



**THIS ACTION IS FUNDED BY THE EUROPEAN UNION**

**ANNEX II**

of the Commission Implementing Decision on the Annual action plan in favour of Türkiye for 2022

**Action Document for Protective and Restorative Approaches for Children in Judicial Processes**

**ANNUAL ACTION PLAN**

This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation, and annual and multiannual action plans and measures in the sense of Article 9 of IPA III Regulation and Article 23 of NDICI - Global Europe Regulation.

**1. SYNOPSIS**

**1.1. Action Summary Table**

<b>Title</b>	<b>Protective and Restorative Approaches for Children in Judicial Processes</b> Annual action plan in favour of Türkiye for 2022
<b>OPSYS</b>	ACT-60814 JAD.981.448
<b>Basic Act</b>	Financed under the Instrument for Pre-accession Assistance (IPA III)
<b>Team Europe Initiative</b>	No
<b>Zone benefiting from the action</b>	The Action shall be carried out in the Republic of Türkiye
<b>Programming document</b>	IPA III Programming Framework <sup>1</sup>
<b>PRIORITY AREAS AND SECTOR INFORMATION</b>	
<b>Window and thematic priority</b>	Window 1: Rule of law, fundamental rights and democracy Thematic Priority: Fundamental Rights
<b>Sustainable Development Goals (SDGs)</b>	Main SDG 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  16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all  16.6 Develop effective, accountable and transparent institutions at all levels

<sup>1</sup> Commission Implementing Decision of 10.12.2021 adopting the Instrument for Pre-Accession Assistance (IPA III) Programming Framework for the period 2021-2027 C(2021) 8914 final

	Other significant SDGs: SDG5: Gender Equality			
<b>DAC code(s)</b>	Main DAC code: legal and judicial development (15130) 151 - Government & Civil Society-general 15130 - Legal and judicial development 15160 – Human Rights 15180 - Ending violence against women and girls 160 - Other Social Infrastructure & Services 16010 – Social Protection			
<b>Main Delivery Channel</b>	Main delivery channel: Entrusted entity			
<b>Markers (from DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Aid to environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and women's and girl's empowerment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Trade development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, maternal, new-born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Disaster Risk Reduction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Inclusion of persons with Disabilities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Nutrition <sup>2</sup>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Biological diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Internal markers</b>	<b>Policy objectives</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Connectivity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Digitalisation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Migration <sup>3</sup>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Covid-19	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>2</sup> Please check the [Handbook on the OECD-DAC Nutrition Policy Marker](#)

<sup>3</sup> For detailed information on programming migration and forced displacement, please have a look at the [thematic guidance note](#) on migration and forced displacement; for information on the migration marker please look at annex 2 of the thematic guidance note.

<b>BUDGET INFORMATION</b>	
<b>Amounts concerned</b>	Budget line: 15.020101.01 Total estimated cost: EUR 4 100 000 Total amount of EU budget contribution EUR 4 000 000
<b>MANAGEMENT AND IMPLEMENTATION</b>	
<b>Implementation modalities (type of financing and management mode)</b>	<b>Project modality</b> <b>Indirect management</b> with an Entrusted Entity
<b>Final Date for conclusion of Financing Agreement</b>	At the latest by 31 December 2023
<b>Final date for concluding contribution / delegation agreements, procurement and grant contracts</b>	3 years following the date of conclusion of the Financing Agreement, with the exception of cases listed under Article 114(2) of the Financial Regulation
<b>Indicative operational implementation period</b>	72 months following the adoption of the Financing Agreement
<b>Final date for implementing the Financing Agreement</b>	12 years following the conclusion of the Financing Agreement

## 1.2. Summary of the Action

Children interact with the justice systems for many reasons, and due to the adverse effects of the judicial processes on children, child-friendly justice is a sector-wide approach aiming at improving all policies and practices of the justice system towards children, in particular by making the system accessible, age-appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child.

As per the principles of the child-friendly justice system as stipulated in the international norms and guidelines, this Action will contribute to improve the protection of the rights of children in contact with the law (including offenders, victims and witnesses) in Türkiye by strengthening the capacity of the Turkish authorities in overall administration of child justice systems and enhancing multi-sectoral coordination between the relevant stakeholders, which is of utmost importance for the implementation of protective and supportive measures for those who encounter the justice system. In conjunction with the objective to improve the multi-sectoral collaboration for the child justice system, the Action will also contribute to the development and enhancement of community-based and restorative diversion measures and alternatives to detention for children in conflict with the law.

In line with the sector approach, the Action will contribute to strengthening the institutional capacity and supporting vulnerable groups in the field of Fundamental Rights. The Action's objectives correspond to the

priorities under the Fundamental Rights Thematic Priority of the IPA III Programming Framework such as protection of child rights, protection of the rights of victims and protection of procedural rights of the victims as well as of the offenders. The Action will also contribute to the Sustainable Development Goal (SDGs) 5: Gender Equality and SDG 16: Just, peaceful and inclusive societies, and its targets 16.1 and 16.2 (end violence against children), 16.3 (access to justice for all), and 16.6 (develop effective, accountable and transparent institutions at all levels). The Action will support Türkiye's efforts to better protect the rights of the children in line with the EU Strategy on the Rights of the Child, the EU Strategy on Victims' Rights and relevant EU *acquis* including the establishment of a child-friendly justice system.

## 2. RATIONALE

### 2.1. Context

Children interact with the justice systems for many reasons – as victims or survivors, as witnesses, when accused of an offence, as an interested party, or because an intervention is needed for their care, protection, health or well-being. Child-friendly justice is a sector-wide approach aiming to improve all policies and practices of the justice system towards children.<sup>4</sup> This includes legislation, norms, standards, guidelines, policies, procedures, mechanisms, provisions, institutions, and bodies specifically applicable to children who come into contact with the criminal, civil or administrative justice system in any way. It is, in particular, justice that is accessible, age-appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity<sup>5</sup>. Therefore, the existence of a child-friendly justice system is an integral part of children's right to equitable access to justice<sup>6</sup>.

Being in contact with the justice system can be a traumatic experience for children, particularly in the criminal justice context. General Comment No. 24 of the Committee on the Rights of the Child (CRC) has recognised that exposure to the criminal justice system causes harm to children, limiting their chances of becoming responsible adults<sup>7</sup>. Hence, child-friendly justice and access to justice should also be seen as part of the broader child protection scheme, with a specific aim to strengthen linkages between justice and welfare systems. An effective fulfilment of the right of children to access justice requires a comprehensive, system-wide and strategic approach, to effectively prevent and respond to violence against children<sup>8</sup> and a systems approach requires a holistic view of children and child protection as constituting a system that requires engagement with the full range of actors involved in protecting children's rights. The multidimensional nature of the matter requires multi-faceted coordination between all the relevant stakeholders and therefore such a mindset in the administration of the child justice system. In this vein, access to justice is identified as a key thematic area within the Global Child Protection Strategy of UNICEF<sup>9</sup>.

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<sup>4</sup> Critical Mass in Juvenile Justice: Guidance Note on Juvenile Justice Programming in the CEE-CIS Region, UNICEF Regional Office for CEE/CIS, July 2009, Annex 1.

<sup>5</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, November 2010.

<sup>6</sup> Access to justice is the ability to seek and obtain a just, equitable and timely remedy for violations of rights. It includes the right to be recognised before the law and to a fair trial, including equal access to courts and equality before the law.

<sup>7</sup> UN Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system (CRC/C/GC/24).

<sup>8</sup> UN General Assembly (2015). *United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice*. Resolution adopted by the General Assembly on 18 December 2014, A/RES/69/194.

<sup>9</sup> UNICEF Child Protection Strategy 2021-2030.

In line with its international commitments, Türkiye has also made considerable progress in the promotion of children's rights in the child justice system, bringing it into enhanced compliance with international standards, as part of its broader efforts in the EU accession process. In particular, the Child Protection Law which was adopted in 2005, introduced comprehensive provisions on child justice and protection of children (including the role of the justice sector). The number of child courts, child judges, public prosecutors and the expert staff (such as social workers and psychologists) working in the child justice system increased significantly since the adoption of the law. Similarly, the legal reforms in the Penal Code, Criminal Procedures Law and Enforcement of Sentences and Security Measures Law since 2005 introduced significant improvements for child justice. Among others, the minimum age of criminal responsibility is raised to 12, all children in contact with the law are entitled to free legal aid, duration of pre-trial detention for children in conflict with the law is decreased and one-time interrogation of child victims is stipulated in the law. EU-funded Actions also played a significant role in mainstreaming those reforms, such as the establishment of Judicial Interview Rooms (AGOs) and development of child-specific intervention programs for children under detention and probation. According to the report of the Child Rights Information Network<sup>10</sup> (CRIN) Türkiye ranks 54<sup>th</sup> in safeguarding access to justice for children (along with Peru and Sweden) out of 197 countries.

More recently, the 'Judicial Support and Victim Services Department' (formerly known as the Department of Victim Rights – DVR) has been established under the Ministry of Justice (MoJ), to promote rights and services for vulnerable groups in the justice system via Presidential Decree No. 63 of 10 June 2020. A specific unit (entitled 'Child Support Services Directorate) under this department is mandated to develop policies to prevent secondary victimisation, providing psycho-social support and better oversight of protective measures for children in contact with the law. This is a major step towards a coordinated approach in the administration of child rights in the justice system<sup>11</sup>. There are also specific units under the Directorate General for Prisons and Detention Houses in the Ministry of Justice, such as "Bureau of Vulnerable Groups" and 'Child Bureau' (under the Probation Department) which are carrying out studies and dealing with children in conflict with the law.

Despite the foregoing positive achievements, the capacity to adequately address and respond to the specific needs of children in contact with the law is not yet at the desired level. The 2021 Türkiye Report of the European Commission (EC) states that "*there was limited progress on the rights of the child. In October 2020, a dedicated department was established under the Ministry of Justice, mandated to promote rights and services for vulnerable groups in the justice system. Despite the improvement of meeting rooms in courts, problems in the juvenile justice system persist*". In particular, problems in ensuring coordination with other stakeholders (which are mandated to implement specific protective and supportive programs for children in contact with the law) and in connection to this limited number of adequate alternatives to imprisonment and insufficient use of diversion remain as major problems. Some of those gaps are already addressed in various national strategies and policies, such as the 11th Development Plan, 2022 Annual Programme of Presidency, Judicial Reform Strategy, and Action Plan on Human Rights. While all these addresses this issue, there is no overarching national Strategy on child justice. The capacity of the Ministry of Justice in better administering child justice with a systems approach needs to be further strengthened. The number coming in conflict with the justice system is still too high and the use of pre-trial detention has not reduced to the desired levels. Although the policy framework and practice are significantly advanced for child victims and witnesses over the past years, the connection with the child welfare system to ensure an integrated approach for their protection remains a challenge. There is room for improvement on better multi-sectoral coordination as well

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<sup>10</sup> CRIN, Rights, Remedies and Representation: A global report on access to justice for children, 2016.

<sup>11</sup> As a direct result of this public administration reform, the Judicial Support Units are established, the number and use of Judicial Interview Rooms significantly increased across the country (as of November 2021, 109 rooms in 82 provinces and with a total of 12,774 children (3,209 boys and 9,565 girls) benefited only in 2021), training was provided to relevant professionals and a comprehensive amendment was made in Art. 236 of the Criminal Procedural Code to safeguard the use of these special rooms particularly for child victims and witnesses. Moreover, to indicate the shift in the mindset, a new model of courthouse model, the Child Justice Centres (composed of only child-specific facilities and child-sensitive process/infrastructure) is developed in collaboration with UNICEF.

as the need for more tangible and restorative alternatives to criminal justice pathways and to detention for children. This Action therefore will focus on those particular gaps of the child justice system in Türkiye (see the Problem Analysis Section below for the specific gaps and the strategic targets in relation to the objectives of the proposed Action).

### *Relevance with the EU and other International Policy Frameworks*

The promotion and protection of the rights of the child is one of the objectives of the EU emphasised in the treaties such as Article 3(3) of the Treaty on the European Union, Article 24 of the Charter of Fundamental Rights. All EU Member States ratified the United Nations Convention on the Rights of the Child (UNCRC) to which Türkiye is also a party.

Safeguarding a child-friendly system for children in contact with the law is also a global and regional priority. Along with its relation to achieving SDG Targets 16.1 and 16.2 (violence against children), 16.3 (access to justice for all), and 16.6 (effective, accountable, and transparent institutions at all levels) creation of a child-friendly justice system where the rights and needs of children are upheld is one of the key targets of the *EU Strategy on the Rights of the Child*<sup>12</sup>, which is the primary document stipulating the overarching priorities of the EU on the promotion and protection of fundamental rights and freedoms of children. The EU Strategy particularly commits to strengthening the implementation of the *2010 Guidelines on Child-friendly Justice* with the Council of Europe, which has already paved the way for significant steps by the European Commission in attempting to regulate and harmonise children's rights and child justice systems across Europe. In light of this, the EU Strategy on the Rights of the Child calls all member states to develop robust alternatives to judicial action: *from alternatives to detention to the use of restorative justice and mediation in the context of civil justice* as well as *supporting judicial training providers and all relevant professionals' bodies to address the rights of the child and child-friendly and accessible justice in their activities*.

Rights of child victims of crime are a main concern under the EU Strategy on victims' rights (2020 – 2025)<sup>13</sup>. The strategy deals with all victims of all crime, but it pays a special attention to the most vulnerable victims - such as child victims. In particular, the strategy stresses the importance of ensuring specialised, targeted and integrated support for child victims, including the promotion of Child's Houses.

In addition, the *Council of Europe's Strategy for the Rights of the Child (2022-2027)* has been recently adopted by the Committee of Ministers, with a specific aim to guide the 47 member States in addressing six strategic objectives for protecting and promoting the rights of the child. One of those strategic objectives is "child-friendly justice for all children". While acknowledging remaining challenges in bringing justice systems in line with international standards for children (such as empowerment of children on their rights, safeguarding the right to participation, lack of specialisation, and overuse of deprivation of liberty), the Strategy also stresses that "*States resort to criminal justice too frequently, while restorative justice should be given priority in line with Council of Europe standards*"<sup>14</sup> and sets specific targets on this front.

Complimentary to this strategic framework, the EU Directive 2016/800 on procedural safeguards for children who are suspect or accused person in criminal proceedings<sup>15</sup>, for instance, asks the Member States to

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<sup>12</sup> Adopted by the EC on 24.03.2021 (COM/2021/142 final)

<sup>13</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU Strategy on victims' rights (2020-2025), COM/2020/258 final.

<sup>14</sup> Council of Europe Strategy for the Rights of the Child (2022-2027), Para 39.

<sup>15</sup> Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, OJ L 132, 21.5.2016, p. 1–20.

encourage initiatives enabling those providing children with support and restorative justice services to receive adequate training to a level appropriate to their contact with children and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner. Overall, the Directive introduces a substantive set of provisions and measures to safeguard the rights of children as suspects or accused persons in criminal proceedings, including in a manner consistent with the case law of the European Court of Human Rights decisions and the Council of Europe Guidelines on Child-friendly Justice.

With regard to the rights of child victims of crime, the Victims' Rights Directive<sup>16</sup> adopted in 2012 recognises the special needs for support and protection of child victims. Under the Directive, where the victim is a child, the child's best interests shall be a primary consideration. The Directive requires that a child-sensitive approach should always prevail in its application. The Victims' Rights Directive also specifies that children have a right to understand and to be understood. It further provides for the right of child victims to special protection measures during criminal proceedings and individual approach to children before, during and after criminal proceedings.

The European Commission's 2021 Communication on EU enlargement policy (Enlargement Package 2021) states that IPA III will give priority to actions that contribute to promoting victims' rights; and developing local and people-to-people exchanges in various areas including social inclusion, human rights, in particular gender equality and rights of the child. The Recommendations of the Enlargement Package 2021 indicate the need to strengthen the rights of the child and childcare systems, stating that child-friendly justice systems need to be fully developed and alternatives to build resilient child protection to detention made available and used more systematically, with detention used only as a measure of last resort.

This Action is fully consistent with the EU priorities which are stated in Country Reports 2019, 2020 and 2021 considering its strong focus on fundamental rights, victims' rights, vulnerable groups, equity agenda, social inclusion and protection, accountability, transparency and effectiveness of public services. Türkiye's National Action Plan for the EU Accession 2021-2023 also defines significant measures to protect and enhance the best interest of the children such as improving the quality and increasing the quantity of the services offered to the children, and improving the legislation on child-related issues.

The objectives of the Action, which will seek for the strengthening of the child justice system through integration of a sector-wide approach and better administration with a specific focus on the development of multi-sectoral, restorative, and community-based approaches and practices (such as diversion and alternatives to detention) are therefore in line with the strategic and regulatory framework of the EU. The Action also suggests developing restorative practices focusing on conflict resolution, strengthening protective measures for children at risk (including victims of violence), and generating knowledge on various vulnerable groups (namely girls and refugees) encountered with the justice system in line with the EU priorities.

## **2.2. Problem Analysis**

The 2021 EU Country Report on Türkiye underlines that the legal framework includes general guarantees of respect for human and fundamental rights but still needs to be brought into line with the European Convention on Human Rights (ECHR) and European Court of Human Rights case law on guarantees of respect for human and fundamental rights. Whilst acknowledging some positive developments on the rights of the child the Report also underlines the limited progress in children's rights and the persisting problems in the juvenile justice system, including concerns on children deprived of their liberty. The UN Committee on the Rights of the Child (UNCRC), in its last Concluding Observations on Türkiye<sup>17</sup> also underlines significant issues concerning the

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<sup>16</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, p. 57 - 73.

<sup>17</sup> CRC/C/TUR/CO/2-3 (2012).

administration of the child justice system; such as increasing the number of professionals, providing incentives for lawyers, expediting investigation and trial processes. It also highlights concerns around deprivations of liberty including the need to take immediate measures to ensure that the detention of children is used as a last resort and that alternative measures are applied.

It is estimated that over 500,000 children come into contact with the law in Türkiye every year having been accused or convicted of an offence, or as victims or witnesses of crimes<sup>18</sup>. In 2020, 5.3% of all persons tried before the courts were children<sup>19</sup>. By the end of 2021, there were 93 child courts and child-assize courts, and almost half of the children on trial (52,1% in 2020) are being tried before those specialised courts. As of March 2022, there are 1,336 children held under pre-trial detention and also 624 convicted children, who are currently released due to COVID-19 measures enforced since April 2020. The majority (96%) of those children are boys. The estimated total number of children entering and leaving detention centers annually is between 8,000 and 10,000. As of February 2022, 6083 children are actively followed-up under probation (5529 boys, 554 girls, and among those 301 with foreign origin).

Since the comprehensive legal reform process in 2005 the overall capacity of the child justice system significantly increased and specialisation of the system, as well as the professionals, expedited also thanks to the EU-funded Actions<sup>20</sup>. Since 2012, also considering the observations of the UNCRC and the EU, with the *Justice for Children* (TR 2010/0136.08) and ‘*Development of an Effective Risk Evaluation System for Children in Turkish Probation Services*’ (DENGE) (ALTUN/ERES/TR2012/0740.14-2/GRA/004) projects, significant results were achieved such as developing comprehensive training programmes for judges, prosecutors and the court experts, establishment of the child interview rooms (AGOs), development of case-management system for children deprived of their liberty (BISIS) and most recently development of a child-specific probation scheme for children (DENGE). Those achievements as well as the lessons derived from those projects paved the way of additional administrative, regulatory and practical developments in the field<sup>21</sup>. As mentioned in the section 2.1. above, the establishment of ‘Judicial Support and Victim Services Department’ (JSVSD) has been a milestone in terms of safeguarding a specific body in charge of the child justice system. The Department gave priority to the victim-sensitive interventions in the child justice system and developed guidelines on victim-sensitive approaches. The number of AGOs were also increased significantly, covering 81 cities and reaching out more than 12.000 children annually. Moreover, the amendment was made in art. 236 of the Criminal Procedures Code, as well as training provided to relevant professionals in collaboration with UNICEF, safeguarded the use of AGOs and Child Monitoring Centers (ÇİMs) for child victims, particularly in cases of sexual offenses, in order to prevent secondary victimisation. Moreover, the establishment of Judicial Support and Victim Services Directorates (ADMs) in 81 cities also strengthened the coordinated work of court experts (hereinafter ‘Judicial Support Officers’) as well as tailored services for vulnerable groups come in contact with the law.

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<sup>18</sup> According to the latest data of TURKSTAT and the MoJ, despite the pandemic 99.919 child offenders were brought to courts for trial in 2020 (no data on the number of children investigated), 170,961 cases are recorded by the law enforcement bodies where children were involved as victims (no data on the specific number of child victims or the number of those brought to judicial authorities) and in 2021 165,937 children were somehow affected by custody disputes before the courts. The total estimation also considers the other occasions that children come in contact with the justice system, where there is no data.

<sup>19</sup> MoJ, Judicial Statistics 2020.

<sup>20</sup> In particular, “*Towards Good Governance, Protection, and Justice for Children in Türkiye*” (TR0404.01/01), “*Children First: Modelling of Child Protection Mechanisms at Provincial Level*” (TR 0601.09-01/001) and “*Development of Work with Juveniles and Victims by the Turkish Probation Service*” (TR0701.01).

<sup>21</sup> In line with the suggestions of the EU and UNCRC, a specific Action (*Improving the Capacity of Lawyers and Bar Associations on Promotion, Protection and Monitoring of Children’s Rights*) targeting lawyers and Bar Associations to provide quality legal aid to children is also in the pipeline and expected to start in 2022.



The JSVSD is also mandated to oversee all aspects of child justice in Türkiye, including those in conflict with law and in need of protective measures, in close collaboration with other relevant stakeholders including the DG for Prisons and Detention Houses (which in charge of children in detention and under probation), line ministries, academia as well as international organisations such as UNICEF. The regular consultations<sup>22</sup> of those institutions, as well as analysis of the available and data and systematic feedback from the field indicate some specific areas yet to be further improved in the child justice system. In particular:

- *The overall legal, administrative and strategic policy framework for justice for children should be strengthened.*
- *Lack of systematic coordination between the child protection and justice systems, as well as between CSOs in the implementation of various measures and follow-up of cases persists. Therefore, there is need to improve the higher-level regular dialogue between various stakeholders and strengthen the capacity of courts, judges, public prosecutors and ADMs to strengthen the multi-sectoral collaboration through clear tools and SoPs. In that sense, particular attention should be given to the oversight and implementation of the protective and supportive measure orders given by courts concerning children in need of protection as well as children under the minimum age of criminal responsibility. There is also a lack of adequate safeguarding processes (particularly for child victims), clear referral pathways and coordination between the social welfare and the justice sectors.*
- *There are clear knowledge gaps on the needs of particular groups encountering the child justice system. Girls and refugee children are among those groups that require particular attention. More engagement directly with children in contact with the law is needed, both to empower them on their rights and to receive their feedback on their experiences.*
- *The number of children in conflict with the law is too high and only 32,4%<sup>23</sup> of them is sentenced by the courts. Therefore, more children can actually be diverted from the child justice system at an earlier stage (or during the trial phase) to more supportive and protective mechanisms. Although there are some alternatives for children in that sense, more programs and clearer regulations are needed on diversion in Türkiye.*
- *The number of children under detention is also high and more efforts are needed to ensure that detention is used as a last resort for children, in line with international standards. There is a good basis (the DENGÉ Programme) for children under probation<sup>24</sup> but this also needs to be supported through enhanced by tailored programmes and regulatory frameworks.*
- *Programmes tailored for diversion and alternatives of detention require enhanced and strong collaboration with other stakeholders and with the welfare system. Therefore, any intervention on this front should go hand-in-hand with strengthening multi-sectoral collaboration, and administration of child justice<sup>25</sup>.*

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<sup>22</sup> For instance the annual review meetings held between MoJ, UNICEF and other stakeholders.

<sup>23</sup> According to 2020 Judicial Statistics.

<sup>24</sup> As a follow-up to EU funded 'Development of an Effective Risk Evaluation System for Children in Turkish Probation Services' (DENGÉ) Programme, a by-law is adopted to establish separate 'child bureaus' within the local Probation Directorates.

<sup>25</sup> Diversion is conditionally channeling children in conflict with the law towards a different solution method that ensures avoiding the negative effects of a formal prosecution, and avoiding the child having a criminal record, by moving away from prosecution and by ensuring that many cases are processed by non-judicial authorities. As for alternatives to detention, those mean measures that can be applied for children who are processed officially within the justice system, both before the trial and during the sentencing stages, in such a way so as to not bind their freedom<sup>25</sup>. There are various options in Türkiye that can be deemed as diversion<sup>25</sup>,

- *The approach for all those programmes should be community-based and restorative (as opposed to a retributive approach) therefore also serving to social inclusion, rehabilitation and conflict-resolution between victims and offenders.*

Those gaps and areas of improvement are also reflected in the national policies. The 11th Development Plan of Türkiye puts an emphasis on ‘*development of alternative enforcement procedures developing reconciliation methods specific to children*’ and on the ‘*development of mechanisms to better follow up child-specific measures*’ for children in contact with the law. The Action Plan on Human Rights prioritises the improvement in child justice for supporting the physical and mental development of children and developing specific enforcement practices sensitive to the child. The Judicial Reform Strategy includes commitments to improve the treatment of children through a restorative approach, for example by introducing new arbitration and trial postponement models and ensuring that children forced into crime are tried with priority.<sup>26</sup> The Strategic Plan of the Ministry of Justice (2019-2023) has also a specific objective<sup>27</sup> on justice for children, with a particular focus on restorative justice and envisaging specific activities such as protective measures for first time offenders, diversion, prioritizing and acceleration of child cases in courts, strengthening physical conditions of child courts<sup>28</sup> through a child-friendly approach, establishment of additional central and provincial units for judicial support and victim services, increasing the number of judicial interview rooms throughout the country.

In light of this gap analysis and the national priorities, the first output of the Action will focus on strengthening the multi-sectoral collaboration, as an integral element of successful implementation of the current measures and structures in place and to better protect the rights of children in the justice system. This will include strengthening higher-level coordination among relevant stakeholders, improving the overall capacity of the JSVRD as the overarching body in charge of justice for children and the ADMs in managing cases of children in contact with the law, further strengthening the Child Justice Centres as a good practice, developing tools for various professionals as well as generating knowledge on particular groups encountering the justice system. Bearing in mind the multi-sectoral nature and the discrepancy in the policy frameworks, this output will also serve to strengthen the overall policy framework on justice for children by the development of a National Strategy and Action Plan on justice for children, encompassing various aspects including criminal, administrative, and civil law also based on the lessons of the Action. Therefore, this output will encompass all children in contact with the law as the target group; including child offenders, victims, witnesses as well as those in need of protection and encounter civil/administrative law cases.

Outputs two and three of the Action on the other hand, will have a specific focus on children in conflict with the law. The activities of those outputs will enhance and develop frameworks of diversion alternatives to detention in Türkiye through a child-sensitive, restorative and gender-responsive approach.

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alternatives to detention<sup>25</sup> and alternative dispute resolution<sup>25</sup> programs. None of these options has specific procedures for children who have been in contact with the law and/or processes that are specially designed for children who have been in contact with the law. And because there are no community-based programs specially adapted for children, the alternatives to diversion and detention are still relatively low in practice.

<sup>26</sup> Objective 7.4.

<sup>27</sup> Objective 1.4.

<sup>28</sup> In line with this specific objective the Child Justice Centre model is developed in collaboration with UNICEF. The first Child Justice Centre, which aims to separate child-specific courts and facilities from main courthouses and adults, and to provide a child-friendly space for all children in contact with the law became operational in Erzurum as of November 2021. By structuring the child-assize court, child court, chief public prosecutor's office, child bureau of law enforcement and legal support and victim services directorates, it is aimed to carry out all judicial proceedings against children in this Centre by applying child-friendly procedures. In the Child Justice Centre, specific spaces are also provided for the forensic medicine specialist, family and social services officer, the bar association representatives, the faculty of law for the practice of the law clinic and the departments such as psychology, guidance and psychological counseling, social work for the practice of the psycho-social support clinic. The MoJ is dedicated to expand the model across the country and in this vein a cooperation protocol was signed for the establishment of the next Centre in Gaziantep.

Divertive and restorative practices, linked with individual development and protection of children such as participation in structured educational, vocational, competency-development, or life-skills programmes, regular school attendance (with specific academic target goals), referral to counselling, treatment (e.g., substance abuse or mental health), therapy (e.g., sexual impulse), reconciliation, anger management classes, victim empathy courses, mentorship, peer education, group conferencing or healing circles etc. is proven to be more effective in behavioural change, safe rehabilitation within the community and preventing recidivism & secondary victimisation. Such interventions are also proven to be more effective in reducing the use of deprivation of liberty, particularly when connected with the probation schemes and the broader child welfare services.

As per the Turkish legislation the judicial bodies (namely courts and public prosecutor offices) were mandated to decide and seek the execution of diversion and alternative measures concerning children. Therefore, the main beneficiary of the Action will be the Ministry of Justice mandated to develop policies and programmes for children in contact with the law in very close connection with the Justice Academy of Türkiye and Council of Judges and Prosecutors as per their mandate on judiciary and capacity building activities concerning judges and public prosecutors. The Ministry of Interior and law enforcement bodies are often the first contact with children in conflict with the law; however, they do not have a specific role (unlike some other countries) in diversion and/or implementation of alternatives to imprisonment. Similarly, the Ministry of Family and Social Policies and the Ministry of Youth and Sports do have broad mandates in policy development and implementation of rehabilitative programmes for all children and young people in the country; however, there is no specific mandate on justice for children. Given the strong linkages with the results of the Action as well as their mandate, these Ministries will be included in the design and development of the programmes, by being members of task forces, and - based on the modality of the programmes – in the implementation of the various programmes where relevant<sup>29</sup>. More importantly, strong collaboration with relevant Ministries will be established under Output 1, to develop modalities to strengthen inter-sectoral communication and collaboration between the child protection and justice systems through multi-sectoral working principles for safeguarding the best interest of children.

The Action will involve relevant stakeholders such as the Ministry of Justice, Ministry of Family and Social Services (MoFSS) (responsible for the identification of child related policies on the overall level), Ministry of Interior (MoI) (as the first contact with children in contact with the law and migrant children), Ministry of Youth and Sports (MoYS) (as per its mandate to develop and implement policies concerning young people), Ombudsperson Institution (OI) (one of the application mechanisms to ensure better public service provision including services provided to children, with an Ombudsperson tasked with children rights), Human Rights and Equality Institution of Türkiye (HREI) (tasked with the protection and improvement of human rights including the rights of the child), the Union of Turkish Bar Associations (UTBA), Bar Associations (very well positioned to promote and protect children's rights, as well as to monitor and address human rights abuses against children) and civil society.

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<sup>29</sup> MoJ has also kickstarted discussions with various stakeholders including Ministry of Interior, Ministry of Family and Social Services and Ministry of Youth and Sports to take stock of the available services and how they can be tailored for diversion and alternatives to detention. Moreover, MoJ and UNICEF has already agreed to conduct a comparative legislative analysis on diversion and alternatives to detention in 2022, which will also guide the implementation of the Action. In addition, currently the Prisons and Detention Houses DG has several protocols with NGOs (such as Kızılay), municipalities and line Ministries concerning children under probation. The Action will also benefit from those ongoing partnerships by building on the experience and further enhancing the programmes tailored for children.

### 3. DESCRIPTION OF THE ACTION

#### 3.1. Intervention Logic

The underlying intervention logic for this Action is based on a theory of change developed as per the problem analysis outlined above. The hypothesis of the Action is as follows:

*If* the overall capacity of the Ministry of Justice and the relevant institutions is supported with improved multi-sectoral and child-sensitive policies and procedures for protection of all children in contact with the law (including tailored centers, tools (such as case-management), mechanisms and services) **and** the Ministry of Justice cooperates closely with relevant actors and stakeholder within the justice (and/or child protection) system to generate knowledge and build-up the capacity of relevant professionals *then* the overall cross-sectoral coordination (required for various services), as well as the situation of the rights of the child in the justice system, will be improved.

*If* in line with the improved cross-sectoral coordination, policies and programmes are developed to enhance restorative, community-based diversion and alternatives to detention **and** national justice practitioners are mandated to adopt and commit to implementing alternative approaches on a national level *then* the number of children put on trial and deprived of liberty in pre/post-trial detention as well as the rate of recidivism will decrease, conflicts will be more constructively resolved, and reintegration of child offenders will be supported through interventions in line with their needs and capacities.

In light of this theory of change, the **overall objective** of the Action is to ensure that the fundamental rights of children who come in contact with the law, including due to various vulnerabilities, are better protected in line with international standards. **The specific objective** of the Action is to improve children's rights through strengthened institutional capacity to safeguard children in contact with the law as well as through the development and implementation of multi-sectoral, community-based, child-sensitive and restorative processes and alternatives to detention.

The Outputs to be delivered by this action contributing to the corresponding Specific Objectives (Outcomes) are as follows:

- 1- Increased institutional capacity and improved policy framework for the administration of the justice system for children in contact with the law (including offenders, victims and witnesses), and strengthened collaboration between the child protection and justice systems through multi-sectoral working principles.
- 2- Increased institutional and professional capacity of the child justice system to better develop and implement community-based restorative diversion measures for children in contact with the law.
- 3- Enhanced use of alternative measures to ensure that detention is used as a last resort and for the shortest time possible for children in conflict with the law through the improvement of child-specific alternatives and the development of child-sensitive enforcement practices.

#### 3.2. Indicative Activities

##### Indicative activities related to Output 1

- 1.1 Establishing a task force (composed of various judicial and other stakeholders) to ensure better administration and governance of justice for children in Türkiye.
- 1.2 Conducting an impact analysis on the functioning of Child Justice Centers and reviewing the standards for the judicial units to be structured in accordance with children's rights.
- 1.3 Developing a case-management, supervision and monitoring scheme for 'Judicial Support and Victims Services Directorates' to be implemented in five cities.
- 1.4 Conducting a comparative analysis (with a particular focus on the best-practices across the EU) for the effective implementation of protective and supportive measures for children in contact with the law

(including victims, offenders, child witnesses, and other children in need of protection) and developing a draft legal framework to ensure better implementation and follow-up of those measures.

- 1.5 Developing a draft procedural framework on the due process and implementation of the child-specific security measures for children.
- 1.6 Conducting a situation analysis on the rights and needs of vulnerable groups such as girls, refugee and migrant children, and children with disabilities in contact with the justice system and developing a set of recommendations per different age group.
- 1.7 Revising the (pre/in service) training curricula and performance indicators for judges, public prosecutors and court experts who are dealing with the child cases and in charge of protective and supportive measures.
- 1.8 Developing published and digital child-friendly materials to inform children in contact with the law of the judicial processes, protection measures and their rights in age appropriate manner and also in different languages.
- 1.9 Developing a mechanism to ensure better coordination between the child protection and justice systems and organizing at least two meetings on an annual basis.
- 1.10 Developing the draft National Strategy and Action Plan on Justice for Children (encompassing all children in contact with the law).

### **Indicative activities related to Output 2**

- 2.1 Establishing a task-force to conduct a comparative legal/practical gaps (with a particular focus on best practices across the EU) and needs analysis and to set standards for diversion measures (such as reconciliation, family conferencing, community programmes etc.) and available services in Türkiye.
- 2.2 Conducting multi-sectoral workshops (including Ministry of Family and Social Services, Ministry of Youth and Sports and Ministry of Interior and civil society actors) to identify the capacity, legislative and infrastructure needs on the development and implementation of restorative diversion schemes in Türkiye.
- 2.3 Conducting international visits to European Union Member States selected as examples of best practice with respect to the implementation of community-based restorative diversion measures.
- 2.4 Developing standard operational procedures (SoPs) for the Child Bureaus of the Public Prosecutor's Offices and piloting the implementation in different cities.
- 2.5 Developing assessment guidelines, specialised programmes (such as on certain programs on project/development activities, mentorship, family conference etc.) and standard operational procedures (SoPs) for the implementation of various child-sensitive diversion measures, particularly mediation and reconciliation processes to be implemented in pilot cities (including involvement of CSO actors and public institutions in the implementation).
- 2.6 Developing awareness raising and training programmes and training of at least 250 relevant professionals (judges, public prosecutors, court experts, mediators etc.) in pilot cities.
- 2.7 Conducting field visits and provincial meetings to monitor and assess the progress achieved under activities 1.4 and 1.5.
- 2.8 Developing a draft legal framework for community-based restorative diversion measures.
- 2.9 Revising the training programme and training of at least 500 professionals (in charge of the implementation and oversight) throughout Türkiye on the developed programmes, tools, and procedures.

### **Indicative activities related to Output 3**

- 3.1 Conducting an analysis on the effectiveness and efficiency of the current alternative measures as well as international good practices and data for children and their implementation (particularly through the

- DENGE programme<sup>30</sup>) and developing a set of recommendations to enhance the use of alternatives in Türkiye.
- 3.2 Conducting multi-sectoral workshops (including Ministry of Family and Social Services, Ministry of Youth and Sports and Ministry of Interior) to identify the capacity, legislative and infrastructure needs on the development and implementation of alternative measures in Türkiye.
  - 3.3 Developing tailored programmes, list of available services, guidelines, SoPs (including supervision, voluntarism and case-management schemes) for the implementation of community-based alternative measures for children (including involvement of civil society actors and public institutions in the implementation).
  - 3.4 Developing training programmes and training of at least 300 professionals who will implement alternative measures for children in conflict with the law.
  - 3.5 Implementing, monitoring and assessing the newly developed programmes in 10 pilot cities.
  - 3.6 Developing child-friendly physical and operational standards for child bureaus of the probation directorates.
  - 3.7 Determining administrative and technological standards for remote (online) supervision, follow-up, psycho-social support, training and rehabilitation processes for children who have difficulty in reaching the Probation Directorates due to various reasons (illness, disability, continuing education, etc.), developing workflows, preparing materials preparation and establishment of the necessary technological infrastructure (including the necessary software and hardware).
  - 3.8 Developing a draft legal framework for the current and new community-based alternatives for children in conflict with the law.
  - 3.9 Conducting an international Congress on restorative justice enforcement practices sensitive to the children and alternatives to detention for children with the participation of at least 200 professionals, international experts and representatives of NGOs.

### **3.3. Mainstreaming**

#### **Environmental Protection, Climate Change and Biodiversity**

In relation to environmental protection, necessary actions for ensuring the well-being of the environment will be taken. Environment-friendly materials and equipment will be used throughout the implementation of the Action.

#### **Gender equality and empowerment of women and girls**

Data of TURKSTAT<sup>31</sup> clearly show that the majority of the children in contact with the justice system are boys (only in 2020, 308,206 cases of boys, 159,725 cases of girls were brought to the law enforcement units). In particular, the number of boys in conflict with the law significantly outrun the number of girls (125,733 boys vs. 22,790 girls in 2020).. Same applies to the prison population. As of 31 December 2020, the prison population was 266,831, 256,231 of them were male (96 %of the total population) and the remaining 4%, 10600 were female. The rates are also similar for children. Due to this over-representation, the child justice system is primarily designed to accommodate boys, increasing the likelihood of rights violations for girls. Therefore, the rights and needs of girls in the child justice require particular attention. Conversely, there is a clear predominance of girls among victims of certain types of crime, such as offences involving sexual violence (26843 cases of girls, 4603 cases of boys in 2021). Although the establishment of the Child Monitoring Centers (ÇİMs), Judicial Interview Rooms (AGOs) and Judicial Support and Victim Services Department with local branches (Judicial Support Directorates) in courthouses helped to increase quality and child-specific interventions in the justice system (particularly for those children who are victims of sexual offences) services specifically tailored to the needs of different groups (including children with disabilities

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<sup>30</sup> For more information on the DENGE Programme, see the explanations on the CONTEXT and PROBLEM ANALYSIS Sections.

<sup>31</sup> TURKSTAT, “Juvenile Statistics Received into Security Unit 2020”

and refugee children) are yet to be improved and data on the effect of different judicial processes between gender is limited.

To address this issue and also to inform the design of the programmes throughout the Action, Activity 1.3.5 will focus on analysing the rights and needs of girls (along with refugee and migrant children, and children with disabilities) in contact with the justice system. Meaningful contribution of children will be ensured in those studies and the outcomes will be thoroughly reflected in the developed programmes and SoPs under various Outputs.

Moreover, as per OECD Gender DAC codes identified in section 1.1, this action is labelled as G1<sup>32</sup>. This implies that gender balance will be sought on all the managing bodies and activities of the Action and importance thereto will be given during all stages. Equal participation of women and men will be secured in the design of activities and access to the opportunities they offer. Promotion of gender equality and equal opportunities will be considered. The gender dimension of the activities will also be closely monitored by the European Union in terms of compliance with the Gender Action Plan.

Principles of equal opportunity between women and men and non-discrimination on grounds of sex are to be considered throughout the programme implementation. To this end, measures to ensure equal opportunities and non-discrimination are integrated in the design and the implementation of this programme. As such, the AD ensures that both women and men can provide inputs, access, and participate in action activities.

Furthermore, in order to improve equitable and gender-sensitive access to justice for all, during the action, it will be ensured that sex-disaggregated data is collected regarding project activities and outputs, where applicable, and be presented in the inception/progress/interim/final reports and at Steering Committees and during monitoring missions. In the logframe, sex-disaggregated and age-disaggregated indicators will be set, where appropriate.

## **Human Rights**

This Action will serve better protection and promotion of the rights of children with a particular focus on children in contact with the law, who are more likely to suffer violations of their fundamental and human rights due to the situations of particular vulnerability inherently encountered in the criminal justice system and, in certain circumstances, to encounter stigma and marginalisation. Access to justice is both a fundamental human right and a means to enforce human rights. It is key to achieving all the Sustainable Development Goals (SDGs) – particularly SDG 16 on just, peaceful and inclusive societies, and its targets 16.3 (access to justice for all), 16.2 (violence against children) and 16.6 (effective, accountable and transparent institutions at all levels). And yet, children’s access to justice is often overlooked.

According to Article 40 of the UN Convention on the Rights of the Child , *“States Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society”*. The Convention also reiterates that *“... measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected”*.

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<sup>32</sup> Principal objective / significant objective/ not targeted

The **Action Plan on Human Rights** (APHR) also prioritises improvements in the child justice system under the goals 8.1 (*supporting the physical and mental development of children*) and 8.2 (*developing enforcement practices sensitive to the child justice system*). The Action Plan sets specific targets on protection of child victims<sup>33</sup> as well as protection of the rights of children in conflict with the law in the justice system through *child-specific measures, diversion* and, *upscaling the probation services tailored for children and provision of community-based psycho-social support*<sup>34</sup>. Therefore, the Action is based on and in line with the international and national priorities concerning children’s right to equal access to justice.

The Action will also address children with intersectional vulnerabilities within the justice system. Specific activities are designed under Output 3 of the Action (such as developing SoPs for Judicial Support and Victim Services Directorates – which is mandated to tailor services for vulnerable groups in the justice system (1.3.3.), analysing the situation of migrant children, girls and children with disabilities in the justice system (1.3.5.), enhancing coordination between justice and child protection services in order to ensure integrated service provision (1.3.9.) etc.) in order to inform the activities of the Action based on the specific needs of those groups and to better reach those groups throughout the implementation.

### 3.4. Risks and Lessons Learned

Category	Risks	Likelihood (High/Medium/Low)	Impact (High/Medium/Low)	Mitigating measures
1	Deteriorating socio-economic conditions following possible continuation of the Covid-19 outbreak and worsening of the economic context.	M	M	Programme response and activities to be re-designed and adapted to the evolution of the Covid-19 pandemic and broad economic context
2	Insufficient human, institutional and technical capacities for effective implementation; limited ability to build consensus and coordinate the action across the involved key stakeholders.	L	M	Institutional and human resources capacities within MoJ and of other relevant stakeholders involved will be monitored and strengthened where required. All stakeholders will assign specific departments and/or focal points in charge of the Action. Timely and regular coordination, also together with the EU, where needed, will be ensured.
3	Unwillingness by authorities to support the activities of the Action; resistance from the judicial authorities and implementing bodies to actively adopt and implement SoPs on diversion, alternatives and mechanisms to enhance multi-sectoral collaboration	M	H	Prior to the starting date of the Action, the MoJ will conduct a study on good practices on diversion and alternatives for detention and a rapid analysis of the Turkish context. This will be followed by introductory meetings with Presidency, Parliament, various judicial bodies and other stakeholders.  All the relevant institutions will be included in the planning phase of Action (prior to and after the signature of the agreement for the Action), official protocols will be put in place and high-level advocacy will be ensured when and where necessary.
3	Staff turnover & Rotation of key people in line ministries	M	M	Project team ensure that key discussions are documented to preserve planning and

<sup>33</sup> Goal 1.3.

<sup>34</sup> Goals 8.1.d-i and 8.2.



	might affect the implementation of programmatic interventions. Frequent staff turnover could affect programme planning and implementation, in addition to hindering the use of lessons learned and the building of institutional memory.			implementation sequence. Additionally, the project design foresees active contributions from other relevant institutions which will reduce this risk.  Work closely with all government stakeholders involved and monitor regularly any possible changes to contribute to a smooth transition process, not impacting negatively the implementation of the action.
4	Severe changes in the mandate and areas of responsibilities of the key/indirect stakeholders (including change/division of Ministries)	<b>L</b>	<b>H</b>	A preparedness plan will be developed for such cases, and the work plan and division of labour scheme will be revisited as soon as such changes appear on the horizon. The mitigation actions will also include immediate contact with the EU for a potential addendum where needed, potentially at the very early stage of such change.
5	Lack of adequate flow of relevant information throughout the project which might jeopardise better and smoother implementation of project activities including access to relevant and necessary data.	<b>L</b>	<b>H</b>	Detailed ToRs will be developed for each Task Force including clear roles and responsibilities for each stakeholder.

### Lessons Learned:

The Ministry of Justice has collaborated in various EU supported projects to strengthen the rights of children in justice system, namely “*Towards Good Governance, Protection, and Justice for Children in Türkiye*” (TR0404.01/01), “*Children First: Modelling of Child Protection Mechanisms at Provincial Level*” (TR 0601.09-01/001), “*Justice for Children*” (TR 2010/0136.08). These were catalysing initiatives for the foregoing reform process. Moreover, under the Action entitled ‘*Development of Work with Juveniles and Victims by the Turkish Probation Service*’ (TR0701.01) four intervention programmes for children under probation<sup>35</sup> were developed along with production of National standards, policy and inter-agency working strategies in combined manuals for work with children and victims, as well as a communication strategy and a wide range of publicity materials for key stakeholders.

More recently, the EU funded ‘*Development of an Effective Risk Evaluation System for Children in Turkish Probation Services*’ (DENGE) Programme, implemented between 2015-2018 in collaboration with Ministry of Justice and with technical support of UNICEF, constituted the child friendly probation system for children and will serve as a basis of activities under Output 3.

UNICEF and MoJ, in partnership with the Support to Child Protection Centers (ÇOKMED), partnered to develop secondary legislation of the child-friendly interview rooms (AGO)s as well as the training materials and used training of 1000 justice professionals (including those working with refugees and migrants).

The Action entitled “Development of Alternative Dispute Resolution in Türkiye” carried out by the Ministry of Justice, is solely focusing on the revision of the “reconciliation” and “mediation” schemes (as stipulated in the current legislation) and it is planned within this scope that workshops and conferences will be held for developing alternative reconciliation procedures specific to children.

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<sup>35</sup> Namely, basic approach, work with drugs interventions, offending behaviour group work and aggression replacement training.

Reconciliation is one of the alternative dispute resolution methods, and one of the diversion methods that can be developed specifically for children. The concept of diversion on the other hand covers measures much wider than this. These include many structures such as *individual* (warning, regular attendance to school, official apology, attendance in a certain programme, participation in project/development activities, public service, symbolic compensation, guidance, etc.), *multi-party* (mentorship, family conference, alternative dispute resolution – reconciliation/mediation etc.) and *third party-related* (such as providing guidance for caregivers, teachers, etc.) structures. Developing them with a restorative, community-based and victim-sensitive approach is important in terms of designing these structures in a child-friendly way for all parties. Therefore, diversion as a whole is to ensure an alternative pathway for children with a view to better protect their rights, support their social rehabilitation as well as to reduce the risk of recidivism in a holistic manner.. The project also involves a wider range of components that focus not only on diversion but also on the development of alternatives to detention and the administration of child justice (including strengthening the relation with social welfare services). Therefore, those Actions are not repetitive but rather complementary to each other. The child-friendly reconciliation procedures to be reviewed under the ADR project can also be revised under this project in a way to be embedded into the broader diversion scheme developed under this.

This Action also has strong linkages and potential synergies with the EU-funded Action entitled “*Improving the Capacity of Lawyers and Bar Associations to Promote, Protect and Monitor Children’s Rights*” which will be contracted in 2022 and implemented in collaboration with UTBA and UNICEF. This Action however focuses solely on increasing capacities of lawyers and Bar Associations in handling and monitoring of child cases as well as strengthening knowledge generation on child justice. Another Action entitled “*Stronger Civil Society for Stronger Accountability on Child Rights in Türkiye: Improving Monitoring, Engagement and Advocacy at Central and Local Levels*” focuses on strengthening capacities of civil society organisations in monitoring and reporting the child rights violations.

The last two aforementioned Actions are complimentary to this action. While this Action will focus on the structural dimension of child justice through restorative and community-based diversion and alternatives to the detention, the other two will strengthen children’s representation, awareness raising as well as monitoring of the rights violations.

The activities, due to the multi-sectorial and multi-disciplinary nature of the rights of the child, require bringing together professionals from different sectors and disciplines as a primary condition for improving the rights of the child. All the trainings and programmes in the Action will be developed following a “multi-sectorial” approach, which is to give enough space to all professionals to raise their voices while encouraging others to listen and empathise. Moreover, in line with the right to participate, children’s meaningful participation will be ensured in all activities where feasible.

It is essential to involve the Information Technologies Department of the Ministries, throughout the implementation period (starting from the beginning) phase of the Action to clarify the expectations and workflows.

In order to ensure stronger buy-in from high-level management as well as field practitioners and to ensure better sustainability, it will be important to support the project outputs with new primary and secondary legislation, while linking them with similar initiatives in the area of child justice. Bearing this lesson in mind, draft legal frameworks will be developed under each output.

The international best practices show that, diversion and alternative measures are better implemented with the engagement and mobilisation of the community members. As the Action pays a special attention to community-based modalities, there are significant opportunities to engage with civil-society actors and volunteers in the planning and implementation of different programmes for children. As is the case in restorative and community-based models successfully implemented across the globe, such approach will contribute to lessen the workload of public officers and ensure that a broad range of specialised services are available to better support reintegration of children in their families and society. The Action will therefore

pursue stronger dialogue with the Ministry of Justice and other ministries to explore opportunities for increasing the role of specialised NGOs in supporting specialised services for children in contact with the law.

### 3.5. Indicative Logical Framework Matrix

Results	Results chain: Main expected results [maximum 10 @]	Indicators [at least one indicator per expected result @]	Baselines [2021]	Target [2025]	Sources of data	Assumptions
<b>Impact</b>	To ensure that children who came in contact with the law benefit from improved protection of their fundamental rights and freedoms in line with the international standards.	Status of legal and administrative provisions on protection of fundamental rights of children in contact with the law.	Insufficient provisions to divert children out of the judicial system and detention as well as to safeguard their rights through restorative approaches.	Provisions to divert children out of the judicial system and detention as well as to safeguard their rights through restorative approaches are adopted & implemented.	Institutional records and reports, EU Country Reports & Turkish Statistical Institute (TURKSTAT) data.	<i>Not applicable</i>
<b>Outcome 1</b>	The fundamental rights of the child are improved with strengthened institutional capacity to safeguard children in contact with the law (offenders, victims, witnesses, etc.) and development and implementation of multi-sectoral, community-based, child-sensitive, restorative processes and alternatives	<p>1.1 Percentage of child offenders who are subject to restorative reconciliation and other types of pre-sentence diversion schemes as opposed to filed lawsuits</p> <p>1.2. Percentage of child offenders who are subject to alternative measures as opposed to a custodial sentence</p> <p>1.3 Status of segregated data available on children in contact with the law (number of victims, offenders &amp; gender etc.</p> <p>1.4. Status of legal frameworks for the implementation of diversion and alternative measures and enforcement practices sensitive to the children</p>	<p>1.1. 2021:0 (No specific data available)</p> <p>1.2. 2020: 45% (61165/134791) – Based on specific types of decisions as per the 2020 judicial statistics.</p> <p>1.3. Insufficient data for children in contact with the law is available with limited segregation</p> <p>1.4. Limited legal framework with no specific guidelines for implementation.</p>	<p>1.1 Baseline data will be available by the second year of implementation and 25% (by the end of the Action)</p> <p>1.2. At least 50% (by the end of Action)</p> <p>1.3. The Judicial Information Management System (UYAP) produces regular segregated data on children in contact with the law (offenders, victims and witnesses, gender, age groups etc.)</p> <p>1.4. Legal frameworks for the implementation of diversion and alternative measures and enforcement practices sensitive to the children are submitted for approval.</p>	<ul style="list-style-type: none"> <li>- Data from Ministry of Justice</li> <li>- Data from Council of Judges and Prosecutors (CJP)</li> <li>- Project Reports</li> <li>- Judicial Information Management System (UYAP) &amp; Turkish Statistical Institute (TURKSTAT) Data</li> <li>- Judicial Statistics</li> <li>- Jurisprudence - Reports National &amp; International Bodies</li> </ul>	<p>Full commitment of relevant institutions, as well as judges and prosecutors to ensure promotion of restorative practices and protection of children in conflict with the law in line with the UN Convention on the Rights of the Child, ECHR and relevant national strategies and action plans.</p> <p>Commitment of relevant stakeholders on development of the legal framework</p>

<p><b>Output 1 related to Outcome 1</b></p>	<p><b>1.1.</b> Increased institutional capacity and improved policy framework for the administration of the justice system for children in contact with the law (including offenders, victims and witnesses), and strengthened collaboration between the child protection and justice systems through multi-sectoral working principles.</p>	<p>1.1.1. Status of procedural framework on the due process and implementation of child-specific security measures for children who are not subject to criminal responsibility and are in need of protection</p> <p>1.1.2. Status of case-management, supervision and monitoring scheme and frameworks for the ‘Judicial Support and Victims Services Directorates’</p> <p>1.1.3. Status of the national Strategy and action plans for justice for children</p>	<p>1.1.1 2021:Not in place 1.1.2. 2021:Not in place 1.1.3. 2021:Not in place</p>	<p>1.1.1. Framework in place (by the end of the Action) Guidelines developed and adopted.</p> <p>1.1.2. Framework in place (by the end of the Action)</p> <p>1.1.3. Strategy and action plans finalised (by the end of the Action)</p>	<ul style="list-style-type: none"> <li>- Pre-post test results</li> <li>- Memorandum of Understandings (MoU) and Programmes in place</li> <li>- Project and other relevant reports</li> <li>- Minutes of the workshops &amp; meetings</li> <li>- Draft legal framework &amp; SoPs</li> <li>- Field visit reports</li> </ul>	<p>-Conducive political will as well as willingness and acceptance by the target groups of the Project and their proper and systematic follow-up on the concrete activities for the project implementation will be ensured.</p> <p>- Common understanding and buy-in of MoJ, TJA, CJP and other relevant parties will be reached on the activities of the Action and particularly on developing legal frameworks and procedures.</p> <p>- Broad participation of professionals across the trainings will be ensured.</p> <p>- Availability of hosting institutions in the other European countries for study visits and placements will be ensured.</p> <p>- Common understanding and buy-in of Ministry of Justice, Justice Academy of Türkiye (TJA), Council of Judges and Prosecutors (CJP) and other relevant parties will be safeguarded.</p> <p>Communication and cooperation among the professionals and international experts, institutions and representatives of NGOs, Universities etc. will be ensured.</p>
<p><b>Output 2 related to Outcome 1</b></p>	<p><b>1.2.</b> Increased institutional and professional capacity of the child justice system to better develop and implement community-based restorative diversion measures for children in contact with the law.</p>	<p>1.2.1 Tailored and semi-structured programmes are developed for children who are diverted from the justice system.</p> <p>1.2.2. Percentage of participants who acquired necessary knowledge and skills by the end of the training.</p> <p>1.2.3. Status of SoPs for the implementation of diversion measures</p>	<p>1.2.1 Not in place 1.2.2.0 1.2.3. Not in place</p>	<p>1.2.1 4 (by the end of the Action)</p> <p>1.2.2. 100 % of participants (by the end of the Action)</p> <p>1.2.3. SoPs in place (by the end of the Action)</p>		
<p><b>Output 3 related to Outcome 1</b></p>	<p><b>1.3.</b> Enhanced alternative measures to ensure that detention is used as a last resort and for the shortest time possible for children in conflict with the law through the improvement of child-specific alternatives by developing child-sensitive enforcement practices</p>	<p>1.3.1. Tailored, community-based and semi-structured programmes are developed for children who benefit from alternative measures to detention</p> <p>1.3.2. Status of child-friendly physical and operational standards for the child bureaus of probation directorates</p> <p>1.3.3. Percentage of participants who acquired necessary knowledge and skills by the end of the training.</p> <p>1.3.4. Status of SoPs for the implementation of alternative measures and enforcement practices sensitive to the children</p>	<p>1.3.1 Not in place 1.3.2. Not in place 1.3.3. 0 1.3.4. Not in place</p>	<p>1.3.1. 4 (by the end of the Action)</p> <p>1.3.2. Developed, in place and submitted for approval (by the end of the Action)</p> <p>1.3.3. 100% (by the end of the Action)</p> <p>1.3.4. SoPs Developed, in place and submitted for approval (by the end of the Action)</p>		

## **4. IMPLEMENTATION ARRANGEMENTS**

### **4.1. Financing Agreement**

In order to implement this action, it is foreseen to conclude a financing agreement with the Republic of Türkiye.

### **4.2. Indicative Implementation Period**

The indicative operational implementation period of this action, during which the activities described in section 3 will be carried out and the corresponding contracts and agreements implemented, is 72 months from the date of entry into force of the financing agreement.

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

### **4.3. Methods of implementation**

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 measures.

#### **4.3.1. Indirect Management with an entrusted entity**

This action may be implemented in indirect management with an entrusted entity, which will be selected based on the following criteria:

- (1) mandate related to the protection of human rights, including rights of children;
- (2) technical expertise in the field of child-friendly justice;
- (3) strong relationships both with public bodies and civil society organisations in the field of child-friendly justice in Türkiye.

Implementation entails activities related to better protection of children in contact with the law, especially related to the development and implementation of alternatives for detention for children. Activities include policy and regulatory support, capacity building, and improved coordination between different stakeholders from ministries, communities and CSOs involved in child protection and child-friendly justice.

### **4.4. 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, subject to the following provisions.

The Commission's authorising officer responsible may extend the geographical eligibility on the basis of urgency or of unavailability of services in the markets of the countries or territories concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of this action impossible or exceedingly difficult (Article 28(10) NDICI-Global Europe Regulation).

### **4.5. Indicative Budget**

<b>Indicative Budget components</b>	<b>EU contribution (amount in EUR)</b>	<b>Indicative third-party contribution, in currency identified</b>
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		(Co-funding from the international agency is envisaged at appx 2%)
<b>Methods of implementation</b> – cf. section 4.3		
<p><b>Outcome 1 composed of:</b></p> <p><b>Output 1.1.:</b> Increased institutional capacity and improved policy framework for the administration of the justice system for children in contact with the law (including offenders, victims and witnesses), and strengthened collaboration between the child protection and justice systems through multi-sectoral working principles.</p> <p><b>Output 1.2.:</b> Increased institutional and professional capacity of the child justice system to better develop and implement community-based restorative diversion measures for children in contact with the law.</p> <p><b>Output 1.3.:</b> Enhanced alternative measures to ensure that detention is used as a last resort and for the shortest time possible for children in conflict with the law through the improvement of child-specific alternatives by developing enforcement practices sensitive to the children</p>	<b>4 000 000</b>	<b>100 000</b>
Indirect Management with Entrusted Entity – cf section 4.3.1	4 000 000	100 000
<b>Evaluation</b> – cf. section 5.2 <b>Audit</b> – cf. section 5.3	will be covered by another Decision	N.A.
<b>Communication and visibility</b> – cf. section 6	will be covered under the IMEE contract	N.A.
<b>Contingencies</b>	N.A.	N.A.
<b>Totals</b>	<b>4 000 000</b>	<b>100 000</b>

#### 4.6. Organisational Set-up and Responsibilities

The overall management of the Action will be carried out by the following structure:

- Project Steering Committee (PSC)

*Project Steering Committee (PSC):* A PSC will be established and will include representation from the core group of stakeholders including Ministry of Justice, the selected International Organisation (entrusted entity), Delegation of European Union to Türkiye (EUD), Directorate for EU Affairs and National IPA Coordinator (NIPAC) office.

Where and when relevant other stakeholders, namely Turkish Justice Academy, Council of Judges and Prosecutors, Ministry of Family and Social Policies, Ministry of Youth and Sports, Ministry of Interior,

Presidency Strategy and Budget, Ministry of National Education, Union of Turkish Bar Associations, Human Rights and Equality Institution, Ombudsperson Institution and CSOs will also be included in the Committee. Regular PSC meetings will take place to ensure a smooth management of the project. To this end, Steering Committee Meetings will take place quarterly for regular exchange of information on all matters arising out of the Agreement/Contract. The PSC will be chaired by the Senior Programme Officer (SPO). The PSC will meet to discuss the progress of the project, verify the timely achievement of the outputs and mandatory results (as per Logical Framework and Indicative Action Plan) and discuss and decide actions to be undertaken for the successful implementation of the project. It will address major risks and problems that the Action might face. Sex-disaggregated data will be provided.

The selected International Organisation (entrusted entity) will provide the secretariat for the Steering Committee.

The selected International Organisation (entrusted entity) will provide inter-sectoral coordination among all stakeholders; provide technical assistance and support Ministry of Justice in the mobilisation of required technical expertise; provide examples and evidence of best practice in restorative, alternative and victim-centered practices regionally and globally to inform the project implementation; organise implementation of project activities in close coordination with Ministry of Justice, manage and disburse funds as per budget for project activities and in line with the International Organisations financial rules and procedures; and, have the progress and final reports prepared in cooperation with the PB and other stakeholders.

#### **4.7. Pre-conditions**

N/A

### **5. PERFORMANCE MEASUREMENT**

#### **5.1. 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 (for project modality) and the partner's strategy, policy or reform action plan list (for budget support). The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

Roles and responsibilities for data collection, analysis and monitoring:

- Monitoring tasks undertaken by the implementing partners/ beneficiary country, under the coordination of NIPAC Office, and NAO Office for financial monitoring, will consist of collecting and analysing data aiming at informing on the use of resources and progress towards planned results, feeding the management of the action's decision-making processes.
- Monitoring tasks undertaken by the EU Delegation shall complement the implementing partners'/ beneficiary country's monitoring system, especially in key moments of the action cycle. It will also support follow-up of recommendations stemming out of external monitoring and will be used for informing EU management. This monitoring could take different forms and methodologies (meetings with implementing partners, action steering committees, on the spot checks ...), to be decided based



on specific needs and resources at hand. Reporting will be done according to methodologies and tools included in DG NEAR guidelines on linking planning/programming, monitoring and evaluation, including the use of standard checklists..

Both types of internal monitoring are meant to inform and provide support to external monitoring:

- External monitoring / Results Oriented Monitoring (ROM)

The Commission and/or NIPAC may undertake additional project monitoring in line with the European Commission rules and procedures set in the Financing Agreement through independent consultants recruited directly by the Commission/NIPAC for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission/NIPAC for implementing such reviews). These reviews might be composed of monitoring of the action, results data collection or any other task that is identified in the most recent EC guidelines.

The Steering Committees will be established at activity level in order to steer the implementation of activities, achievement of results against indicators in the action document, to discuss monitoring findings (including ROM findings) and agree on corrective actions as appropriate. The Steering Committees will be composed of the representatives of end beneficiaries, Lead Institution, NIPAC Office, Contracting Authority and the EU Delegation.

## **5.2. Evaluation**

Having regard to the nature of the action, evaluation(s) may be carried out for this action or its components by the beneficiary via independent consultants. The evaluations will be carried out as prescribed by the DG NEAR guidelines on linking planning/programming, monitoring and evaluation.

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.

## **5.3. Audit and Verifications**

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.

## **6. COMMUNICATION AND VISIBILITY**

Visibility of EU funding and communication about objectives and impact of Actions are a legal obligation for all Actions funded by the EU, as set out in the EU communication and visibility requirements in force.

In particular, the recipients of EU funding shall acknowledge the origin of the EU funding and ensure its proper visibility by:

- providing a statement highlighting the support received from the EU in a visible manner on all documents and communication material relating to the implementation of the funds, including on an official website and social media accounts, where these exist; and
- promoting the actions and their results by providing coherent, effective and proportionate targeted information to multiple audiences, including the media.

Visibility and communication measures shall be implemented, as relevant, by the national administrations (for instance, concerning the reforms linked to EU budget support), entrusted entities, contractors and grant beneficiaries. Appropriate contractual obligations shall be included, respectively, in financing agreements, delegation agreements, and procurement and grant contracts.

The measures shall be based on a specific Communication and Visibility Plan, established and implemented in line with the EU communication and visibility requirements in force. The plan shall include, inter alia, a communication narrative and master messages for the Action, customised for the various target audiences (stakeholders, civil society, general public, etc.).

Visibility and communication measures specific to this Action shall be complementary to the broader communication activities implemented directly by the European Commission services and/or the EU Delegations and Offices. The European Commission and the EU Delegations and Offices should be fully informed of the planning and implementation of the specific visibility and communication activities, notably with respect to the communication narrative and master messages.

## **7. SUSTAINABILITY**

Improvement of fundamental rights of children, including in the justice system is among the strategic objectives of Türkiye. In this vein, the sustainability of the Action will be ensured by the development of clear guiding frameworks which will be developed by the Ministry of Justice with the technical assistance of the selected International Organisation (entrusted entity). Previous experiences have shown that the preparation of regulatory frameworks, particularly regarding the initiatives that are concerned with the judiciary, increase the buy-in and expedites implementation. Therefore, under all the outputs, the Action will give particular attention to the development of regulatory frameworks, guidance notes and SOPs before and after the pilot implementation. This is expected also to safeguard the sustainability of the results achieved by the Action. The investment in training programmes to be developed and revised under each output is also expected to contribute to the sustainability of the Action. In particular, the revision of (in/pre-service) training curricula and performance criteria for judges, prosecutors and court experts could be very effective in mainstreaming and sustaining a child-based approach within the judiciary system in Türkiye.

Output 1 of the Action places particular importance on knowledge generation, specialised administration and governance as well as coordination between the child protection and justice sectors. This will also contribute to enhanced sustainability of the results and will serve as an enabling factor to foster and sustain synergies and collaboration among key stakeholders.

Moreover, the staff assigned for the implementation of the Action will be primarily civil servants, therefore, the staff will continue to assume their responsibilities in the justice system with an enhanced understanding of children's rights and protection of children. The developed mechanisms on diversion, community based probation services as well as case management structures for judicial support and victim services directorates will become permanent structures of the child justice system.

Throughout the implementation, potential synergies and connections with other initiatives will be ensured through joint meetings and consultations with the relevant stakeholders and relevant actors. Furthermore, other relevant human rights institutions (namely the Ombudsperson's Institution and National Human Rights and Equality Institution), public institutions as well as civil society actors and academics will be included in various activities to ensure a participatory approach throughout the implementation.