



**ANNEX 1**

of the Commission Implementing Decision on the annual action programme in favour of the Republic of Armenia for 2020 (Part 1)

**Action Document for Support to Justice Sector Reforms in Armenia: Phase I**

**ANNUAL PROGRAMME**

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

<b>1. Title/basic act/ CRIS number</b>	Support to Justice Sector Reforms in Armenia: Phase I CRIS number: ENI/2020/042-019, financed under European Neighbourhood Instrument	
<b>2. Zone benefiting from the action/location</b>	Neighbourhood East  The action shall be carried out in the following location: Armenia	
<b>3. Programming document</b>	Single Support Framework for EU support to Armenia 2017-2020 <sup>1</sup>	
<b>4. Sustainable Development Goals (SDGs)</b>	SDG 16 Peace and Justice, strong institutions SDG 5 Gender equality and SDG 8 Decent work and Economic Growth	
<b>5. Sector of intervention/ thematic area</b>	Legal and Judicial Development	DEV. Assistance: Yes <sup>2</sup>
<b>6. Amounts concerned</b>	Total estimated cost: EUR 30 000 000  Total amount of EU budget contribution EUR 30 000 000 of which EUR 27 000 000 for budget support and EUR 3 000 000 for complementary support	

<sup>1</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/armenia\\_ssf\\_2017-2020\\_final.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/armenia_ssf_2017-2020_final.pdf)

<sup>2</sup> Official Development Assistance is administered with the promotion of the economic development and welfare of developing countries as its main objective.

<b>7. Aid modality and implementation modality</b>	<b>Direct management</b> through: Budget Support: Sector Reform Performance Contract Procurement: Technical Assistance as complementary measure			
<b>8 a) DAC code(s)</b>	15130 - Legal and judicial development			
<b>b) Main Delivery Channel</b>	12000 – Recipient government			
<b>9. Markers (from CRIS 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"/>	X
	Aid to environment	x	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and Women's and Girl's Empowerment	<input type="checkbox"/>	x	<input type="checkbox"/>
	Trade Development	x	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	x	<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	x	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	x	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	x	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	x	<input type="checkbox"/>	<input type="checkbox"/>
	<b>10. Global Public Goods and Challenges (GPGC) thematic flagships</b>	N/A		

#### SUMMARY

This programme aims to support Armenia's justice sector reform process in line with the country's commitments under the **Comprehensive and Enhanced Partnership Agreement (CEPA) (Articles 4 and 12)**, the EU's best practices, as well as the recommendations stemming from the EU-Armenia Strategic Policy Dialogue in the Justice sector. The programme objectives are also in line with the Joint Messages on Justice and Anti-corruption revised and agreed with development partners in January 2020 in the framework of EU led informal donor coordination.

The Programme builds on priorities of the government in the justice sector reform. Those are comprehensively outlined in the recently adopted **Strategy on Judicial and Legal reforms**, which lists among its main priorities, the most persisting challenges, such as the corruption, lack of independence, impartiality and accountability, as well as limited efficiency of the judiciary. It also takes into account the specific activities and timelines for their implementation as identified in the Strategy's **Action Plans for 2019-2023**.

Furthermore, the Programme reflects intentions of the government expressed in its **Anti-corruption strategy 2019-2022, which** envisages, inter alia, the establishment of a specialised anti-corruption court and corresponding preventive, prosecutorial and investigative bodies as key priorities interlinked with overall justice sector reforms.

The Programme endeavours to address **two systemic challenges** that impede development, hamper social cohesion, as well as affect public confidence in the government and stability in Armenia. First, it aims to enable the justice sector to effectively ensure adherence to the rule of law through independent and well-governed administration of justice. Specifically, the Programme will contribute to **strengthening the integrity and accountability of the judiciary** through improved policy and comprehensive integrity evaluations (integrity checks). At the same time, it will **address accessibility and the overall quality of the justice delivery** in Armenia primarily through reducing the backlog in courts, improving the Alternative Dispute Resolution (ADR) mechanisms and establishing systems for enhanced transparency, predictability and consistency of judicial practice.

Furthermore, the Programme will **strengthen judiciary and prosecution bodies in the fight against corruption** through setting of specialized professional institutions, e.g. the Anti-corruption court and the corresponding prosecutorial structures Specialized Anti-Corruption Department at Prosecutor General's Office (SADPG). This work will include capacity building, strategic communication, technical support, physical investments as well as expert contribution to ensure compliance with the best EU and international practices.

The programme is complementary to the upcoming Twinning in Anti-corruption, to the Action Document on improved delivery of services and rights-based approaches in law enforcement and migration and is interlinked with support provided to Civil society in the framework of European Instrument for Democracy and Human Rights (EIDHR) and other support initiatives.

## **1 CONTEXT ANALYSIS**

### **1.1 Context Description**

Armenia has a population of about 3 million. Borders with two of its neighbours are closed due to an unresolved conflict. Based on OECD/DAC criteria, Armenia is classified as an upper middle-income country with projected GDP per capita of 4,530 USD (2019)<sup>3</sup>. While strategically in close partnership with the Russian Federation, Armenia has signed in November 2017 the Comprehensive and Enhanced Partnership Agreement (CEPA) with the European Union and pledged to ensure its implementation through domestic reform and building stronger co-operation with the EU.

The new leadership of Armenia, which came to power after the 2018 peaceful anti-government protests, declared commitment to developing a new comprehensive reform agenda based on the rule of law, protection of rights, fight against corruption and good governance. However, even as Armenia's overall democracy indices have improved in the wake of the so called “velvet revolution”, the indicators<sup>4</sup> of the judicial independence and

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<sup>3</sup> IMF: <https://www.imf.org/external/datamapper/NGDPDPC@WEO/OEMDC/ADVEC/WEOWORLD/ARM>

<sup>4</sup> Court Users' Satisfaction Survey of all Courts of all Instances of Armenia <https://www.coe.int/en/web/cdcj/-/analysis-of-the-results-of-court-users-satisfaction-survey-of-all-courts-of-all-instances-of-armenia>

efficiency remain largely unchanged. Persisting problems in the sector are reflected in the results of public opinion polls<sup>5</sup>, international expert assessments<sup>6</sup> <sup>7</sup>, and are openly acknowledged by the incumbent authorities.

According to Constitution, the judicial system of Armenia consists of: 1) courts of first instance (Criminal and Civil); 2) Courts of Appeals (Civil, Criminal, and Administrative); 3) Court of Cassation. Additionally, there are two types of specialised courts: Administrative and Bankruptcy. A specialised Anti-Corruption court is to be established as envisaged by the Anti-Corruption Strategy 2019-2022.

The lack of independent and effective justice system has affected Armenia's economic competitiveness. According to the Global Competitiveness Report of 2019, Armenia ranks 67 out of 141 states. The interest of international investors remains low due to, among other factors, limited trust in the judiciary and the protection mechanisms it offers to business.

The progress in ensuring adequate human rights protection has also been lagging behind, as a result of insufficient judicial oversight and its inability to address infringement of the rights within the public institutions. This is particularly evident with regards to violations alleged within the security sector institutions, such as the police, military and national security bodies. This strongly affects the public confidence in the government.

Reforming the justice system, very low in popular confidence<sup>8</sup> and essential for the much-needed improvement of the investment climate, the stimulation of economic growth and improved Human Rights (including gender equality, anti-discrimination, access to justice, etc) situation in the country, was declared a priority by the Armenian government. Its vision of the comprehensive justice sector reform is reflected in the 2019 - 2023 Strategy for Judicial and Legal Reforms.

The **EU has been a leading donor** to support past justice reforms through 2009 and 2012 Budget support programmes and projects implemented by the CoE. The support helped developing reform legislation, capacities, methodologies and an upgraded infrastructure.

## **1.2 Policy Framework (Global, EU)**

The **Comprehensive and Enhanced Partnership Agreement (CEPA)** between Armenia and the EU was signed in 2017 and provisionally applied since June 2018 as a framework for the legal basis for strengthening relations, which the Government has acknowledged as a “blueprint for reforms” in all vital areas and cooperation frameworks. Particular importance is attached to the rule of law, promoting the independence of the judiciary, access to justice and the right to fair trial (Articles 4 and 12). The fight against corruption will be at the heart of administrative reform and the country's effort to reinforce the rule of law<sup>9</sup>.

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<sup>5</sup> According to Caucasus Barometer survey, in 2017 court were distrusted by 55 per cent of respondents (including 32 per cent of full distrust) and trusted only by 15 per cent (only 3 per cent fully trust).

<sup>6</sup> <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680775f12>

<sup>7</sup> <https://freedomhouse.org/report/freedom-world/2019/armenia>

<sup>8</sup> 55% of respondents to the last Caucasus Barometer survey in 2017 distrusted the Justice system, with only 15% giving a positive opinion. See also: <https://www.state.gov/documents/organization/265604.pdf>; <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680775f12>, also <https://freedomhouse.org/report/freedom-world/2019/armenia>

<sup>9</sup> See “Partnership priorities between the European Union and Armenia”, available at URL: [https://eeas.europa.eu/sites/eeas/files/eu-armenia\\_partnership\\_priorities\\_0.pdf](https://eeas.europa.eu/sites/eeas/files/eu-armenia_partnership_priorities_0.pdf)

The **CEPA Implementation Roadmap**, endorsed by the joint executive-level Partnership Council in June 2019, lays down timelines and institutional responsibilities for the CEPA-related reforms to be introduced in the foreseeable future (2019-2027). There has been **good progress in terms of implementation**, in particular related to adoption of the two important Strategies planned for 2019: 2019-2023 Strategy for Judicial and Legal Reforms and of the 2019-2022 National Strategy for Anti-Corruption Reforms.

**EU-Armenia Partnership Priorities for 2017-2020.** The four main areas of cooperation are: strengthening institutions and good governance; economic development and market opportunities; connectivity, energy efficiency, environment and climate action, and finally mobility and people-to-people contacts. According to the agenda for the partnership, “EU supports reforms in the justice sector, promotes the independence of the judiciary, and contributes to the improvement of infrastructure”<sup>10</sup>.

The EU Gender Action Plan 2016-2020 (GAP II) is the flagship instrument for the EU to pursue its commitments to gender equality and women’s empowerment with partner countries and across all EU external relations.

The **Single Support Framework (SSF) 2017 – 2020** based on Partnership Priorities, sets out four priority areas of support: (1) Economic Development and Market Opportunities, (2) Strengthening Institutions and Good Governance, (3) Connectivity, Energy Efficiency, Environment and Climate Change, and (4) Mobility and People-to-people Contacts. This project is directly contributing to Strengthening Institutions and Good Governance in Armenia.

The priority areas outlined in the SSF have been based on **EU Joint Analysis**, which consists of the review of 23 sectors. The Joint Analysis was concluded in October 2016 by the EU Member States present in Armenia and after a round of further consultations, was endorsed by development partners in March 2018.

In January 2020 the informal donor coordination Working Group led by EU Delegation revised and agreed on Joint Messages providing development partners and the government with key elements for a common narrative, understanding of challenges and opportunities in the sectors of Justice Reform and Anti-corruption.

### **1.3 Public Policy Analysis of the partner country**

The **5-year Government Programme** dated February 2019 references **CEPA** as a factor facilitating key reforms. Among them, it highlights development of democratic institutions, fight against corruption and justice reform, as well as strengthening the rule of law in relation to national security, prosperity and resilience.

On the sectorial policy level, **the Strategy on Judicial and Legal Reform**, adopted by the Government on 10 October 2019, outlines the government’s vision. The document defines a number of core strategic goals, such as: (1) introduction of toolkit for transitional justice, (2) amending constitution and the electoral legislation, (3) improving independence, impartiality and accountability of judiciary, including establishment of new anti-corruption court; (4) addressing corruption within judiciary, (5) increasing efficiency of court, (5) setting up an e-justice platform, (6) amending the criminal, criminal procedure, civil and civil procedure

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<sup>10</sup> URL: [https://eeas.europa.eu/headquarters/headquarters-homepage/40231/eu-and-armenia-sign-cooperation-priorities-until-2020\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/40231/eu-and-armenia-sign-cooperation-priorities-until-2020_en)

legislation, (7) reforming the law enforcement and compulsory enforcement systems, (8) improving administrative justice, (9) enhancing notary and advocacy systems, as well as (10) developing alternative methods of dispute settlement.

The Strategy envisages amendments to the Constitution that would address a number of shortcomings hampering the independence of judiciary. These changes are expected to pertain, primarily, to the formation, role and the scope of powers of the Supreme Judicial Council. The Strategy also provides for the introduction of transitional justice mechanisms that would serve as a toolkit to restore rights and achieve reconciliation over the major violations that occurred in the period of 1991-2018.

The Strategy consists of the following "living documents" to be reviewed and adjusted as implementation advances:

- 1) a **short-term Action Plan** covering 2<sup>nd</sup> half of 2019-2020 which introduces constitutional changes and changes in the election laws, integrity check and evaluation process for the judiciary and prosecution and legal initiatives to increase their efficiency. Further it includes amendments to the Civil and Administrative Codes, Criminal and Criminal Procedure Codes as well as to the bankruptcy legislation. It also includes new initiatives on improving the arbitration system and the advocacy system, including legal aid.
- 2) a **long-term Action Plan** covering 2021-23 building on the short-term AP and the initial legislative changes. This AP includes transitional justice tools (establishment of a Fact-Finding Commission), the implementation of the agreed constitutional reforms, increasing the efficiency of administrative and civil justice and the bankruptcy system, introduction of alternative dispute resolution mechanisms and minor initiatives related to forensic examinations, notaries and compulsory enforcement systems.
- 3) **E-justice Action Plan** is targeting creation of a common justice sector IT platform, e-judiciary (electronic submission and handling of criminal, civil, administrative and bankruptcy cases) and IT solutions for the prosecution and the MOJ and its subordinate institutions.

The APs have substantial level of detail (targets, baselines, verification means, etc), however, improvement in quality of the action plans and establishment of quantitative baselines is work in progress. The data collection mechanisms need to be further refined in order to provide an adequate level of data credibility. It is foreseen to establish a Coordinating Council chaired by the Minister of Justice and comprised of 15 members (including representative of Prime Minister office) to ensure efficient implementation and monitoring of the Strategy and APs.

The National **Strategy and Action Plan on Anti-Corruption Reforms for 2019-2022** was adopted on 3 October 2019. It focuses on a broad scope of issues in the fight against corruption, including through pro-active prevention and discouragement of corruption, effective disclosure and prosecution of corruption-related crimes, as well as a country-wide awareness-raising for changed public attitude and culture. Importantly, the Strategy links with the justice sector reform through the creation of a **specialized anti-corruption court** and specialized prosecution bodies (**Special Department on Anti-Corruption in Prosecutor General Office**).

The Development Strategy for **Penitentiary and Probation Services** was adopted on 27 November 2019 and aims at improvements in sanitary, health and food conditions as well as enhanced possibilities for side activities and employment possibilities for inmates inter alia through closing two old prisons and building a new facility. At the same time the Strategy

envisages further strengthening of resocialization programs including vocational trainings for beneficiaries of probation service.

The Government approved a new **Gender Strategy for the period 2019-2023** on 19 September 2019 based on comprehensive consultations. The Strategy has been welcomed by civil society and international organizations as it is far more concrete and identifies key gender policy priorities with a view to ensuring equal rights and opportunities for women and men and to implement Armenia's commitments to international obligations.

**The National Human Rights Strategy and Action Plan 2020-2022 was adopted by the Government in December 2019.** The Strategy outlines strategic directions and specific activities for implementation of political, civil, social and economic rights enshrined in the constitution and international instruments to which Armenia is a party. CEPA is highlighted as an important reference in promoting corresponding reforms.

#### **1.4 Stakeholder analysis**

The justice sector has a very broad set of stakeholders, and with the priority given to justice reform by the government, the spectrum is even broader. High level commitment to reform implementation is visible on all levels; however, *capacity of existing and newly established institutions to deal with challenging reform agenda is critical and requires reinforcement.*

The **direct stakeholders** of the justice sector are as follows:

**The Ministry of Justice (MoJ)** of Armenia is the main body responsible for the state policy development and implementation in justice sector, as well as for monitoring and evaluation of the policy.

**The General Assembly of Judges** is the self-government body of the judiciary.

**The Supreme Judicial Council (SJC)** is an independent state body comprised of judge- and non-judge members to guarantee the independence of courts and judges. The SJC is vested with the power to impose disciplinary sanctions against judges and members of the SJC for violations of the rules of judicial conduct prescribed by the Judicial Code. There is substantial need to build the capacity of SJC as main body entrusted with implementation of reform, in particular integrity checks.

**The Judicial Department (JD)**, according to the Judicial Code (Article 36) is a "staff of Supreme Judicial Council" responsible for ensuring the operation, logistical support to the judicial system, as well as in charge of collecting, maintaining and publication of judicial statistics and reports.

**The prosecutorial bodies** ("prosecution") headed by the Prosecutor General (PG), who is elected by the National Assembly for a six-year term, includes the central Office of the PG and province-level offices. The prosecutors instigate criminal prosecution, exercise oversight over the lawfulness of pre-trial criminal proceedings, defend a charge in court, appeal against the civil judgements, criminal judgements and decisions of courts, exercise oversight over the lawfulness of applying punishments and other coercive measures.

A **Specialized Anti-corruption Court is envisaged to be established** by the Anti-Corruption Strategy, as a measure to strengthen the role and the capacity of judiciary in addressing corruption crimes at the same time as contributing to the reduced workload of the courts. A

**Special Department on Anti-corruption** will be created within the Office of the Prosecutor General (SADPG) to deal with corruption cases.

**The Justice Academy** has a key role in organization and provision of trainings for applicants, candidate, as well as sitting judges, prosecutors, investigators, non-judge staff and state servants in the staff of the Prosecutor's office and for judicial bailiffs.

**National Assembly**, in particular, its Standing Committee on State and Legal Affairs, has a special role in taking on the legislative agenda of the anticipated reform, as the package of justice-related legislative amendments will be one of the most important and high-profile issues on the agenda of the incumbent Parliament (in particular Constitutional and electoral matters, transitional justice, etc)

**Civil Society Organizations** (CSOs) with the goal of ensuring the rule of law, protection of human rights, women's access to justice, discrimination and combatting gender based violence as well as good governance in general and the **Public Council** under the Ministry of Justice, which is providing expertise support and oversight of justice sector reforms, will play a **key role in monitoring the implementation** of the programme in the planned reform Steering Committee.

The **final beneficiaries** of the program are the Armenian citizens and the business community. They will benefit from reduced corruption leading to better economy and rule of law with far reaching multiplier effects such as a stronger and fair society, slowed rates of emigration and enhanced stability in the country.

## **1.5 Problem analysis/priority areas for support**

The two major challenges faced by the justice sector in Armenia pertain to the lack of trustworthiness of the judiciary and its limited capacity to administer justice in an efficient manner. The problems stem, primarily, from the long-term merger between the executive and judicial branches of power, restricting independence and impartiality of judges, and the subsequent limitations in transparency, fairness and accountability within the system. The situation is exacerbated by an insufficient number of judges, inadequate judicial system capacities and management systems that further impede effective and efficient administration of justice.

**Lack of the independence, integrity, accessibility and accountability** of judiciary is primarily connected with the shortcomings in the system for the appointment and disciplinary measures for the judges. In this regard, there is a need to ensure transparency and credibility of judges' appointment process, the need for the revision of the reasoning part for the written stage evaluation of candidate judges, revision of the interview procedure, evaluation criteria, introduction of the appeals procedure of the examination results, and the transparency of decision-making in general. Furthermore, the application of the **disciplinary liability procedure** of judges in practice identified some significant shortcomings that are envisaged to be addressed by the government reform policy. Last but not least, the **corruption in the judiciary remains an issue of systemic character**.



The Council of Europe published in 2017 a Court Users' Satisfaction Survey on the perceptions of court users, lawyers and advocates related to courts in Armenia<sup>11</sup>. It showed low trust in the justice system (with a particularly low score for courts of appeal and Court of Cassation grading on average 2.8 with 6 the max score) and low perceptions of speed of dealing with cases (with a particularly low average score of 2.5 for Yerevan first instance courts). The independence of judges emerged with a comparatively low satisfaction level especially in the capital city with score 4.1. Prosecutors' scores were also rather low in the survey (scored 2.4 for professionalism, 2.8 for attitude and politeness).

**Uncertainty of the substantive law and lack of predictability in judicial practice increase the risk of corruption.** At the same time, capacities and requirements for delivering well-reasoned judgements are not adequate. Lack of access to full information about the judicial proceedings and rulings further limits the predictability of the system for the citizens and reduces opportunities for public oversight of judiciary. Against this background, amendments<sup>12</sup> to civil and criminal law, capacity building for judges and opening up of information about judicial proceedings and rulings would relieve the judges of the potential undue pressure and promote certainty and predictability of judicial practice.

**The existing legal framework does not provide for an effective evaluation of integrity of judges and fails to prevent conflict of interest and illicit enrichment.** While, the judges and their immediate family members are obliged to declare assets annually, the regulation leaves room for concealing illegal income, as there are no mechanisms to detect the covert, allegedly wide-spread, engagement of judges in entrepreneurial activity. Furthermore, the evaluation of conflict of interest and political influence on judiciary has never been attempted. The Strategy on Judicial and Legal Reform envisages a system of integrity checks to be carried out across the entire judiciary. While a welcome development, the success of it will largely depend on good planning and a credible implementation that is transparent, well-justified and void of political influence.

**E-justice tools are not used sufficiently in addressing the needs for accessibility and transparency of judiciary.** In particular, the system of random case inscription and distribution requires substantive improvement<sup>13</sup> as it fails to secure against misuse or manipulation. Application of e-justice tools would also enhance the opportunities for public scrutiny and **monitoring of the judiciary**, building confidence in the system, making it more predictable.

**Alternative dispute resolution (ADR) mechanisms are underutilized.** Due to the lack of awareness and trust towards the new ADR institutes (the Arbitration, the Financial System Mediator Office, the Mediation Institute), these have not been as widely approached<sup>14</sup> by the citizens as it would be necessary for an effective reduction of the burden of the judiciary.

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<sup>11</sup> Court Users' Satisfaction Survey of all Courts of all Instances of Armenia, retrieved from <https://www.coe.int/en/web/cdcj/-/analysis-of-the-results-of-court-users-satisfaction-survey-of-all-courts-of-all-instances-of-armenia>

<sup>12</sup> For instance, the difference between the minimal and maximal terms of imprisonment of criminal sanctions should be narrowed, mandatory imposing of minimum or absolute penalties should be prescribed.

<sup>13</sup> The electronic system of inscription and distribution of cases to the judges was introduced in 2015.

<sup>14</sup> The number of cases handled by the arbitration court was over 8000 in 2018.

In order to promote the use of ADR, it is important to ensure independence of mediators, their adequate professional capacity and transparent procedure for their certification.

**Workload of Armenian judges persists as an overarching problem affecting the quality of judicial decisions and leading to protracted trials.** In 2017, Armenia had 234 judges in total, i.e. around 7.7 judges per 100,000 inhabitants as compared to the European average of 21<sup>15</sup>. In 2018, the workload of the Armenian civil trial judges amounted to around 1,858 civil cases per judge per year<sup>16</sup>. The Strategy on Judicial and Legal Reforms states the necessity of increasing the number of judges and judicial staff (the current number of 244 judges (240 are fulfilled positions); with additionally 25 specialised anti-corruption judges and 75 non-judge staff), as well as considers establishment of specialised Anti-Corruption courts, which will also contribute to the reduction of workload.

**Professional capacities of judges and those of judicial staff are often not sufficient.** This, in particular, concerns their skills in preparing clear, coherent, well-reasoned and justified rulings, as well as the inadequate level of familiarity with the ECHR case law and role of judges and prosecutors in ensuring gender equality in access to justice. This role is essential since equality in general cannot be achieved without equality in judicial protection. Thus, it is paramount to ensure continuous and advanced level of relevant training for judges, judicial staff and prosecutors.

**Strengthening the role of the judiciary in effectively combatting corruption** and ensuring adequate judicial response to the corruption crimes is another reform priority that needs to be addressed. In this context, establishment of a **Specialized Anti-corruption Court** (as envisaged by the Anti-Corruption Strategy 2019-2022), is a measure to provide for a more qualified review and adjudication, at the same time as reducing the workload of general courts. The government Strategy also envisages that the system for addressing corruption crimes will be bolstering the prosecutorial capacities, as well as by setting up a specialised standalone corruption investigative body, which, in addition to investigation of corruption crimes, will have a strong “operational hand” – the authority to conduct operational-search activities.

The wide circle of problems and the scope of the government-planned reforms point to the necessity of addressing the sector need in a comprehensive and systemic manner. This is attempted by the Programme, which will focus on an interlinked set of issues that ultimately serve building a stronger justice system able to ensure the rule of law and combat corruption. In the view of this, the **key directions of engagement** include support to building integrity and independence of judiciary, enhancing system and capacities for effective and efficient functioning of the system as well as strengthening the judicial response to the corruption crimes.

## **1.6 Other areas of assessment**

### **1.6.1 Fundamental values**

Overall, the reforms in the human rights sector in Armenia in recent years yielded visible progress, particularly in the area of administrative justice, criminalisation of torture, drafting the new Criminal Procedure Code and providing important safeguards of human rights

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<sup>15</sup> <https://rm.coe.int/armenia/16808d0248>

<sup>16</sup> In 2014 there were 90 civil judges in first instance courts.

protection in other pieces of legislation. The detailed elaboration of basically all civil, political, social, and economic human rights in the Constitution is also a step forward.

The EU and Armenia confirmed their readiness to continue implementation of the EU-Armenia Comprehensive and Enhanced Partnership Agreement (CEPA). After the December snap elections in Armenia, the expectations among Armenian citizens regarding the strengthening of democracy and the rule of law, fight against corruption and protection and enhancement of human rights are very high. The CEPA commits the EU and Armenia to strengthening respect for fundamental freedoms, the promotion of human rights and rule of law, strengthening cooperation on promoting gender equality and anti-discrimination, good governance and the strengthening the civil society.

The EU supported Human Rights Budget Support programme scales up assistance on human rights, in particular in the areas of enhancement of elections, torture and ill-treatment prevention, anti-discrimination, gender equality/ fight against domestic violence and child protection. The budget support operation is aligned to the government's Human Rights Strategy and Action Plan.

Overall concerns persist in terms of discrimination which is widespread both on societal and public administration level. Despite high-level commitment and formal strategy-level decision to regulate related matters, there is no standalone legislation defining and addressing discrimination practices. Level of domestic violence remains high. A nationwide survey carried out in 2011 revealed that 59.6% of the respondents had been subjected to domestic violence out of which almost 40% had suffered violence during the past two years.<sup>17</sup> The law on “Preventing violence in the family, protecting the victims of violence in the family, and restoring harmony in the family” was adopted in 2017, however relevant mechanisms to enforce the law are still to be developed and implemented. Gender equality is also area of great concern just as implementation and enforcement of existing laws, including in the area of children's rights remains inadequate.

### **1.6.2** *Macroeconomic policy*

Following the recovery in 2017 as a result of improved external environment, the Armenian economy continued to perform well in 2018<sup>18</sup>. Activity continued to expand, albeit at a more moderate rate than in 2017, with the GDP growth slowing down to 5.2% versus the decade-high 7.5% in 2017. The continued economic growth was achieved primarily due to increase in private investment (22.4% of GDP in 2018 versus 19% in 2017) and recovery in remittances in 2017-2018. The manufacturing, service and trade sectors were the main drivers of growth while the agriculture and mining sectors contracted. Growth momentum was maintained in early 2019 with a 6.5% increase in GDP in the first quarter.

These trends are expected to continue in 2020 and over the medium-term, but at a more moderate rate. Based on the latest IMF assessment, the real GDP growth projection for 2020 is expected to be 4.8%. The assessment is based on the current estimates of potential for growth, without considering the effect of planned reforms, given the uncertainties.

The new Government has embarked on a path of growth friendly fiscal consolidation aiming to bring the level of public debt below 50% in the medium term supported by the new fiscal

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<sup>17</sup> Proactive Society and OSCE (2011)

<sup>18</sup> The majority of data in this chapter is drawn from the following source: *IMF Country Report No. 19/15, June 2019* and *European Commission, EU Eastern Neighbourhood Countries, Economic Overview, April 2019*

rule. The authorities are committed to keeping the fiscal deficit within 2% by restraining non-priority expenditures and enhancing revenue mobilization. There is continued commitment to protecting social expenditures to tackle poverty and develop human capital.

A tax reform package has been developed and approved by the National Assembly, aimed at boosting export-oriented inclusive growth. The key reform measures include lowering personal and corporate income tax rates and flattening of personal income tax, simplifying special tax regimes and cancelling the planned reduction of the turnover threshold for VAT payment. In addition, a series of measures for further strengthening of tax administration have been adopted by the State Revenue Committee, to be implemented over the period 2020-2022. The revisions to the tax code will come into effect in 2020.

Public debt declined in 2018 to 55.8% from 58.9% in 2017, to a level below the 2016 actual (56.7%). This trend is expected to persist in the medium-term horizon, as the government sticks to its fiscal consolidation policy. According to the IMF assessment, the Government's intention to bring the public debt below the threshold of 50% of GDP might not be achieved by 2023. However, the actual debt level is expected to be close to the target, projected at 50.1% of GDP.

### **1.6.3** *Public Financial Management (PFM)*

The Armenian authorities have been implementing an ambitious and comprehensive PFM Reform agenda. The new PFM reform strategy 2019-2023 and action plan which were adopted in November 2019 aim to continue reforms across all areas building on results achieved. The strategy was informed by a comprehensive assessment of the situation and residual weaknesses, resulting in a review of previous ambitious targets for some areas. Thus, the target for the preparation of consolidated financial statements in 2020 was reconsidered, with the new strategy envisaging preparation of consolidated financial reports only at the level of ministries by 2023. The new strategy also recognizes the need to establish an effective Public Financial Internal Control (PFIC) framework to enable effective functioning of internal audit.

On the basis of the recently adopted PFM Reform Strategy 2019-2023 the Government of Armenia has established a formal PFM donor coordination platform. The first meeting in full participation took place in January 2020. There is full commitment by the EU, WB, IMF, ADB to support the implementation of the PFM Reform Strategy in Armenia.

The currently ongoing EUR 10 million Public Finance Policy Reform financing agreement sets out specific conditions and targets for a number of core areas of the PFM reforms (policy-based budgeting, public procurement, external budget oversight and audit,) as well as budget transparency (specifically, citizens' budget). At the request of the Government of Armenia, the gender sensitive budget target for 2018 was postponed to the next year.

The EU has already started the discussions regarding the new PFM-oriented action which is foreseen to come into effect in 2021/2022.

### **1.6.4** *Transparency and oversight of the budget*

There have been notable improvements in budget transparency and oversight in the recent years due to a number of legislative and process changes, as well as improvements in the structure, content and presentation of budget documents. These improvements relate primarily, but not solely, to progress in Programme Budgeting implementation. Following the amendments passed by the National Assembly in December 2018, the Budget System Law

now contains mandatory requirements for the production and presentation of performance-related information in budget documents. In the meantime, reform efforts continued at good pace in 2019. Programme-based approach was fully institutionalized in the 2020-22 MTEF/budget process. For the first time, MTEF/budget bids were published on ministry web sites and consultations were held with NSAs relating to the expenditures strategies and plans.

In PFIC and internal audit, the gap analysis of the existing financial control system was finalized. The piloting of the system-based internal audit manual and methodology for the assessment of the internal audit function in public entities was completed. MoF trained 226 certified professionals involved in public sector internal audit.

In terms of external oversight, the Audit Chamber (AC) conducted financial and compliance audits based on ISSAI for three areas and performance audits for five areas for fiscal year 2018. A public accounts and audit sub-committee (PAASC) within the Standing Committee of NA on Financial, Credit and Budgetary Affairs was set up March 2019 and is fully functional.

Legislative requirements for budget oversight have strengthened due to the Constitutional amendments of 2015. This has been supported by the establishment of the Budget Office in the Parliament and the formation of public accounts sub-committee within the Standing Committee on Financial, Credit and Budgetary Affairs.

The new PFM Reform Strategy for 2019-2023 addresses the remaining gaps and weaknesses. This will include, inter alia, further measures to strengthen the practical arrangements for Program Budgeting implementation, strengthening the capacity of the National Assembly budget office to deliver quality analytical services to MPs and National Assembly Committees and measures to improve the SNCOs accountability framework.

## 2 RISKS AND ASSUMPTIONS

<b>Risks</b>	<b>Risk level (H/M/L)</b>	<b>Mitigating measures</b>
1. Lack of political commitment	L	With the change of government, strong political commitment to reforms is present. Further efforts will be made in maintaining the same level of commitment for implementation of reforms.
2. The reform is very ambitious and covers broad areas, the implementation and monitoring capacity of the Ministry of Justice (MOJ) and sector institutions is limited. This may result in slow or only partial implementation of the reform.	M	The complementary TA (to be employed in Q4 2020) under this action will provide assistance to strengthen implementation and monitoring capacities in key sector institutions, primarily the MOJ. In addition, well targeted donor coordination activities initiated by the MoJ will maximize the benefits through enhancing the monitoring and evaluation capacity of the sector institutions.
3. The implementation of the integrity	H	Snap recruitment procedures of new judges

checks process for judges may, based on experience from other countries, result in a drastic reduction in the number of existing judges. The same may happen in case of prosecutors. In that case the issues with backlog in courts could be exacerbated, even with efficiency gains produced by the reforms.		and prosecutors is planned. International involvement to observe/monitor was requested by the MOJ and will be ensured. Initial radical vetting measures have been replaced with a more balanced approach allowing clearing the system within the existing legal instruments and established institutions. Move fast on implementing alternative resolution mechanisms to alleviate the courts, e.g. administrative complains boards.
4. Politicisation of the integrity testing and organised opposition of the judiciary.	M	The amendments to the Judicial Code introduce mechanisms/procedures for integrity checks that will be performed by Supreme Judicial Council based on transparent procedures void of political influence
4. Weak cooperation in the sector may jeopardize the strategy implementation.	M	The MOJ has taken up a leading role in sector coordination with necessary support from the Prime Minister office. It is planned to support the MOJ and the sector institutions in developing relevant sub-sector and institutional strategies. Important to engage with civil society to ensure public awareness of reforms and proper dissemination of results.
5. The controversy around the Constitutional Court could likely become an obstacle to the future of reform efforts. It is also theoretically possible to have a situation when the Constitutional Court does not approve draft amendments to the Constitution because of non-compliance with the Constitution.	H	1. Opinion of a Government Legal service to ensure constitutionality of legal or other reform measures. 2. To have a fully or to the most extent participatory involvement of all stakeholders (the judiciary especially from Constitutional court) to ensure sense of judiciaries' ownership, ensure not only compliance to European standards but also evidence-based substantiation to prevent resistance/rebuff by the Constitutional Court.
<b>Assumptions</b>		
<ul style="list-style-type: none"> <li>- The Government maintains the necessary political will to undertake the reforms;</li> <li>- The Judiciary, the Ministry of Justice and civil society will be cooperative, and will have aligned goals for reaching higher degrees of independence and accountability of the judiciary, increasing the efficiency and implementing e-justice solutions;</li> <li>- The Judiciary will be willing to implement the necessary e-justice solutions, aimed at decreasing the workload of judges and increasing transparency of proceedings.</li> </ul>		

### 3 LESSONS LEARNT AND COMPLEMENTARITY

#### 3.1 Lessons learnt

An EU financed thematic Evaluation of EU Support for Rule of Law in Neighbourhood Countries and Candidates and Potential Candidates of Enlargement (2010-2017), assessment of the impact of past reform Strategy 2012-2016 highlight key lessons learnt and recommendations to avoid problems encountered under the past reform agenda. Based on this and EU/COE joint assessments of the new strategic policy documents, the main conclusions in this respect are:

- the adoption of necessary legislation has to be followed by **effective implementation**. Thus, more focus and efforts should be dedicated to implementation, analysis/review, and monitoring of implementation of reforms and relevant legislation;
- the need to have better **sequencing** and **prioritisation** in implementation of reforms
- the need to strengthen sector management capacities (financial management and budgeting practices) across the institutions. Efficient **financing and managing the workload** will be crucial in the successful implementation.
- **Overall governance** needs to be elaborated in detail, including how to avoid undue politicisation. In this respect, ownership from all key institutions and efficient coordination is indispensable.
- In particular, more focus should be put on increasing **Ministry of Justice (MoJ) institutional capacity** in leading the reform agenda, coordination, monitoring and evaluation of the implementation progress of the Reforms Strategy and the Action Plans.
- The **capacity and integrity of the Supreme Judicial Council** and the **Commission for Prevention of Corruption** are essential pre-requisites for the success of the justice reforms. Capacity building efforts to ensure readiness of the institutions to take up reforms are needed.
- The more detailed Programming of the Sector reforms implementation should start as early as possible, and be an inclusive exercise from both sides.

The proposed indicators will be built on these lessons learnt and future targets will be based on the baselines identified.

#### 3.2 Complementarity, synergy and donor co-ordination

The **EU-Armenia Strategic Policy Dialogue in Justice Sector** launched in September 2018 has now become a unique format of coordination with all international partners (including the Council of Europe, the World Bank, UNDP et al.) and Armenian civil society, business community and think tanks.

**On sectoral level**, the MoJ is responsible for international cooperation and coordination of assistance which takes place in the format of regular sectoral meetings. The meetings are chaired by the Minister of Justice who shows high level of commitment.

The **EU leads the donor coordination** and holds informal coordination meetings regularly with participation by all Development Partners (DPs). Programme documents and studies are shared and thematic discussions around recent developments in the Justice and Anti-Corruption reforms are permanently conducted. In January 2020 Joint Messages on Justice and Anti-corruption were revised and agreed with development partners in the framework of this coordination.

**Cooperation with CoE** takes place under the framework of Partnership for Good Governance (PGG) in the areas of judiciary reform, criminal justice, anti-corruption as well as enhancing profession of lawyer and better access to justice for women. Complementarity of actions is ensured through regular Steering Committee meetings and bilateral exchange.

Armenia is taking part in the **Regional Justice Survey implemented by the World Bank** in the countries of the Eastern Partnership and the Western Balkans (funded by the EU). The project is expected to deliver results by early 2020. The survey is expected to reveal perceptions and experiences with the justice system related to efficiency, fairness, integrity, access and quality, and will help to monitor progress and to steer reform efforts (as well as donor support) for increased effectiveness on the ground.

Furthermore, the EU funded **Functional Review** which will be conducted by the WB will also be a basis for the interim review of the Judicial and Legal Strategy actions and will feed a possible second phase of the EU Sector Reform Support Programme. A Working Group to develop a framework for functional review, support the process of review, and formulate concrete recommendations on the judicial and legal system reforms based on the results of the review was set up by the Decree of the Minister of Justice on 29 October 2019.

A grant project "**Consolidation of Justice System in Armenia**" will start implementation in the beginning of 2020. The scope is to provide comprehensive support to implementation of the justice reform and the institutions involved by strengthening the independence, transparency, efficiency, accountability and public trust in the Armenian justice system in line with the EU best practices.

In parallel to bilateral support, **a number of complementary actions implemented by civil society organisations** will be funded by the EU. An upcoming EIDHR call will include 'court monitoring' and other justice sector complementary actions just as it is expected that the CEPA Civil Society Toolbox funded through the Annual Action Programme 2019 for Armenia will include monitoring of reforms in the area of justice, elections, labour rights etc.

Cooperation with the UNDP will be framed around both the Justice Reforms Strategy and the Anti-Corruption Strategy targeting education and awareness raising components of both strategies, the RA international commitments with the UNCAC, capacity building activities for judicial and anti-corruption institutions, as well as the e-justice sector which will not be covered by the EU support.

The cooperation with the US Government/ International Narcotics and Law Enforcement (INL) is developed in the field of the Anti-corruption law enforcement institutions and related activities. Armenia is also partnering with the OSCE mainly in anti-corruption related activities for Corruption Prevention Commission.

## **4 DESCRIPTION OF THE ACTION**

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

**The Overall objective** is to enable the justice sector in Armenia to effectively ensure rule of law and combat corruption.

**The Specific Objectives are:**



1. **To strengthen the independence, integrity and accountability within the justice system**
2. **To bolster the service delivery and performance of the justice system**
3. **To strengthen judicial response to corruption**

The **induced outputs** of this intervention are the following:

- I 1. Improved transparency and accessibility of the justice system
- I 2. Improved alternative dispute resolution mechanisms resulting in backlog reduction
- I 3. Increased professionalism of new AC judges selected with International experts' engagement

At **output level** (direct outputs), the assistance will contribute to:

**SO 1: To strengthen the independence, integrity and accountability within the justice system**

- 1.1 Increased level / number of **integrity checks** by CPC/SJC
- 1.2 Increased professionalization of the judiciary through implementation of revised evaluation and selection procedures in line with European Standards
- 1.3 Implementation of transitional legal measures to compensate the possible decrease in the number of judges (recruitment)

**SO 2 To bolster the service delivery and performance of the justice system**

- 2.1 Revision of legislation and procedural codes in line with European standards targeting backlog reduction
- 2.2 Increased professionalization of the judicial system through targeted and continuous trainings
- 2.3 Introduction of new E-Justice tools and increased use of simplified procedures
- 2.4 Strengthened reporting/monitoring mechanisms and availability of reliable statistics systems

**SO 3 To strengthen judicial response to corruption**

- 3.1 Establishment of fully functioning and adequately staffed specialized Anti-Corruption court
- 3.2 Establishment of fully functioning and adequately staffed anti-corruption specialized department in the Prosecutor General's Office (SADPG)
- 3.3 Revised training curriculum and provision of continuous trainings
- 3.4 Increased professionalism of the judiciary in the area of anti-corruption

At **input level**, the transfer of budget support funds will enable the government to improve the financial capability to undertake the Justice sector and interlinked anti-corruption policy objectives and implementation. Also, the policy dialogue and focus on improved sector coordination will contribute, among others, to better follow up of policy implementation and improve sector monitoring and evaluation. Technical Assistance will support the reform implementation, enhanced communication and awareness raising, enhanced data collection mechanisms for regular monitoring and compliance review of the reform progress.

## **4.2 Intervention Logic**

The **intervention logic** of this action intends to capture the interactions and the combined effects of the sector reform performance contract and the enhanced policy dialogue ongoing in the field. Developmental risks of government effectiveness are mitigated under the inputs of the contract such as regular monitoring of reform implementation, policy dialogue at technical and political levels, and financial and technical inputs. The impact sought by the present intervention is to enable good governance practices and set a solid basis for effective rule of law. Particular attention will be paid to assessing and enhancing the data collection mechanisms in the justice sector for better evidence based policy making, an accurate monitoring and reporting and indirectly towards more public accountability.

The action will work on improving the enabling environment by targeting first the effective roll out of the integrity check system introduced by the new government. This will contribute to increased accountability of the judiciary, and prosecutorial bodies as one contributing element in the mitigation of corruption risks within the system. Technical assistance in policy development and capacity building, at the same time, will aim to increase the professionalization of the sector. Enhancing the application of e-justice and of alternative dispute resolution mechanisms are two other systemic enablers that will contribute to an improved effectiveness and efficiency of the justice sector, by reducing backlog and fostering timely adjudication. One of the main outputs expected by this contract, the establishment of the specialized anti-corruption court and of the Special Department on Anti-corruption within Prosecutor General Office are expected to exercise a mandate and the capacity of the judiciary in addressing corruption crimes while at the same time contributing to the reduced workload of the courts. All of the above are expected to contribute to boosting the country's development, reducing corruption, enhancing public trust in the system and contributing to the overall stability of the country.

## **4.3 Mainstreaming**

Environment and climate change are not directly targeted with this action. However, through improvement of the rule of law situation these areas can be expected to see considerable improvements over time. The business climate is directly targeted through the anti-corruption measures and through the support to improved bankruptcy legislation and mechanisms. Gender equality and access to justice for vulnerable groups are direct outcomes of the improved rule of law and enhanced efficiency of justice administration. When available, gender disaggregated data, as well as urban-rural populations (as an indicator for access to justice services) will be sought to monitor the equitable access to justice or be part of the matrix of performance indicators triggering disbursements.

## **4.4 Contribution to Sustainable Development Goals (SDGs)**

This intervention is relevant for the United Nations 2030 Agenda for Sustainable Development. It contributes primarily to the progressive achievement of SDG 16 Peace and Justice, strong institutions. However as mentioned it will also contribute more indirectly to Goal 5, Gender equality and Goal 8 Decent work and Economic Growth and it will underpin achievement of many of the other goals through improved rule of law.

## 5 IMPLEMENTATION

### 5.1 Financing agreement

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

### 5.2 Indicative implementation period

The indicative operational implementation period of this action, during which the activities described in section 4 will be carried out and the corresponding contracts and agreements implemented, is 36 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 Decision and the relevant contracts and agreements.

### 5.3 Implementation of the budget support component

#### 5.3.1 *Rationale for the amounts allocated to budget support*

The amount allocated for the budget support package is EUR 30 Million, which includes EUR 3 million for complementary technical assistance support. These amounts are based on combination of factors a) costing of the strategy; b) financing gap; c) assessed level of national funding sufficiently encouraging to support continuity of reforms. The overall cost estimate for the implementation of reforms along with sector allocations in 2019-2023 is **EUR 390.7 million** of which **EUR 343.3 million** is foreseen to be covered by the Government based on 2019 State budget and foreseen allocations in the current MTEF 2020-2022. The financing gap, therefore, amounts to **EUR 47.5 million**<sup>19</sup>.

**MTEF 2021-2023 to be adopted in July/August** will in addition reflect the costs of reforms in amount of EUR 47.5 million as well as how the reforms will be sustained further by state budget.

There are a number of financial sustainability issues resulting from the changes in legislation as well as in the institutional structure of the justice and anti-corruption system, leading to the creation of new institutions and enhancing of the status of the actors of the justice system, mainly judges and prosecutors, by setting up new salary schemes and other benefits and guarantees. New staff hires, special salary scheme for anti-corruption judges and prosecutors and their staff, as well as costs for new IT system create an ongoing burden to the state budget.

The Table below presents allocations per sector institutions under 2019 annual state budget and 2020-2022 MTEF\*.

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<sup>19</sup> EUR 47.5 million of total reform cost consists of EUR 16.1 million for the Anti-Corruption strategy measures (establishment and equipment of the Court, as well as staffing for the ACC, CPC and a specialized unit at PGO) and EUR 31.4 million for the Judicial reform strategy measures. The latter covers EUR 11.5 mln for the e-justice, EUR 9.9 million for capital investments in judiciary infrastructure, EUR 4.2 mln additional salaries that is necessary to increase the number of judges from current 240 to app. 360 (and their staff) and EUR 5.3 million for constitutional reforms. (the remaining EUR 0.5 million is intended for various trainings for the judges, their staff, prosecutors, SJC members etc.).

	2019	2020	2021	2022	2023*	Total
<b>TOTAL FOR JUSTICE SECTOR, of which:</b>	<i>65,851.4</i>	<i>66,733.2</i>	<i>72,688.4</i>	<i>70,941.6</i>	<i>67,055.4</i>	<b>343,270.0</b>
Ministry of Justice	<i>32,160.2</i>	<i>32,594.3</i>	<i>32,757.7</i>	<i>32,910.7</i>	<i>32,910.7</i>	<b>163,333.6</b>
Supreme Judicial Council	<i>23,537.4</i>	<i>23,728.9</i>	<i>29,149.1</i>	<i>27,099.3</i>	<i>23,213.1</i>	<b>126,727.8</b>
Prosecution	<i>10,153.8</i>	<i>10,410.0</i>	<i>10,781.6</i>	<i>10,931.6</i>	<i>10,931.6</i>	<b>53,208.6</b>

\*2023 allocations are **estimates** (since the current MTEF covers only 2020-22) to be equal to recurrent expenditures of 2022 to exclude the impact of capital expenditures in 2022.

The budget support amount is justified based on the planned expenditures in the MTEF and the financing gap of the envisaged reforms. The below table details the reform components for which the Government needs to mobilize additional resources to implement these reforms.

<b>Budget for reform components (Justice and Anti-corruption)</b>						
Component	2019	2020	2021	2022	2023	Total
1. Governance	<i>47.9</i>	<i>54.5</i>	<i>5,323.2</i>	<i>0.0</i>	<i>0.0</i>	<b>5,425.6</b>
2. Anti-Corruption Court	<i>3,668.0</i>	<i>2,845.2</i>	<i>3,072.4</i>	<i>3,351.1</i>	<i>3,145.7</i>	<b>16,082.4</b>
3. Judicial efficiency and transparency	<i>0.0</i>	<i>3,516.1</i>	<i>12,880.9</i>	<i>7,258.0</i>	<i>2,307.2</i>	<b>25,962.2</b>
<b>Total</b>	<b>3,715.9</b>	<b>6,415.8</b>	<b>21,276.5</b>	<b>10,609.1</b>	<b>5,452.9</b>	<b>47,470.2</b>

The amount of EUR 30 million of EU budget support would thus provide a financial input to the treasury for securing the full fiscal space for the implementation of the reforms. The remaining costs are expected to be absorbed by the treasury.

### **5.3.2 Criteria for disbursement of budget support**

a) The general conditions for disbursement of all tranches are as follows:

- Satisfactory progress in the implementation of Armenia's Strategy on Judicial and Legal reforms and related action plans 2019-23 as well as the Anti-corruption strategy 2019-2022.
- Maintenance of a credible and relevant stability-oriented macroeconomic policy;
- Satisfactory progress in the implementation of reforms to improve public financial management;
- Satisfactory progress with regard to the public availability of accessible, timely, comprehensive and sound budgetary information.

b) The performance indicators for disbursement that may be used for variable tranches are indicatively as follows:

- I. Number of judges and prosecutors who were subject to integrity checks;
- II. % in reduction of judicial backlog;
- III. % of judges and prosecutors subject to evaluation and pre-defined selection procedures;
- IV. % of judges certified and meet test requirements;
- V. The ACC is functional (has a formal mandate, is staffed and multi-annual budget);

- VI. The SADPGO is functional (has a formal mandate, is staffed and multi-annual budget);
- VII. % of cases processed through the e-justice system.

The chosen performance indicators and targets to be used for disbursements will apply for the duration of the action. However, in duly justified circumstances, the Government of Armenia may submit a request to the Commission for the targets and indicators to be changed.

Note that any change to the targets should be agreed ex-ante at the latest by the end of the first quarter of the assessed year. The agreed changes to the targets and indicators shall be agreed in advance and may be authorised in writing (through an amendment to the financing agreement, which may be done through an exchange of letters).

In case of a significant deterioration of fundamental values, budget support disbursements may be suspended, reduced or cancelled, in accordance with the relevant provisions of the financing agreement.

### **5.3.3 Budget support details**

Budget support is provided as direct untargeted budget support to the national treasury. The crediting of the euro transfers disbursed into Armenian dram will be undertaken at the appropriate exchange rates in line with the relevant provisions of the financing agreement.

The full budget support amount is split in three annual tranches of equal size to be disbursed in 2020, 2021 and 2022 respectively, the first one with a fixed tranche only and the two following ones with a fixed part of 40% and a variable part of 60%.

### **5.4 Implementation modalities for complementary support to budget support.**

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<sup>20</sup>.

Complementary assistance in the form of capacity building will aim at: i) strengthening the capacities of the Ministry of Justice as coordinator and other institutions of the justice sector for monitoring and reporting on the implementation via the monitoring structure, including by assessing and refining data collection mechanisms, ii) Provide policy advice and strengthen the capacities of the institutions of the justice/anti-corruption sector, in particular of the newly established/reformed bodies; iii) strengthen cooperation with other stakeholders such as anti-corruption bodies and law enforcement agencies as well as support policy dialogue with civil society organizations, think tanks, development partners, to contribute to the reform implementation; iv) supporting and providing capacity building for e-justice introduction; v) Independent review of programme implementation and communication / visibility; v) Contingency reserve for flexible ad-hoc TA support across the relevant subject areas.

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<sup>20</sup>

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

### 5.4.1 Procurement (direct management)

The procurement will provide relevant expertise and program management and monitoring capacities. This support is estimated to be necessary for the successful implementation of the justice reforms and to ensure consistent capacity building of relevant implementing institutions. The data collection mechanisms need (i) to be further refined in order to provide an adequate level of data credibility that will justify disbursement and (ii) to ensure the cross-check of the domestic mechanisms and credibility of the national documentation provided as evidence justifying payment.

## 5.5 Scope of geographical eligibility for procurement

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.

## 5.6 Indicative budget

	<b>EU contribution (EUR)</b>
<b>Budget support-</b> cf section 5.3	27 000 000
<b>Procurement – total envelope</b> under section 5.4.1	2 500 000
<b>Evaluation</b> (cf. section 5.9)	250 000
<b>Audit/ Expenditure verification</b> (cf. section 5.10)	
<b>Communication and visibility</b> (cf. section 5.11)	250 000
<b>Contingencies</b>	
<b>Total</b>	30 000 000

## 5.7 Organisational set-up and responsibilities

The implementation of the Justice Reform Strategy and the component in the Anti-Corruption Strategy supported by this action will be overseen and coordinated by the MOJ. The relevant three action plans of the Justice strategy and the Anti-Corruption strategy indicate for each activity which institution will be responsible for implementation.

Oversight of the overall programme will be entrusted to a Steering Committee chaired by the Minister of Justice of the Republic of Armenia. Among others, the Steering Committee will include the Deputy Prime Minister's office, the Ministry of Finance, the EU Delegation, representatives of all key sector institutions involved in the implementation of this programme (Supreme Judicial Council, Justice Academy, etc) and representatives of relevant non-state actors (Public Council under the Ministry of Justice). This set up will ensure a structured policy and technical dialogue and close coordination among all stakeholders during implementation.

The Committee will meet at least once a year to review the progress made and decide on any proposed modification to the programme.

In addition, this programme will be discussed at the annual EU Budget Support Governance Board. This process should result in strengthening the coordination between Government, the donor community and non-state actors in this area.

## **5.8 Performance and Results monitoring and reporting**

Apart of the action plans, which contain annual milestones for reform program implementation, a number of performance indicators derived from the policy's priorities with relevant outcome indicators will be established for the government and partners to follow the outcomes and impact of the reforms. The credibility and reliability for each of the indicators selected will be captured in the Appendix 1 to Technical and Administrative Provisions (TAPs).

To secure close monitoring of implementation, especially of progress against tranche performance targets, a technical working group (WG) will be established. This WG will meet semi-annually, be chaired by the MOJ and have participants by the relevant sector institutions, civil society representatives and the EU. The TA team contracted by the EU will support the work of this WG. WG members will be responsible for briefing WG members of reform progress within their field and for reporting progress against budget support tranche targets.

The statistical data collection will be coordinated by the MOJ, while the relevant institutions will be responsible for data collection. With the development of the e-justice system, statistical data capacities are planned to substantially improve. TA will be provided to align sector statistics according to CEPEJ recommendations.

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 partner's strategy, policy and reform action plan.

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

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

## **5.9 Evaluation**

Having regard to the importance of the action, a final evaluation will be carried out for this action or its components via independent consultants.

It will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that the reform is innovative in its nature, include substantial changes to the existing legal systems and that continued support is anticipated for completing the transition of Armenia's justice system to European standards.

The evaluation may be performed individually or through a joint strategic evaluation of budget support operations carried out with the partner country, other budget support providers and relevant stakeholders.

The Commission shall inform the implementing partner at least 2 months in advance of the dates foreseen for the evaluation mission(s). The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

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

Evaluation services may be contracted under a framework contract.

#### **5.10 Audit**

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

It is foreseen that audit services may be contracted under a framework contract.

#### **5.11 Communication and visibility**

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

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

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country (for instance, concerning the reforms supported through budget support), contractors or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement and procurement contracts. Apart of the action plans, which contain annual milestones for reform program implementation a passport of indicators with relevant outcome indicators will be established for the government and partners to follow the outcomes and impact of the reforms.

The Communication and Visibility Requirements for European Union External Action (or any succeeding document) shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

It is foreseen that a contract for communication and visibility may be contracted under a framework contract.



**APPENDIX – INTERVENTION LOGIC TABLE -**

	<b>Results chain</b>	<b>Indicators (max. 15)</b>	<b>Baselines (2019)</b>	<b>Targets by the end of the budget support contract (2023)</b>	<b>Sources of data</b>
<b>Expected impact of the policy (Overall objective)</b>	<b>The Overall objective</b> is to enable the justice sector in Armenia to effectively ensure rule of law and combat corruption.	Rank in Judicial Independence Global Competitiveness Index	Ranked 85 of 140 countries	At least 8 points improvement	WEF
		WB Governance indicator Rule of Law	44.23 (2017)	10% improvement	World Bank Good Governance Indicators <a href="http://info.worldbank.org/governance/wgi/index.aspx#home">http://info.worldbank.org/governance/wgi/index.aspx#home</a>
		World Bank Regional Justice Survey	TBD (2018)	TBD	World Bank Regional Justice Survey and the World Bank Functional Review
		Transparency International, Corruption Perceptions Index	42	55	Transparency International, Corruption Perceptions Index
<b>Expected outcomes of the policy (Specific objective(s))</b>	<b>1. To strengthen the independence, integrity and accountability within the justice system</b>	COE perception survey data on Judges independence and corruption <sup>21</sup> .	<i>Independence – 4.2</i> <i>Impartiality – 4.4</i> <i>Professionalism – 4.7</i>	<i>Independence – 4.7</i> <i>Impartiality – 4.9</i> <i>Professionalism – 5</i>	World Bank Functional Review
	<b>2. To bolster the service delivery and performance of the justice system</b>	% of backlog reduction measured for civil and administrative cases in 1st instance and administrative courts as well as appeal courts	- 45.177 (First Instance Civil Court Cases) - 5.348	At least 40% in all cases	SJC Annual Report/Judicial Department Statistics CEPEJ report

<sup>21</sup> Analysis of the Results of Court Users’ Satisfaction Survey of all Courts of all Instances of Armenia, retrieved from <https://www.coe.int/en/web/cdcj/-/analysis-of-the-results-of-court-users-satisfaction-survey-of-all-courts-of-all-instances-of-armenia>

	Results chain	Indicators (max. 15)	Baselines (2019)	Targets by the end of the budget support contract (2023)	Sources of data
		respectively  % of clearance rate increased for civil and administrative cases in 1st instance and administrative courts as well as appeal courts respectively	(Administrative Court Cases)		
	<b>3. To strengthen judicial response to corruption</b>	Number of specialised institutions mandated with fighting corruption in the judicial system	0	2	Annual Reports of SJC, ACC and General Prosecutor's Office
<b>Induced outputs</b>	I.1 Improved transparency and accessibility of the justice system	<p>a) % of up to date information on court cases prescribed by the law to be available online for the public on Datalex and/or court.am</p> <p>b) %/number of public defenders</p> <p>c) 50 % of cases processed through the e-justice system</p> <p>d) No of administrative disputes subject to simplified procedures in Administrative Court;  No of administrative cases adjudicated through simplified procedures</p>	<p>a) No systematic, user-friendly publication of all court cases is in place</p> <p>b) 54 public defenders</p> <p>c) 0%</p> <p>d) 0</p>	<p>a) 80%</p> <p>b) 20% increase in the number of public defenders or 65 Public defenders</p> <p>c) 50%</p> <p>d) 2000</p>	<p>Court.am; Datalex.am/expert opinion</p> <p>Chamber of Advocates and Office of Public Defenders</p> <p>MOJ records, SJC Annual Report/Judicial Department Statistics</p>

	Results chain	Indicators (max. 15)	Baselines (2019)	Targets by the end of the budget support contract (2023)	Sources of data
	I.2 Improved alternative dispute resolution mechanisms resulting in backlog reduction	<p>a) % or number of civil cases (separate numbers) being handled through ADR</p> <p>b) % of <b>backlog</b> reduction measured for cases in 1<sup>st</sup> instance Civil Court and Administrative Courts</p> <p>c) % of reduction of civil and administrative cases, including claims and applications submitted to the Civil and Administrative courts</p>	<p>a) 8425 (total number of cases in the Arbitration Court for 2018<sup>22</sup>)</p> <p>b) 45.177 (backlog of 1<sup>st</sup> Instance Civil Court and 5.348 (backlog of Administrative Court)</p> <p>c) 13.909 (Total number of Administrative cases, including claims and applications) - 84.337 (Total number of Civil cases, including claims and applications)</p>	<p>a) 50% increase</p> <p>b) 30% decrease in the <b>backlog</b> in the 1<sup>st</sup> Instance Civil Court and Administrative Court</p> <p>c) 30% decrease in the number of civil and administrative cases, including claims and applications submitted to Civil and Administrative courts</p>	SJC Annual Report/Judicial Department Statistics, CEPEJ data
	I.3 Increased professionalism of new AC judges selected with International experts' engagement	<p>Rate (%) of judges appointed in the Anti-Corruption Court and Appeal court subject to integrity checks performed with international experts' engagement</p> <p>Extent to which the appointment process in the SJC follows international best practices</p>	<p>a) 0</p> <p>b) Non applicable. The SJC needs to be established.</p>	<p>A) 100%</p> <p>b) International best standards for appointment procedures are applied.</p>	External experts qualitative review
<b>Direct output re specific objective 1: To</b>	1.1 Increased level/number of <b>integrity</b>	Rate of implementation of the integrity and declaration check	Existing integrity check system is inadequate;	1.1 a) 100% of SJC members in position,	Annual Reports of SJC, ACC, GPO/CPC/Expert opinions,

<sup>22</sup> Data provided by the Judicial Department shows steady increase in the number of cases adjudicated by Arbitration Court, in 2016 there are only 2138 cases in contrast to 8425 cases in 2018. However, data on mediation cases is not available.

	<b>Results chain</b>	<b>Indicators (max. 15)</b>	<b>Baselines (2019)</b>	<b>Targets by the end of the budget support contract (2023)</b>	<b>Sources of data</b>
<b>strengthen the independence, integrity and accountability within the justice system</b>	<b>checks</b> by CPC/SJC	of judges and prosecutors	perception of high levels of corruption between judges	specialised anti-corruption court judges, GPO anticorruption specialized department (SADPG) prosecutors and candidate prosecutors gone through new integrity check system  1.1b) 70% of sitting judges (declaration check)	Venice Commission opinions
	1.2 Increased professionalization of the judiciary through implementation of <b>evaluation and selection</b> procedures revised in line with European Standards	1.2.a) ) Status of procedures/system of initial evaluation and selection procedures for judges  1.2.b) % of new appointments done based on new evaluation and selection procedures	1.2a) Existing systems/procedures need to be updated as those are not in line with European standards (experts' opinion)  1.2b) 0%	1.2a) New system established which is in line with European standards  1.2b) 100%	1.2a) SJC/ Administrative registers/expert opinions, Venice Commission opinions  1.2b) SJC/ Administrative registers, Venice Commission opinions
	1.3 Implementation of transitional legal measures to compensate the possible decrease in the number of judges (recruitment)	% of vacant judge positions	1% (as for court.am)	10% of vacant judge positions <sup>23</sup>	SJC Annual Report/Judicial Department Statistics
<b>Direct output re objective 2: To bolster the service delivery and performance of the justice system</b>	2.1 Revision of legislation and procedural codes in line with European standards targeting backlog reduction	Legislation and procedural codes in line with European standards adopted	The legislation/procedural codes do not meet the challenges of backlog reduction	Legislation improved in line and results in backlog reduction	MOJ sector data, SJC Annual Report/Judicial Department Statistics, CEPEJ reports
	2.2 Increased professionalization of the judicial system through targeted and continuous trainings	% of trainees who passed post-training testing with acceptable results	230 judges trained	90% of judges certified/ meet test requirements or Ratio of judges trained to	Justice Academy records/expert opinions

<sup>23</sup> Note: The proposed measure is to compensate the possible decrease in the number of Judges as a result of integrity/declaration check, so it is planned to make law amendments and organize additional competitions for judges' recruitment to keep maximum vacant positions up to 10%

	<b>Results chain</b>	<b>Indicators (max. 15)</b>	<b>Baselines (2019)</b>	<b>Targets by the end of the budget support contract (2023)</b>	<b>Sources of data</b>
				existing number of all judges is 240/227 or 90% of all sitting judges	
	2.3 Introduction of new <b>E-Justice</b> tools and increased use of simplified procedures	Status of e-justice system	No e-justice system is available	Well-functioning e-justice system is in place and operational	MOJ records, SJC Annual Report/Judicial Department Statistics
	2.4 Strengthened reporting/monitoring mechanisms and availability of reliable statistics system	2.4 a) Revision of statistical system methodology based on the needs assessment 2.4 b) Extent to which an annual semi-annual (trimester) review of progress and statistics is established	2.4 a) Statistics reporting system does not cover whole judicial indicators 2.4 b) Mechanisms and tools still to be developed and agreed	2.4 a) Revised methodology aligned with EaP dashboard indicators is in place 2.4 b) 90% of reports produced on time; 80% of coordination and follow up meetings scheduled and conducted	2.4 a) SJC/Judicial Department and www.court.am 2.4 b) Justice Reform Monitoring reports and Monitoring mechanism registers
<b>Direct outputs re Specific Objective 3: To strengthen judicial response to corruption</b>	3.1 Establishment of fully functioning and adequately staffed specialized Anti-Corruption Court (ACC)	3.1 a) % of ACC staff in post by key functions (Judges/ non judge staff) 3.1 b) % of ACC staff (separate values judges/non judge staff) on specific salary regime. 3.1 c) Benchmarks stemming from the Technical requirements (qualitative and quantitative) for facilities and equipment. 3.1 d) number of cases adjudicated	3.1 a) No of staff in post  3.1 b) 0%/0%  3.1 c) Plan as identified in Anti-Corruption Strategy  3.1 d) 1500 corruption related court cases adjudicated in First Instance Court	3.1 a) 70% of staff in post  3.1 b) 100%/100%  3.1 c) ACC fully functioning  3.1 d) Number of cases adjudicated – number of cases registered in the AC Court are adjudicated TBD	3.1 a, c) ACC administrative data/SJC Annual Report  3.1 b) ACC administrative data/SJC/MoJ/Ministry of Finance  3.1 d) SJC/Judicial Department
	3.2 Establishment of fully functioning and adequately staffed anticorruption specialized department in the Prosecutor General's Office (SADPG)	3.2.a) % of staff in post by key functions (Prosecutors/other staff) 3.2 b) % of SADPG staff	3.2 a) 70% of staff in post by key functions (Prosecutors/other staff)	3.2 a) 100% of staff in post  3.2 b) 100%/100%	3.2 a) GPO Annual report/ Justice Reform Implementation Report 3.2 b) Ministry of

	<b>Results chain</b>	<b>Indicators (max. 15)</b>	<b>Baselines (2019)</b>	<b>Targets by the end of the budget support contract (2023)</b>	<b>Sources of data</b>
		(separate values prosecutors/non prosecutor staff) on specific salary regime  3.2.c) Benchmarks for the establishment of the SADPG (qualitative and quantitative requirements)	3.2 b) 50%/50%  3.2 c) Plan as identified in Anti-Corruption Strategy	3.2 c) SADPG fully functioning	Finance/GPO/ Justice Reform Implementation Report  3.2 c) GPO Annual report/MoJ Report, Justice Reform Implementation Report
	3.3 Revised training curriculum and provision of continuous trainings	% of trainees (judges, prosecutors) who passed post-training testing with acceptable results	0%	90% of trainees certified/ meet test requirements	Justice Academy records and expert opinion
	3.4 Increased professionalism of the judiciary in the area of anti-corruption	3.4 a) Rate (%) of judges appointed in the Anti-Corruption Court and Appeal court subject to integrity checks performed with engagement of international experts  3.4 b) Extent to which the selection and appointment process follows international best practices	3.4 a) 0  3.4 b) Procedure not yet in place	3.4a ) 100%  3.4 b) International best standards for selection and appointment procedures are applied.	MOJ admin data/SJC/Justice Reforms Monitoring Report  External experts qualitative review