system of asset declarations, including through the automatic verification software with direct and automatic access to state databases and registers;
- Repeal the amendments extending the scope of asset declaration obligations to civil society declarants and ensure that civil society can play its role without undue obstacles and interference; and

- Step up efforts to combat organised crime, including by dedicating sufficient resources and expertise in the National Police, introducing a clear delineation of competencies and improving cooperation between law enforcement agencies.

Anti-corruption reforms also figured prominently in the EU's **3rd Macro-Financial Assistance Packages** which required, similarly to the VLAP benchmarks, to make the new anti-corruption institutions fully operational. The current **4th Macro-Financial Assistance Package** requires Ukraine to put in place an effective system for the verification of electronic asset declarations and to make significant progress with the establishment of the High Anti-corruption Court.

Whenever possible, the EUACI Phase II will provide assistance in addressing the aforementioned EU and national policy priorities in the area of anti-corruption.

1.4 Stakeholder analysis

The **National Anti-Corruption Bureau (NABU)** is a law enforcement body created in April 2015 and became fully operational in December 2015. NABU is tasked with investigating corruption involving high-ranking public or local government officials. Regional offices were created in Kharkiv, Lviv and Odessa. NABU is formally a state law enforcement authority, not subordinated to the Government. A number of guarantees are included in the law to secure its independent functioning. The Bureau is managed by a Director appointed by the President of Ukraine upon the recommendation of the selection board for a seven-year period.

NABU's strategy emphasises the need to build capacity of staff, to automate business processes, to decrease corruption risks, and improve analytical functions, e.g. through e-case management, which would enhance efficiency in the investigation of cases. NABU's cooperation with the Specialised Anti-Corruption Prosecution Office and the National Agency for Corruption Prevention needs to be improved, while cooperation with SFMS and ARMA works well.

The **Specialised Anti-Corruption Prosecution Office, (SAPO)** was established in November 2015. SAPO is responsible for managing criminal investigations into high level corruption cases investigated by NABU and for bringing these cases to court. SAPO is formally part of the Public Prosecutor's Office, but a number of safeguards ensuring its independence and autonomous operation, were introduced. In June 2018, the Head of SAPO was found to have seriously violated prosecutorial ethics and criminal procedure laws, but he was still not dismissed by the prosecutorial disciplinary body. It raises concerns over the independence and integrity of SAPO management.

SAPO suffers from a considerable backlog of cases and serious delays in court proceedings. It is expected that the establishment of the High Anti-Corruption Court (HACC) will remedy this situation, but SAPO is still in need of continuous capacity building and more staff with the right set of skills. In terms of IT equipment, SAPO is currently well-funded by the Government. Where possible, the **Academy of Public Prosecutors** will be engaged for systematic capacity building for SAPO staff.

The **National Agency for Corruption Prevention (NACP)** is responsible for the development and implementation of AC policy, monitoring the lifestyle of public officials, verifying declarations of assets and conflicts of interest of public officials. The Agency is also in charge of controlling political party funding and protection of whistle-blowers. NACP's reputation has been damaged following the whistleblowing scandal in November 2017 when senior NACP officials accused NACP's top management of political dependence and abuse of power.

Beside restoring the NACP's trust and cooperation with other relevant AC institutions, NACP will have a high demand for improved technical solutions, e.g. establishment of datacentre and an e-case management system, as well as continued capacity building for its relatively young and inexperienced staff in all core areas, including corruption risk assessment, conflict of interest management, verification processes and communication. There is also a potential need for assistance in the development and/or implementation of the AC strategy after the 2019 elections.

The **National Asset Recovery and Management Agency (ARMA)** was established in 2016 and started its operation at the end of 2017. It is responsible for identifying, tracing and managing of assets derived from corruption and other crimes. In its activities, it is cooperating with national law enforcement and judiciary institutions and international partners. As a newly established organisation ARMA is still growing and will need to continue the institutional development process and recruitment of additional staff, including in the regions.

The cooperation between the current EUACI programme and ARMA has worked well, but many of its needs will still remain in terms of capacity building, organisational reforms and specialised IT solutions. Furthermore, ARMA has the ambition to enhance its communication efforts, as its mandate is still not sufficiently understood by the law enforcement and judicial institutions and it is also publicly challenged by vested interests. Currently, ARMA does not have a clear development strategy, for which EUACI Phase II could also be employed.

The **State Financial Monitoring Service of Ukraine (SFMS)** is Ukraine's Financial Intelligence Unit responsible for collecting, analysing and disseminating information regarding potential money laundering and suspected proceeds of crime. SFMS therefore plays an important role in identifying possible financial crimes, including corruption, and it maintains a close cooperation with NABU.

SFMS's main needs revolve around the development of special analytical skills for its staff and technical solutions for conducting forensic tracing and enhanced information sharing with NABU and other relevant law enforcement agencies. Where possible, the **Academy of Financial Monitoring** will be engaged for systematic capacity building of SFMS staff.

The **High Anti-Corruption Court (HACC)** is currently being established on the basis of the Law on HACC which was adopted in June 2018 in line with the recommendations of the Venice Commission. The process of selection of HACC judges and the establishment of the court is underway supported by the EUACI and other international assistance programmes. Once established, HACC will adjudicate all high-level corruption cases falling under the jurisdiction of NABU and SAPO, as well as some other serious crime cases.

There will be a considerable need for assistance for HACC in both the short- and medium-term of its operationalisation. Beside the setting up of the organisational structure and internal policies (human resource management, ICT, court security, communication, case management, etc.), the HACC will be in need of tailor made capacity building, as well as ICT support. A close coordination will be required among donors to ensure a timely, relevant and well-organised assistance for the new court. Where possible, the **National School of Judges** will be engaged for ensuring systematic capacity building for SAPO staff.

The Ministry of Justice is *inter alia* mandated to carry out legal assessment, including the corruption proofing part, of all laws proposed by the Government, as well as all bylaws proposed by the central and regional (oblast) government institutions. Without positive conclusion from the Ministry, a given law or bylaw cannot be formally adopted and needs to be improved in line with the Ministry of Justice recommendations. Corruption proofing is only one part (a chapter) of the overall legal assessment report on a given legal act. The Ministry is keen to receive support to enhance its capacities in this important area.

The Parliament is the legislative body in charge of, among many other tasks, law-making and parliamentary control of the Executive. The **Parliament's Anti-Corruption Committee**, among other tasks, is responsible for considering draft legislation pertaining to the area of anti-corruption, monitoring the implementation of anti-corruption reforms by the government, and corruption proofing of all draft laws ahead of the first reading in the plenary. The EUACI has been providing some support in the first phase, but additional capacity development, notably on the specific function of corruption proofing, is required.

Integrity cities – the city councils and the executive committees of the cities of Chernivtsi, Mariupol, Zhytomyr, Nikopol and Chervonohrad – the so-called Integrity Cities selected in the first phase of the EU Anti-Corruption Initiative - are executing various local administration functions and providing services to citizens. The Programme will continue supporting them in consolidating and further expanding modern transparency and accountability mechanisms aimed at reducing corruption risks and improving city governance. Further sub-national entities may be included in this initiative.

Investigative journalists/media play an important role in uncovering corruption schemes, thereby effectively contributing to prevention and repression of corruption, as well as raising public awareness and promoting the culture of integrity. Investigative media faces significant obstacles in their work, including political pressure, physical attacks, legal actions, as well as insufficient financial and human resources. The network of investigative journalists is particularly scarce in the regions. The EUACI Phase I has established good cooperation with trusted partners such as the Regional Press Development Institute and Bihus.info, which supported investigative journalism across the country, while the needs for continued strategic support in this area are evident.

Civil Society Organisations (CSOs) (including local and national membership organisations, advocacy groups, think tanks, research institutions) play a key role in the reform process. Many AC laws were developed, and public sector reforms launched with direct involvement of the civil society. CSOs at both central and local/regional level continue to be very active in advocating further AC reforms and in monitoring the implementation of AC laws and performance of state institutions. Similar to investigative journalists, they are often subject to

pressure and suffer from insufficient funding and human resources, especially in the regions. Further support to CSOs will be required with particular focus on AC awareness raising, watchdog and policy dialogue initiatives, as well as capacity building of local-level CSOs.

Business membership organisations are associations at central and regional level whose mission is to protect and represent the interests of their member companies or entrepreneurs. They can serve as entry points for promoting compliance and business integrity among their members. Generally, the business chambers are relatively small and weak in Ukraine, but the EUACI Phase II may strategically identify the most appropriate partners and work with them to promote integrity and demand for it within the private sector both at the national and the local (e.g. Integrity City) level. One of these may be the **Ukrainian Network of Integrity and Compliance (UNIC)** which was founded in 2017 by the Business Ombudsman Council with the support of EBRD and OECD with the purpose to promote the culture of integrity among Ukraine's businesses. UNIC unites some 50 Ukrainian companies of both foreign and local capital and offers a learning and experience-sharing platform for implementing international standards of compliance and business ethics.

1.5 Problem analysis/priority areas for support

The fight against corruption continues to be one of the key political priorities of the Ukrainian government and several positive results and lessons learned have already been achieved. However, the implementation of the new anti-corruption framework and the establishment and operation of the new institutions needs a longer time horizon to ensure and sustainability.

In order to translate the political priorities into tangible results it is necessary to continue providing substantial technical and financial support to consolidate and empower the new anti-corruption institutions and other relevant stakeholders, such as civil society (including business sector organisations) and media to effectively carry out their work and to strengthen the external oversight over the reform process.

The proposed EUACI Phase II will build on the successful features of the existing support, as well as identify a few new priority areas to combat corruption. Continued EU support will not only contribute to the fight against corruption, but also be an important signal to civil society, the politicians and the Ukrainian public at large that EU continues to stand behind and constructively support demands for real and deep reforms in this area.

Key issues to be addressed by the EUACI Phase II can be grouped as follows:

a) Weak operational and strategic capacities of anti-corruption institutions

Most of the anti-corruption institutions have now become operational, but will still need to mature and demonstrate tangible results. Capacity development initiatives have been offered to the key institutions, but there is still a gap in expertise and experience. Investments have also been made in technical equipment, but this area will still need to be upgraded further. Finally, many of the institutions seem to be in need of support in setting the strategic directions for their organisation in the medium- to longer-term and ensuring effective inter-agency cooperation.

b) Insufficient use of modern technologies and IT solutions by public bodies

Administrative processes in the Ukrainian institutions tend to be bureaucratic and paper-based, thereby enlarging the room for corruption. Modernisation of hardware and software is underway, but further support is still needed. The e-governance and inter-operability solutions that are developed at the central level are still to be tested, operationalised and rolled out. At the same time, the investigation of complex corruption cases or the verification of asset declarations cannot be efficiently carried out without the use of modern IT solutions and equipment. It is therefore essential to be able to provide stakeholders with the necessary expertise and supplies, in order to allow them to effectively carry out their work, while taking due account of local ICT policy developments.

c) Attempts to hamper reforms by anti-reform’s forces/vested interests

Initiatives in creating necessary legal, regulatory and institutional AC framework, as well as its enforcement face fierce resistance from anti-reformist forces. Political commitment to advance anti-corruption agenda remains limited and unstable. In order to facilitate progress, constant and well-coordinated monitoring and pressure from the civil society, media and international stakeholders is needed, along with professional performance and strategic communication from the side of AC institutions. Therefore, the programme will continue supporting capacity development of relevant institutions, various policy dialogue, monitoring, awareness raising, investigative and analytical activities by the civil society, media and independent experts, while also assisting the EU in its political and policy dialogue with the Ukrainian authorities.

d) Dispersed and ineffective public communication on reform implementation

There is no effective mechanism in place to ensure that actual progress on the implementation of reforms can be properly communicated to the general public, thereby reassuring public opinion that things are moving forward. Currently, the (limited) results are only communicated in a dispersed manner by the individual institutions themselves. AC institutions need support with the development of a public communication strategy on anti-corruption and the design of specific communication initiatives to help individual stakeholders to report about reform implementation in a more effective and coordinated manner.

e) High levels of corruption at the local level where rights holders are less organised and more exposed to pressure

Corruption risks remain significant at the local (sub-national) level where local self-government bodies, following the decentralisation reform, have received significant new powers and resources, while adequate systems to ensure transparency and accountability and to manage corruption risks at these bodies are often not in place. Local vested interest groups remain strong in many regions and exert pressure on local activists and influence decision-making of local authorities. This is combined with weak civil society and media at the local level to monitor and demand change and to mobilise local communities. Similarly, the business community is showing some interest in enhancing integrity, but is still weak and insufficiently prepared and organised in promoting these efforts at the national and local level

2 RISKS AND ASSUMPTIONS

Risks	Risk	Mitigating measures
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	level (H/M/L)	
Diminishing political leadership and will to implement anti-corruption reforms, in particular following the presidential, parliamentary and local elections	M	Use of political dialogue in the framework of Association Agreement and other formats, public diplomacy; Coordination of common approaches with civil society, pro-reformist Ukrainian stakeholders and international partners.
Lack of cooperation from the side of Ukrainian beneficiaries	M	Continued policy dialogue, involvement of the beneficiaries in the preparation of the support to be provided by the programme.
Integrity cities concept not fully developed and tested in time	L	The concept has previously been delayed, but is currently highly prioritised by the existing programme. Additional resources and capacity, also at the local level, will be allocated to the Integrity Cities initiative.
Civil society and investigative media harassed or attacked	M	Continued policy dialogue with Ukrainian authorities and adequate technical and legal assistance to affected partners, demarches and public diplomacy.
Business sector disinterested in compliance/anti-corruption agenda	M	Close dialogue with business representatives focusing on tailored assistance and benefits from compliance initiatives; assistance in Business-to-Government dialogue for achieving benefits for "compliant" businesses.

Assumptions

- ✓ There are sufficient windows of opportunity and political will which will allow the anti-corruption reform agenda and the anti-corruption institutions to enhance their performance against their mandate
- ✓ The anti-corruption institutions are receptive to the advice and capacity development support provided and has sufficient ownership to allow for institutionalization of reforms based on the long-term strategic vision for the institution
- ✓ That the local governments are willing to use political as well as financial resources to address the corruption risks identified under the integrity city initiative
- ✓ That there are national institutions in place that are willing to take onboard the lessons learned from the integrity city initiative and replicate these across Ukraine
- ✓ That civil society and investigative media will have sufficient space at national and local level to investigate corruption cases, advocate for change, and conduct awareness raising on anti-corruption
- ✓ That the business sector is interested in and willing to commit time and resources to engage in anti-corruption activities
- ✓ That the advocacy and demands from civil society, media and private sector will have sufficient leverage to influence politicians at national and local level

3 LESSONS LEARNT AND COMPLEMENTARITY

3.1 Lessons learnt

The first phase of the EUACI programme contributed significantly to the early stages of development of the new anti-corruption bodies, such as NABU, ARMA, SAPO, and HACC, by providing relevant capacity building activities, advisory services and IT software and hardware. At the same time the programme introduced the innovative concept of Integrity Cities, which took longer than anticipated to get operationalised. The programme also contributed significantly to supporting civil society and investigative journalists which play a crucial role in monitoring anti-corruption reform and achievements in Ukraine. However, the EUACI implementation allowed drawing several key lessons that have to be taken into account for the second phase:

a) Need for a flexible support programme stimulating institutional ownership

The mid-term review of the EUACI Phase I conducted in summer 2018 showed that support to the fight against corruption in Ukraine requires a longer term and more strategic, multi-dimensional approach. Interventions need to be flexible and take the fluid political climate into account. The programme has introduced a number of innovative initiatives (e.g. the Integrity Cities) and has established cooperation with the key institutions in the fight against corruption. The institutional landscape is still being developed with new institutions becoming operational and the political will, institutional capacity and donor cooperation maturing. This implies that some key actors may not be able to receive assistance as planned, which complicates and delays the work of the programme. In such cases, commitment and national ownership needs to be stimulated in and around these institutions through policy dialogue. Hence, EUACI phase II should continue supporting the AC institutions and frameworks, while retaining flexibility in view of the changing political climate and windows of opportunity.

b) Need for an improved implementation arrangements and programme management

The mid-term review showed that EUACI programme implementation office has been challenged in terms of the original resources foreseen to implement the activities. Particular elements of the intervention have been more demanding than initially foreseen (e.g. the Integrity Cities and the HACC) and staff resources had to be increased accordingly. Moreover, programme management functions, including planning, steering/controlling, procurement, monitoring and risk management, were identified as requiring further strengthening. EUACI Phase II will respond accordingly to these issues, including by ensuring a proper size, composition and functional structure of the implementation unit. This includes a validation of the best implementation modalities including more strategic partnerships with core funding with CSOs, investigative media and business associations and increased use of framework agreements.

c) Need for further institutionalisation of capacity development

In order to ensure higher impact and sustainability of EUACI interventions, more efforts are needed to embed capacity building within the strategic planning and institutional structures of the AC institutions and other stakeholders. While EUACI Phase I was mainly aimed at

assisting these institutions in their establishment and operationalisation, Phase II should focus more on internalisation and institutionalisation of capacity building processes.

3.2 Complementarity, synergy and donor co-ordination

The current EUACI programme is the leading initiative targeting corruption in Ukraine. It is well coordinated with the EU Advisory Mission (EUAM), other technical assistance programmes and stakeholders active in the area of rule of law and AC. Donors active in this area meet periodically and have a good level of awareness of what others are doing. Beside the general AC donors and implementers meetings, thematic coordination formats (e.g. on the HACC, asset declarations, financing of political parties) are practiced. Beneficiary-led donor coordination covering the whole anti-corruption spectrum is challenging considering the complexity of AC policy, a large number and independent nature of such institutions and related stakeholders (e.g. Parliament, civil society) and tense relations between some of them.

The EUACI Phase II will continue cooperating with all the relevant partners in order to ensure synergy, as well as more local ownership, aid effectiveness and alignment of assistance with the Ukrainian AC policy and strategic priorities. It will aim at maintaining an effective donor coordination platform with other key AC programmes/projects for better programming, implementation and monitoring of AC interventions. In line with the integrated approach, the EUACI Kyiv office will continue being co-located in the EUAM premises and an EUAM adviser shall be embedded in its team to ensure practical cooperation. The new EUACI programme will establish a close partnership with U-LEAD, EU Public Finance Management programmes, other donors' programmes/projects working at the local level, in order to ensure synergies for replication of effective tools and best practices for raising integrity standards at the local level. Equally close coordination will be ensured with other relevant EU programmes, including PRAVO I, PRAVO II and EU4PAR.

The programme will continue to build on best European practices in the AC area and on the involvement of the EU Member States during its implementation.

As regards the civil society and investigative journalism component, the programme will seek to build synergies with the European Endowment for Democracy (EED) in Ukraine, notably at the local level, as the EED provides support to grass-roots activists and independent media that lack access to other donor funding (focus on "support for the unsupported").

Synergies will also be sought with the new wave of EU civil society support projects/programmes implemented at bilateral and regional level as of 2020.

3.2.1 EU Support

The current EU support to anti-corruption reforms is mainly provided through the **EU Anti-Corruption Initiative** funded by the EU and co-funded and implemented by the Danish Ministry of Foreign Affairs. This 3-year, EUR 16.34 million Programme (EU contribution - EUR 15 million) was launched at the end of 2016 to support the implementation of AC reforms with the aim to reduce corruption. It is focused on (a) the institutional development and capacity building of new AC bodies (NABU, SAPO, NAPC, ARMA, HACC); (b) strengthening policy making and oversight capacities of the Parliament on AC reforms; (c) strengthening capacities of local government, civil society and the media to prevent and fight corruption.

A number of other EU initiatives and EU programmes contain components that are directly or indirectly related to prevention and/or repression of corruption and promotion of integrity. Among these programmes, the most notably are the following:

EU Advisory Mission (EUAM): established in December 2014 with the mandate to provide strategic advice and capacity building to Ukraine's civilian security sector, the Mission plays an active role in supporting reforms in the law enforcement agencies, including the police, the Ministry of Internal Affairs, the State Bureau of Investigation and the Public Prosecutor's Office. As a cross-cutting issue, support to anti-corruption efforts is part of EUAM's mandate, and EUAM experts are providing strategic advice and capacity building in this area to Ukrainian law enforcement and judiciary institutions both in Kyiv and in the regions.

Support to the Rule of Law Reforms in Ukraine PRAVO: Component 1 of this programme with the budget of 15 million is supporting the justice sector reforms and is *inter alia* focusing on enhancement of governance, transparency, accountability and ethics within the judiciary and judicial self-government bodies, as well as selection of competent judges with high degree of integrity. **Component 2** with a budget of EUR 36 million is *inter alia* aimed at improvement of policy making and operational capacities of the Ministry of Interior, the National Police, the Public Prosecutor's Office and the State Bureau of Investigation, while many of these support activities will have a strong anti-corruption focus (reforms in human resource management, ethics and disciplinary responsibility, criminal investigation and prosecution procedures, electronic case management, etc.).

U-LEAD with Europe: Over the period of 2016-2019, U-LEAD has been a major vehicle of EU-led multi-donor support to the ongoing decentralisation reform in Ukraine. It focused on the voluntary amalgamation process and the transfer of powers under the sectoral and fiscal decentralisation. Phase II of U-LEAD with the budget of EUR 50 million will continue the support to the amalgamation process and will also embrace a selected number of smaller cities. Assistance will mainly be provided through: (a) comprehensive advice to both central and local government institutions on decentralisation issues and good governance of newly created local self-government bodies; (b) comprehensive capacity building at all levels (local, regional, national) by the central office and 24 regional centres; (c) development of specific solution to local public infrastructure.

Public Administration Reform - EU4PAR: This major EU programme with the budget of EUR 104 million is aimed at supporting Ukraine in implementing a comprehensive public administration reform, targeting a number of integrity-related areas, such as policy development and coordination, civil service and human resources management, transparency and accountability of public administration, improvement of administrative service delivery.

Public Finance Management Support Programme: this EUR 50 million programme provides a comprehensive support vehicle for the implementation of the Ukrainian government's Public Finance Management Strategy. It focuses on the improvements in the area of (a) budgeting, accounting, control and accountability; (b) efficient budget spending; (c) revenue mobilisation (tax and customs administration) and Financial Investigation Service. Strengthening of public finance management is a priority area in the EU-Ukraine relations, since it is essential for an effective and sustainable economic governance, trade and business environment, as well as for mitigation of various corruption risks. To address PFM reforms at the local level, the EU has also launched a project "**EU for stronger public finance systems**

of local governments" aimed at building a more efficient, transparent and accountable local finance management system, which contains components on internal control and PFM oversight by the Ministry of Finance exercised at the local level.

The EU-Council of Europe Partnership for Good Governance – Strengthening measures to counter money laundering and financing of terrorism: this project will be implemented by the Council of Europe in the period 2019-2021 with the aim to strengthen legislative and institutional frameworks, as well as practical capacities of relevant law enforcement agencies to counter money laundering and terrorism financing in Ukraine in accordance with the Council of Europe and other international standards and MONEYVAL recommendations issued to Ukraine.

EU grants are regularly provided to various civil society organisations through numerous Calls for Proposals with focus on promotion of good governance, the rule of law, fundamental rights, integrity/anti-corruption and government transparency.

3.2.2 *Other donors' support*

Several other donors are funding their separate actions in the area of anti-corruption with which a continuous close coordination shall be ensured.

United States of America: The US assistance to anti-corruption reforms is mainly channelled through the "Support to Anti-Corruption Champion Institutions (SACCI)" Programme, a five-year, USD 18 million corruption prevention initiative launched in 2017 and primarily focused on supporting the Government, selected ministries and local government institutions in introducing integrity tools and strengthening public intolerance to corruption. "Transparency and Accountability in Public Administration & Services (TAPAS)" is another US and UK-funded programme with the budget of USD 18 million related to anti-corruption. It is aimed at promotion of electronic procurement, open data and transparent and efficient electronic public service delivery. In the area of decentralisation, USAID programme "Decentralisation Offering Better Results and Efficiency (DOBRE)" is a USD 50 million initiative aimed at improvement of local government, service delivery and civic engagement at the local level.

DFID/UK: beside TAPAS, the UK provides targeted support to NABU and other law enforcement agencies, bilaterally and through the World Bank-implemented project.

OECD is planning a project on prevention and repression of corruption in Ukrainian State-Owned Enterprises aimed at implementing recommendations stemming from the 2018 OECD Report on the same subject prepared within the framework of the 4th round of monitoring of the Istanbul Anti-Corruption Action Plan.

4 DESCRIPTION OF THE ACTION

4.1 Overall objective, specific objective(s), expected outputs and indicative activities

The **overall objective** of the programme is the reduction of corruption in Ukraine at the national and local level.³

The **specific objectives** are to ensure:

- 1) Enhanced independence, effectiveness and resilience of anti-corruption institutions functioning within a sound strategic framework;
- 2) Improved governance, transparency and accountability in targeted Integrity Cities and other sub-national entities as appropriate;
- 3) Citizens, the civil society, including the business sector, are empowered to promote integrity, the rule of law and good governance⁴.

Expected outputs (results)

Under Specific Objective 1:

- 1a) Capacities of NACP, NABU, SAPO, HACC, ARMA, and SFMS enhanced to implement their mandate in an independent and effective manner;
- 1b) ICT systems of NACP, NABU, SAPO, HACC, ARMA, and SFMS enhanced to enable effective implementation of their mandate;
- 1c) More effective cooperation and exchange of information between AC institutions enabled through ICT inter-operability solutions;
- 1d) Enhanced capacities of the Parliament Anti-Corruption Committee and the Ministry of Justice to carry out corruption proofing of legislation.

Under Specific Objective 2:

- 2a) AC tools and best practices capable of reducing corruption and increasing transparency and accountability are provided to the Integrity Cities (and further sub-national entities - subject to validation during the formulation of the Description of the Action);
- 2b) Standardised AC tools and best practices for reduction of corruption risks at the local level produced and replicated in other cities/sub-regional entities as part of the national decentralisation process by cooperating with U-LEAD and other national and international partners.

Under Specific Objective 3:

- 3a) National level CSOs' capacity enhanced to produce AC awareness, advocacy and policy dialogue work;

³ Local level is understood as a sub-national territorial level that is below the central government level.

⁴ Anti-corruption work within the business sector and in cities/sub-national entities other than the current Integrity Cities would be new areas of intervention under the second phase of the EU Anti-Corruption Initiative. The scope and feasibility of intervention in these areas will be subject to a careful validation during the formulation of the Description of the Action.

3b) Local level (with a particular focus on Integrity Cities) CSOs' capacity enhanced to combat corruption and promote integrity;

3c) Local (with a particular focus on Integrity Cities) and national level journalists deliver high quality investigative journalism on AC;

3d) Local (with a particular focus on Integrity Cities) and national business networks have enhanced capacity to build and maintain integrity among business entities and to combat corruption (subject to validation during the formulation of the Description of the Action).

Indicative activities

Component 1: Further support to the institutional development of anti-corruption institutions

1.1 **Capacity development** activities of NACP, NABU, SAPO, ARMA, SFMS and HACC are expected to include (but not be limited to):

1.1.1 Assistance with the development and implementation of strategic and annual plans for 2020 onwards

1.1.2 Assistance with the development and implementation of upgraded M&E framework

1.1.3 Provision of advisory services and capacity building

1.2 Enhancement of inter-agency cooperation through **inter-operability ICT solutions** between relevant AC institutions and other state institutions and registers

1.3 Automation of business processes and support to procurement of agreed **ICT solutions** for NACP, NABU, SAPO, ARMA, SFMS and HACC

1.4 Strengthening **corruption risk management** and **AC legislation proofing** at the Parliament AC Committee and the Ministry of Justice including (but not necessarily limited to):

1.4.1 Support to needs assessment and identification of concrete legal, institutional, business process and capacity improvements

1.4.2 Assistance to address the identified needs, including introduction of relevant ICT tools

1.4.3 Support to comprehensive capacity building on corruption proofing of legislation

Component 2: Improved governance, transparency and accountability at the local level

2 Deepening and widening of Integrity Cities based on the lessons learned from Phase I and closer cooperation with the EU and other donors' programmes, e.g. U-LEAD

2.1 Continued implementation and consolidation of AC toolbox in the five Integrity cities through structured engagement of local authorities, CSOs, businesses and citizens

2.2 Documentation of lessons learned from the implementation of the toolbox

2.3 Mapping of similar integrity initiatives by the Government, development partners and CSOs for identification and harmonisation of approaches for further replication

2.4 Production of detailed materials/guides of harmonised toolboxes and best practices for replication and transfer of these materials to relevant national and international partners (e.g. U-LEAD, EU4PFM, USAID Dobre programme, Government of Ukraine, CSOs)

Component 3: Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance

- 3 Empowerment of **civil society** at the national and local level to promote integrity and engage in corruption monitoring and policy dialogue processes, including through:
 - 3.1.1 Long-term grants for national CSOs for: (i) monitoring of AC situation and performance of institutions, (ii) policy dialogue with government and AC institutions, (iii) awareness raising on AC in particular targeting youth, and (iv) piloting corruption risk assessments and risk management tools in selected public sectors/institutions
 - 3.1.2 Identification and support to CSOs at the national level to build capacity of local level CSOs (in particular in Integrity Cities) for engagement on AC monitoring/advocacy, awareness raising of local communities and policy dialogue with local authorities
- 3.2 Support to **investigative journalism and media initiatives** at the national and local level (Integrity Cities) to investigate specific corruption cases and run programmes for investigative journalism
 - 3.2.1 Long-term support to national level CSOs/media for the development of investigative journalism on AC
 - 3.2.2 Long-term support to national level CSOs/media for the capacity development, financial support, as well as legal assistance to *local level* investigative journalists under increasing pressure (in particular in Integrity Cities)
- 3.3 Support to **business networks** and other private sector stakeholders for building integrity

4.2 Intervention Logic

The persistent challenges related to corruption (as outlined above), as well as the fragile status of AC reforms and institutions suggest that support to Ukraine's AC efforts must continue beyond the end of the current programme in mid-2020.

The Programme will capitalise on the work started by the first phase of EUACI. The EUACI Phase II will be designed as a holistic support instrument composed of the following three components:

- 1) Further support to the institutional development of anti-corruption institutions
- 2) Improved governance, transparency and accountability at the local level
- 3) Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance

All three components of the programme will be designed as mutually reinforcing and complementing action pillars, ensuring a holistic approach to AC reforms and contributing to the reduction of corruption in the country. Close coordination and cooperation with other relevant programmes/projects will be ensured to reinforce synergies and impact. The Programme rests on a premise that corruption in Ukraine, as in other transition countries, can

be effectively reduced if beside purely repressive measures, corruption prevention and integrity building measures are taken.

The first two components will work to ensure that the targeted *duty bearers* – represented by the state AC institutions, the Parliament and local authorities - are capacitated to perform their mandate more effectively and with higher integrity. The third component representing the *rights holders* – the civil society, media and the business sector – will be supported in their work with monitoring and demanding better performance of the duty bearers at the national and local level and for fostering the overall culture of integrity.

The Programme will combine both flexible/short-term and longer-term interventions spanning strategic advice, analytical inputs, tailored capacity building and ICT supplies, as well as strategic communication on AC.

The intervention logic is outlined in the following theory of change:

If the EU together with Denmark provide funding for the following set of activities:

- 1) Comprehensive support to the strategic planning, operational capacity building, as well as tailored IT infrastructure and inter-operability solutions for the key institutions involved in the chain of anti-corruption efforts in Ukraine (specifically NACP, NABU, SAPO, HACC, SFMS, ARMA and the AC committee in Parliament and the Ministry of Justice)
- 2) Focus on anti-corruption efforts also at the local level by (a) consolidating AC tools and practices at the Integrity Cities; (b) documenting lessons learned from the first phase of Integrity Cities, mapping other partners' experiences and identifying harmonised tools and best practices from a duty bearer perspective (local administrations), as well as a rights holder perspective (local civil society, business community and investigative media) which can be replicated/rolled out to other cities/regions as part of the decentralisation process, (c) providing technical advice and support to the government and other partners in the replication efforts
- 3) Comprehensive capacity development and grant support to the civil society, business networks and investigative media for targeted AC work – awareness raising, monitoring/advocacy and policy dialogue - at the national and local level (in particular in the Integrity Cities).

Then:

- 1) The key anti-corruption institutions will have enhanced capacity (in terms of improved institutional structures, strategies and regulations, operational capacities, human resource management skills, automated business processes and inter-operability) to implement their mandate in an independent and effective way, which will include, but not be limited to: AC strategy/policy and regulatory development, prevention of corruption including civic education, corruption investigations, prosecution and trial, asset recovery and management, financial investigations, assessment of legislation from an anti-corruption perspective, as well as strategic communication.
- 2) The targeted cities will have enhanced capacities to reduce corruption by improving business processes, transparency and accountability at the local administrations and in local service delivery, while best practices from the selected city level will feed back to the national level with a view to further replication in other cities/regions through cooperation with U-LEAD programme, the government and other decentralisation partners.

- 3) Civil society at the national and local level will have enhanced capacities to monitoring AC situation, to conduct awareness raising and engage in constructive policy dialogue with authorities, while investigative journalists will be empowered to better investigate corruption risks, document and present corruption cases to the public. The selected business sector organisations at the national and local Integrity City level will have enhanced capacities to support business entities in their integrity and AC efforts and engage in successful policy dialogue with authorities.

Leading to:

- 1) (a) improved anti-corruption policies, laws and regulations in line with international standards, (b) increased independence and effectiveness in the investigation, prosecution and trial of anti-corruption cases, (c) improved financial investigation, as well as recovery and management of seized and confiscated assets.
- 2) Reduced corruption risks at the Integrity Cities and other targeted cities/sub-national entities through successful replication of AC tools and best practices in these cities/sub-national entities in cooperation with U-LEAD, the government and other partners.
- 3) Higher culture of integrity in the society through increase of demand for effective performance, transparency and accountability of national and local authorities (service providers and duty bearers) from the side of rights holders - citizens, civil society and businesses.

Eventually contributing to: reduction of corruption in Ukraine at the national and local level through the empowerment of citizens, the civil society, businesses and state institutions.

4.3 Mainstreaming

Human Rights Based Approach: corruption seriously undermines all human rights — civil, political, economic, social and cultural, as well as the right to development. It weakens democratic institutions and principles, which often leads to breaches of civil and political rights and to the erosion of citizens' trust in their governments. Corrupt management of public resources compromises the government's ability to deliver an array of services, including health, educational and welfare services, which are essential for the realisation of economic, social and cultural rights. Corruption creates discrimination in access to public services, whereby economically and politically disadvantaged people tend to suffer the most. The programme through a multi-dimensional anti-corruption action will therefore address some of the root causes of human rights violations in Ukraine. This includes enhanced performance, transparency and accountability of the AC institutions and targeted cities. The programme will also focus on the empowerment of youth, small businesses and other marginalised groups in protection of their rights and legitimate interests which are often damaged by corruption.

Good governance and rule of law: this programme will envisage specific measures aimed at improving the fight against corruption, minimising opportunities for misuse of power and public funds, which are key for achieving good governance and the rule of law. This will include increased knowledge of EU standards and best practices in the targeted area stimulating democratic awareness and civic participation. Active involvement of CSOs will enable effective monitoring of the reform progress and prevention of backsliding.

Gender: the programme will seek to ensure gender equality and gender mainstreaming in its different components and to avoid reinforcing gender inequalities and stereotypes by implementing a Do No Harm approach. This will include specific attention to women in capacity development activities at national and local level, with regard to state institutions, civil society and journalists, as well as gender-sensitive hiring practices.

Other issues: in implementation of this programme attention will be paid to ensuring the commitment of the private sector to promote integrity and fight against corruption as well as to mainstreaming a conflict-sensitive approach wherever relevant.

4.4 Contribution to SDGs

This intervention is relevant for the Agenda 2030. It contributes primarily to the progressive achievement of SDG targets Nr 16, 16.5, 16.6 and 16.a⁵.

5 IMPLEMENTATION

5.1 Financing agreement

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country.

5.2 Indicative implementation period

The indicative operational implementation period of this action, during which the activities described in section 4 will be carried out and the corresponding contracts and agreements implemented, is 60 months from the date of entry into force of the financing agreement.

Extensions of the implementation period may be agreed by the Commission's authorising officer responsible by amending this decision and the relevant contracts and agreements.

5.3 Implementation modalities

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures⁶.

⁵ Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. Goal 16.5 Substantially reduce corruption and bribery in all their forms. Goal 16.6 Develop effective, accountable and transparent institutions at all levels. Goal 16.a Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.

⁶ www.sanctionsmap.eu Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website it is the OJ version that prevails.

5.3.1 *Indirect management with an entrusted entity*

This action will be implemented in indirect management with the Ministry of Foreign Affairs of Denmark (Danida). This implementation entails the Action "EU Anti-Corruption Initiative Phase II" as defined in Section 4. The envisaged entity has been selected using the following criteria: 1) the proven expertise in the area of anti-corruption and the rule of law, 2) a track-record of successfully implemented programmes of comparable size and complexity under the indirect management mode and 3) strong management and logistical capacities.

In case the envisaged entity would need to be replaced, the Commission's services may select another entity using the same selection criteria.

If negotiations with the above-mentioned entity fail, that part of this action may be implemented in direct management in accordance with the implementation modalities identified in section 5.3.2.

5.3.2 *Changes from indirect to direct management mode due to exceptional circumstances*

Depending on the situation, procurement contract(s) under direct management may be concluded in case exceptional circumstances which are outside the Commission's control make the implementation under indirect management impossible.

The procurement will contribute to the achievement of results in the following areas:

- **Component 1:** Further support to the institutional development of anti-corruption institutions
- **Component 2:** Improved governance, transparency and accountability at the local level
- **Component 3:** Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance

5.4 **Scope of geographical eligibility for procurement and grants**

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply.

The Commission's authorising officer responsible may extend the geographical eligibility on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

5.5 **Indicative budget**

	EU contribution (amount in EUR)	Indicative third party contribution (amount in

		EUR)
Indirect management with the Ministry of Foreign Affairs of Denmark – for implementation of components 1, 2 and 3 - cf. section 5.3.1	14 500 000	7 900 000
Evaluation - cf. section 5.8 Audit - cf. section 5.9	500 000	
Communication and visibility - cf. section 5.11	N.A. ⁷	
Total	15 000 000	7 900 000

5.6 Organisational set-up and responsibilities

In order to ensure co-ordination between the action components and the numerous stakeholders, a Steering Committee (SC) will continue to guide action implementation. The EU will provide strategic guidance to the implementation via the SC given that the targeted area is of particular relevance for the EU-Ukraine relations and a number of EU policies apply in this area. The SC will include representatives of the beneficiaries, the implementing partner and the relevant EU services. The implementing partner will ensure the proper functioning of the SC, including preparation of the agenda in consultation with the EU services, sending the invitations, preparation and follow up of the minutes. The SC will meet every six months but can also be convened on an extraordinary basis at the request of the implementer or the EU. A programme implementation unit in Kyiv will ensure the implementation of the Action.

5.7 Performance and Results monitoring and reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process, and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the Logframe matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

SDGs indicators and, if applicable, any jointly agreed indicators as for instance per Joint Programming document should be taken into account.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for

⁷ A separate budget line will be foreseen for Communication and Visibility activities in the indirect management agreement

independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

5.8 Evaluation

Having regard to the importance and the nature of the action, a mid-term and a final evaluation will be carried out for this action via independent consultants.

The mid-term evaluation will be carried out for problem solving and learning purposes.

The final evaluation will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that the Action introduces a number of innovative approaches that need to be evaluated.

The Commission shall inform the implementing partner at least 1 month in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

The evaluations shall be carried out through a procurement contract under direct management.

5.9 Audit

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

5.10 Communication and visibility

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated for approval by the Contracting Authority at the start of implementation.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country (for instance, concerning the reforms supported through budget support), contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Requirements for European Union External Action (or any succeeding document) together with the EU Branding Guidelines in Ukraine shall be used to

establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

APPENDIX - INDICATIVE LOGFRAME MATRIX

	Results chain: Main expected results (maximum 10)	Indicators⁸ (at least one indicator per expected result)	Sources of data	Assumptions
Impact (Overall Objective)	Corruption is reduced in Ukraine at the national and local level	<ul style="list-style-type: none"> - Improved scoring/ranking of Ukraine in international integrity rankings - Reduced perception of and experience with corruption by citizens 	Transparency International CPI index, Bertelmann's Transformation Index for Rule of Law, Index of Public Integrity, local perception and experience surveys	<i>Not applicable</i>
Outcome(s) (Specific Objective(s))	<p>1) Enhanced independence, effectiveness and resilience of anti-corruption institutions functioning within a sound strategic framework</p> <p>2) Improved governance, transparency and accountability in targeted Integrity Cities and other sub-national entities</p> <p>3) Citizens, the civil society and the private sector are empowered to promote integrity, the rule of law and good governance</p>	<p>1a) Status of new AC policy/strategy developed by NACP</p> <p>1b) Average duration of NABU proceedings (from case registration until bringing of charges)</p> <p>1c) Number of NABU and SAPO cases brought to court</p> <p>1d) Number of final decisions taken by HACC</p> <p>1e) Number of executed requests to find and trace assets in criminal proceedings and amount of budget revenues generated from the management of seized assets</p> <p>1h) Number of draft laws and bylaws amended based on corruption proofing reports</p> <p>1j) Perception of citizens that AC institutions in Ukraine perform independently and effectively</p>	EUACI reports, Government, local authorities' and AC institutions' reports, CSO and business associations' data, survey results	<ul style="list-style-type: none"> - sufficient political will allows the anti-corruption reform agenda and the anti-corruption institutions to enhance their performance - The anti-corruption institutions are receptive to assistance and have sufficient ownership - local governments are willing to address corruption risks - civil society and

⁸ Adequate baselines and targets will be defined at the Description of the Action and further updated at the phase of implementation of the Action.

		<p>2a) Number of AC tools in integrity cities and replicated in other cities/sub-national entities</p> <p>2b) Survey of perception and experience of corruption among users of local services at the integrity city level</p> <p>3a) Number of compliance certificates issued by business associations/networks</p> <p>3b) Number of activists working on integrity issues at the local level</p> <p>3c) Number of times civil society advocacy work is referred in national media</p>		<p>investigative media have sufficient interest and political space to work at national and local level</p> <p>- business sector is interested in and willing to engage in anti-corruption</p>
<p>Outputs</p>	<p>Component 1: Further support to the institutional development of anti-corruption institutions</p> <p>1a) Capacities of NACP, NABU, SAPO, HACC, ARMA, and SFMS enhanced to implement their mandate in an independent and effective manner</p> <p>1b) ICT systems of NACP, NABU, SAPO, HACC, ARMA, and SFMS enhanced to enable effective implementation of their mandate</p> <p>1c) More effective cooperation and exchange of information between AC institutions enabled through ICT inter-operability</p> <p>1d) Enhanced capacities of the Parliament Anti-Corruption Committee and the Ministry of Justice to carry out corruption proofing of legislation</p>	<p>1a) Status of institutional development strategies/plans, HR management and communication capacity</p> <p>1b) Level of ICT capacity of AC institutions</p> <p>1c) Level of data exchange between AC institutions and with other relevant entities using inter-operability solutions</p> <p>1d) Number and percentage (out of total) of draft laws and bylaws where corruption risks have been identified</p>	<p>EUACI reports, Government, local authorities' and AC institutions' reports, CSO, media and business associations' data, survey results</p>	<p>See above</p>

	<p>Component 2: Improved governance, transparency and accountability at the local level</p> <p>2a) AC infrastructure tools and best practices capable of reducing corruption and increasing transparency and accountability are provided to the Integrity Cities (and possibly further sub-national entities targeted by the Programme - subject to validation during the Description of the Action phase)</p> <p>2b) Standardised AC tools and best practices for reduction of corruption risks at the local level produced and replicated in other cities/sub-regional entities as part of the national decentralisation process by cooperating with U-LEAD and other national and international partners</p> <p>Component 3: Citizens, the civil society and the private sector empowered to promote integrity, the rule of law and good governance:</p> <p>3a) National level CSOs produce AC awareness, advocacy and policy dialogue work</p> <p>3b) Local level CSOs (with focus on Integrity Cities) have enhanced capacity to combat corruption and promote integrity</p> <p>3c) Local (including Integrity Cities) and national level journalists deliver high quality investigative journalism</p> <p>3d) Local (including Integrity Cities) and national business networks have enhanced capacity to build and maintain integrity among business entities and to combat corruption (subject to validation during the Description of the Action phase))</p>	<p>2a) Number of cities with efficient AC tools and best practices</p> <p>2b) Number of new tools and best practice cases for replication produced</p> <p>3a) and 3b) Number of CSO outputs produced related to: (i) policy dialogue initiatives, (ii) awareness raising campaigns, (iii) monitoring/advocacy initiatives, (iv) corruption risk assessments in specific sectors/institutions</p> <p>3c) Number of investigative journalism reports produced nationally by EUACI partners and in Integrity Cities</p> <p>3d) Number of business networks actively promoting integrity/compliance among members</p>		
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