



INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

MULTI-COUNTRY

Supporting a More Effective Administration of Justice in Corruption and Organised Crime Cases in the Western Balkans through Trial Monitoring

Action summary

The action will focus on supporting a more effective administration of justice in organised crime and corruption cases in the Western Balkans through trial monitoring. Specifically, it will review practices in this field, identify systemic issues, provide recommendations and disseminate findings.

The action is in line with the Sofia Declaration, the Sofia Priority Agenda, and the Western Balkans Strategy, that refer to the introduction of trial monitoring in the field of serious corruption and organised crime as a means to create a track record and ultimately make progress in strengthening the rule of law in the region.

Action Identification			
Action Programme Title	IPA II Multi-Country Action Programme 2019		
Action Title	Supporting a More Effective Administration of Justice in Corruption and Organised Crime Cases in the Western Balkans through Trial Monitoring		
Action ID	IPA 2019/040-826.19/MC/ Trial monitoring		
Sector Information			
IPA II Sector	9. Regional and territorial cooperation		
DAC Sector	15130 – Legal and judicial development		
Budget			
Total cost	EUR 6 million		
EU contribution	EUR 6 million		
Budget line(s)	22.020401- Multi-country programmes, regional integration and territorial cooperation		
Management and Implementation			
Method of implementation	Indirect management		
<i>Indirect management:</i> Entrusted entity	Organisation for Security and Cooperation in Europe (OSCE)		
Implementation responsibilities	N/A		
Location			
Zone benefiting from the action	Western Balkans (Republic of Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, Republic of North Macedonia, Republic of Serbia)		
Specific implementation area(s)	N/A		
Timeline			
Final date for contracting including the conclusion of contribution/delegation agreements	At the latest by 31 December 2020		
Final date for operational implementation	72 months from the adoption of the original Financing Decision (until 19/07/2025).		
Policy objectives / Markers (DAC form)			
General policy objective	Not targeted	Significant objective	Main objective
Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	X
Aid to environment	X	<input type="checkbox"/>	<input type="checkbox"/>
Gender equality (including Women In Development)	X	<input type="checkbox"/>	<input type="checkbox"/>

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

Trade Development	X	<input type="checkbox"/>	<input type="checkbox"/>
Reproductive, Maternal, New born and child health	X	<input type="checkbox"/>	<input type="checkbox"/>
RIO Convention markers	Not targeted	Significant objective	Main objective
Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
Climate change mitigation	X	<input type="checkbox"/>	<input type="checkbox"/>
Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>

1. RATIONALE

PROBLEM AND STAKEHOLDER ANALYSIS

While the level of EU integration and the internal dynamics within Western Balkan beneficiaries differ quite significantly, the EU considers that corruption and organised crime remain a serious concern across the region. There are close linkages between organised crime and corruption in the public sphere with the infiltration of organised crime into the licit economy of the region. At the same time, corruption and organised crime are becoming increasingly more sophisticated in their appearance and interplay, with modern business instruments being used to shield activities from being scrutinised and criminal assets from being seized.

Criminal justice systems serve as the main instrument for countering organised crime and corruption (OCC). The adjudication of OCC cases represents a crucial test for measuring the capacity and independence of the judiciary, as well as the adequacy of the legal framework regulating the powers and prerogatives of public institutions.

In its 2018 Western Balkan Strategy the European Commission underlined that partners in the region “show clear elements of state capture, including links with organised crime and corruption at all levels of government and administration”.¹ The Strategy identifies strengthening the rule of law as a key condition to meet EU membership criteria, and calls on governments to “root out corruption without compromise”; to ensure the independence, quality and efficiency of the judicial system; and to establish, “a concrete and sustained track record in tackling corruption, money laundering and organised crime...” The shared commitment among the EU and the Western Balkans to democracy and the rule of law, which underpin stability, security, and prosperity, was endorsed in the Sofia Declaration of the EU-Western Balkans Summit (17/05/2018).

In this context, the EU expects Western Balkans to establish a credible and sustained track record of addressing OCC as a matter of urgency, including through a stronger judicial response.

The European Commission includes in its enlargement package country specific information on corruption and organised crime².

Against this background, the trial monitoring proposed by this action aims at providing recommendations and supporting the authorities in their broader existing efforts by identifying systemic issues that hinder the effective adjudication of corruption and organised crime cases, resulting in effective and deterrent sentences and the confiscation of criminal assets.

The action is firmly anchored in the fundamental principles of independence and impartiality of the judiciary, the right to a fair trial, the right of defence and to presumption of innocence as enshrined in the Charter of Fundamental Rights of the European Union. Bearing this in mind, the action will work with

¹ Western Balkans Strategy https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

² Communication on EU Enlargement Policy, COM(2019) 260 final – Albania 2019 Report, Chapter 23: Judiciary and fundamental rights, pp. 14 et seq., <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf>

Communication on EU Enlargement Policy, COM(2019) 260 final – Analytical Report, Chapter 23: Judiciary and fundamental rights, p. 33, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-analytical-report.pdf>

Communication on EU Enlargement Policy, COM(2019) 260 final – Kosovo 2019 Report, Judiciary and fundamental rights, pp. 14 et seq., <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-kosovo-report.pdf>

Communication on EU Enlargement Policy, COM(2019) 260 final – North Macedonia 2019 Report, Fight against corruption, pp. 19 et seq., <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-north-macedonia-report.pdf>

Communication on EU Enlargement Policy COM(2019) 260 final – Montenegro 2019 Report, Fight against corruption, pp. 19 et seq., <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf>

Communication on EU Enlargement Policy, COM(2019) 260 final – Serbia 2019 Report, Chapter 23: Fight against corruption, pp. 19 et seq., <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-serbia-report.pdf>

judges and courts of different instances, prosecutors and prosecution offices, Ministries of Justice and associated criminal institutions, including judicial and prosecutorial councils, relevant independent regulatory bodies and civil society organisations.

This action will also assist institutions in their efforts to demonstrate that justice is not only being done but is also seen to be done.

OUTLINE OF IPA II ASSISTANCE

The specific objective of this action is to support a more effective judicial response by the authorities on corruption and organised crime in the Western Balkans. In particular, the action will identify systemic issues through trial monitoring and develop recommendations in support of authorities.

The expected outputs of the action are:

- (1) Trial monitoring for cases on corruption and organised crime is implemented
- (2) Systemic issues regarding the judicial response to corruption and organised crime are identified
- (3) Recommendations for an effective judicial response to corruption and organised crime are provided to the domestic authorities of the Western Balkans and lessons learnt are identified regionally
- (4) Awareness of recommendations by key stakeholders is enhanced

This action is undertaken with a view to assisting the Western Balkans to demonstrate a concrete and sustained track record in tackling corruption and organised crime.

The action will be compliant with the principles of independence and impartiality of the judiciary, the right to a fair trial, the right of defence and to presumption of innocence set forth in the domestic legal frameworks of IPA II beneficiaries. The methodology for conducting trial monitoring will take into account aspects such as the dimensions used to assess the effectiveness of the judicial response to OCC cases, the categories of crimes covered and their prioritization. OSCE as the implementing partner of this action will utilise its expertise and knowledge on trial monitoring. In doing so, the OSCE will strictly apply its methodological principles for trial monitoring (i.e. non-intervention in the judicial process, objectivity, agreement with the beneficiary, impartiality, professionalism, and confidentiality)³. In terms of corruption, the action will in the first instance and to the extent possible focus on high-level cases. The legal qualification for selecting **corruption and serious organised crime** cases will include domestic definitions of corruption, corruption-related offences and participation in an organised criminal group as defined in the respective criminal codes of the targeted beneficiaries. Corruption and corruption-related offences will encompass not only the core corruption offences of active and passive bribery, but also core corruption-related offences such as abuse of office, trading in influence, embezzlement, money laundering as well as other corruption related crimes often defined as aggravated forms of other crimes.

For **corruption and corruption-related cases**, three main sub-criteria will facilitate selecting relevant cases: (a) the status of the accused person(s) (whether a public figure, or according to his/her actual level of power); (b) the gravity of the (alleged) conduct, including the economic damage; and (c) the impact of the (alleged) conduct on citizens. The latter will include serious cases of corruption in sectors that are particularly sensitive and/or prone to corruption such as healthcare, public procurement and education and with a direct impact on citizens and/or significant media attention. Other sub-criteria can be proposed in the course of implementation as relevant.

The selection of **organised crime** cases is suggested to follow a similar rationale: (a) the status of the accused person(s) and (b) the gravity of the (alleged) offence, with a particular focus on organised crime cases where the underlying criminal activities undertaken by the defendants consist of: embezzlement,

³ For reference see: <https://www.osce.org/odhr/94216>

money laundering, or other financial crimes which play a key role in sustaining serious and organised crimes; or trafficking and smuggling of (a) human beings, (b) drugs or (c) firearms. For analytical purposes, the trial monitoring will focus on the organised crime component of those cases, rather than the underlying crime.

The action will be implemented in parallel in the IPA II Western Balkans beneficiaries. Indicatively, at least fifty cases of corruption and organised crime in each of targeted IPA II beneficiaries will be monitored. A number of regional activities will bring all participating beneficiaries together, as appropriate, to discuss common challenges identified in the course of the action and possible responses.

RELEVANCE WITH THE IPA II MULTI-COUNTRY INDICATIVE STRATEGY PAPER AND OTHER KEY REFERENCES

The priorities of the revised **IPA II Multi-country Indicative Strategy Paper 2014-2020**⁴ stress the importance of fighting organised crime and corruption as well as ensuring independent, impartial, efficient and accountable judicial systems, while improving fair and timely proceedings.

The axe on Horizontal support to sector policies and reforms of the IPA II Multi-country Indicative Strategy Paper 2014-2020 points to the lack of proper statistics and related assessments on organised crime and corruption in the beneficiaries. The 2018 Western Balkans Strategy (hereinafter the Strategy)⁵ underlines that rule of law, fundamental rights, and good governance remain the most pressing issues for the Western Balkans and deserve particular attention in all EU interventions. In this perspective, trial monitoring of cases of corruption and serious organised crime is one of the specific measures envisaged by the Flagship 1 - Strengthening the Rule of Law, annexed to the Strategy.

At the 2018 EU-Western Balkans Summit in Sofia, leaders of the region signed the Sofia Declaration⁶. This includes a commitment to achieve the objective foreseen by the Flagship 1, including using trial monitoring as one of the tools that will support the Western Balkans to move closer towards the EU membership criteria.

The action is further relevant to the Regional cooperation pillar of the IPA II Multi-country Indicative Strategy Paper 2014-2020 which stresses the need to foster regional cooperation, networking and sharing of best practices to help the IPA II beneficiaries align their internal legislation with the EU *acquis* and to adapt gradually to the EU standards and practices points. The action will support regional sharing of lessons learnt amongst the targeted IPA II beneficiaries.

LESSONS LEARNED AND LINK TO PREVIOUS FINANCIAL ASSISTANCE

The action takes forward lessons learnt from previous and on-going Instrument for Pre-Accession Assistance (IPA) funded trial monitoring programmes implemented with the OSCE, including:

- “War Crimes Case Monitoring” implemented in Bosnia and Herzegovina
- “War Crimes Cases Monitoring Project: Second Phase” implemented in Bosnia and Herzegovina
- “Support to Monitoring of National War Crimes Trials” implemented in Serbia
- “Support to Monitoring of National War Crimes Trials - II phase” implemented in Serbia

These programmes have shown the utility of developing appropriate indicators, both qualitative and quantitative, in order to assess the effectiveness of the judicial response.

A lesson learned is the usefulness of establishing clear categorisation criteria in order to transparently select cases to be monitored and overcome the difficulty of mapping international standards directly to domestic

⁴IPA II Multi-country Indicative Strategy Paper 2014-2020 <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180817-revised-multi-country-indicative-strategy-paper-2014-2020.pdf>

⁵ Western Balkans Strategy, *ibidem*

⁶ Sofia Declaration https://eeas.europa.eu/delegations/kosovo/44794/sofia-declaration-eu-western-balkans-summit_en

law. The trial monitoring methodology should also be designed in such a manner as to support the design of recommendations.

The need for an inception phase, precise planning of costs and specific thematic expertise within the implementation set-up which have emerged as lessons learnt from previous similar actions, are taken into account in the design of the current action.

2. INTERVENTION LOGIC

LOGICAL FRAMEWORK MATRIX

OVERALL OBJECTIVE(S) / (IMPACT(S))	INDICATOR'S NAME	OBJECTIVELY VERIFIABLE INDICATORS			SOURCES & MEANS OF VERIFICATION	
		BASELINES (INCL. VALUE & REFERENCE YEAR)	MILESTONES (INCL. VALUE & REFERENCE YEAR)	TARGETS (INCL. VALUE & REFERENCE YEAR)		
To advance in the fight against corruption and organised crime in the Western Balkans as a means to reduce impunity in the societies of the beneficiaries	-Extent to which legislative, institutional and other measures against corruption and organised crime in line with EU <i>acquis</i> are implemented	Findings of the EU Enlargement Reports of 2019	Findings of EU Enlargement Reports of 2021 display an improvement for Chapters 23 and 24 for all beneficiaries	Findings of EU Enlargement reports display a clear advancement of the beneficiaries in the advancement in negotiations, with regard to chapters 23 and 24	- EU Enlargement Reports - Reports of other international organisations - Civil Society Assessments, including TI's Corruption Perception Index - Statistics on Court Performance	
SPECIFIC OBJECTIVE(S) / OUTCOME(S)	OBJECTIVELY VERIFIABLE INDICATORS (*)				SOURCES OF VERIFICATION	ASSUMPTIONS
Specific Objective To support a more effective judicial response by the authorities on corruption and organised crime in the Western Balkans	-Steps taken as a result of recommendations received by the beneficiary institutions (Ministries of Justice and administrators of justice, i.e. prosecutors, judges, prosecutorial council)	To be established during inception phase	By the end of 2021, each beneficiary has expressed its intention to take concrete steps as a result of the emerging recommendations	At the end of the action, each beneficiary has taken concrete steps as a result of the final recommendations resulting from the action	- Analytical reports/assessments of international organisations, civil society, where available -Minutes from discussion forums and regional events - Reports of regional peer reviews - EU Enlargement reports	- Support from the beneficiaries in implementing the action - Beneficiaries and other stakeholders have necessary resources to implement the recommendations The action produces sound recommendations
OUTPUTS	OBJECTIVELY VERIFIABLE INDICATORS (*)				SOURCES OF VERIFICATION	ASSUMPTIONS
Output 1	- Number of cases monitored according to the established methodology	0	150 (25 for each beneficiary)	300 (50 for each beneficiary)	- Inception Report, including methodology and template of	- Trial monitors have access to facilities and

Trial monitoring for cases on corruption and organised crime is implemented					questionnaire for consultations - Court hearing reports produced by trial monitors -Self-assessment tool - Reports produced by action	information at prosecutor's offices and courts - Consultation stakeholders, participants in discussion forum events and public conferences are willing to cooperate in good faith by sharing their constructive views - Availability and reliability of external data relevant for the action analysis
Output 2 Systemic issues regarding the judicial response to corruption and organised crime are identified	- A analysis of the nature and scope of legal and practice issues is conducted and reported in all thematic and geographic areas predetermined by the methodology -Number of cases where shortcomings were identified	To be defined in the inception phase 0	After the 6 months of implementation, the reporting mechanism for legal and practice analysis is established To be identified in the inception phase	By the end of the action, for each beneficiary an analytical analysis presents the overview of the systemic issues in the administrations of justice To be identified in the inception phase	-EU enlargement reports - Reports produced by action -Statistical information	
Output 3 Recommendations for an effective judicial response to corruption and organised crime are provided to the domestic authorities of the Western Balkans and lessons learnt are identified regionally	-Number of meetings at the regional level to discuss the findings and recommendations -Number of recommendations per beneficiary according to established methodology -Extent to which the beneficiaries enter into a meaningful discussion on and action upon the recommendations	0 To be defined at the in the inception phase n.a.	1 with at least 3 participants from each of the 6 jurisdictions (minimum of total of 18 participants) Minutes of the meetings/consultations between the implementing partner and the beneficiaries	2 meetings with at least participants from each of the 6 jurisdictions (minimum total of 18 participants) Final report including information of meetings/consultations between the implementing partner and the beneficiaries	- Event reports - Recommendations in the intermediate and final report	
Output 4 Awareness of recommendations by key stakeholders is enhanced	- Number of publications for disseminating the recommendations by media outlets, civil society organisations, etc.	0	0 – as the recommendations will be shared only at the end of the action implementation	At least 150 publications (25 per beneficiary) shared in media outlets and social media (includes Facebook, Twitter, etc.)	-Publications in media outlets and social media (Facebook, Twitter, etc.)	

DESCRIPTION OF ACTIVITIES

The main indicative activities of this action are:

The action will indicatively commence with a six-month inception phase which will allow for the finalisation of implementation arrangements. Beneficiary specific analysis of the legal, analytical and contextual setting of the action, resulting in beneficiary specific work plans, will be conducted in this period. A specific inception report, including the trial monitoring methodology to be deployed, will be produced and agreed with the European Commission before implementation of the next phases of the action.

(1) Carrying out trial monitoring

The action will deploy teams of monitors, supported by thematic expertise, to conduct trial monitoring in the targeted Western Balkans beneficiaries.

The trial monitoring will include monitoring trials, observing court hearings, as well as reviewing public documents such as indictments, verdicts, appeal decisions, and judicial decisions on plea bargain agreements. This action will not include any review of confidential documents as foreseen by applicable procedural rules.

The principles of non-interference, objectivity, impartiality, professionalism, and confidentiality will be observed throughout the implementation of this action. Cases selected for trial monitoring will be continuously monitored from indictment until their completion, within the limits of the action timeframe and not including the investigation phase.

Quarterly trial monitoring reports will be produced as a record of the work undertaken and the key issues encountered and observed.

By the end of the action, an indicative minimum of 300 cases (50 per each jurisdiction), will be monitored.

(2) Data collection and analysis

Data collection and analysis will be conducted throughout the duration of this action to support its delivery. It includes in particular:

- In the inception phase: collection of information on the volume of cases and statistical trends in the targeted IPA II beneficiaries' jurisdictions; and development of desk reviews of the institutional, normative and legal background of each beneficiary. These inputs will provide essential insights for the contextual analysis and contribute to understanding and classifying the information stemming from trial monitoring.
- To support trial monitoring: review of public documents related to the cases under trial monitoring. Confidential documents will not be accessed or requested under this action.
- Specific analysis will be produced for each beneficiary and, where applicable, regional lessons drawn, based on the data collected through trial monitoring, media monitoring, consultations and discussion forums, etc.

(3) Conducting media analysis

Media analysis will be conducted in parallel with the trial monitoring activity (see above activity 2) to complement and contribute to the contextual analysis in which cases are tried. In particular, the aim of this activity will be to analyse whether media coverage of the cases selected for trial monitoring undermines the presumption of innocence or puts undue pressure on the judiciary. As such, data collected through media monitoring will be of most significance in contextualising findings, documenting public perception of the judicial response to a case, and assessing the potential of undue influence of the media on the fairness of proceedings.

(4) Consultations and discussion forums

Consultations and discussion forums will be carried out on a regular basis throughout the course of the action to complement data and analysis gathered from trial and media monitoring. By engaging with relevant stakeholders involved in processing OCC cases, these activities contribute to ensuring support for the action.

Consultations will be held mainly with judges, prosecutors and other professionals involved in processing OCC cases. They will serve to support the contextual analysis and to gather views on the relevance and accuracy of the structural analysis drawn from the findings of trial monitoring activities. The consultations will not include any discussion on the merits of specific cases monitored under the action but will rather address systemic issues.

Discussion forums will be organised with justice sector professionals in each Western Balkans beneficiary and regionally, when relevant. The aim of the discussion forums will be to contribute to identifying issues and recommendations, as well as testing the validity of trial monitoring findings and the overall methodology. When relevant, the scope and the participation to the discussion forums can be enlarged.

(5) Development, dissemination and follow up of recommendations

The action will produce concrete, tailor-made, recommendations. The recommendations will be developed in response to specific assessments (see activity 3 above) regarding the work of judicial and – where available - prosecutorial councils; judicial training academies/centres; Ministries of Justice; courts; and prosecutors' offices.

Indicatively, the action foresees two reporting exercises comprising the comprehensive diagnostic assessments and recommendations: one tentatively after 12 months of trial monitoring and a second, upon completion of trial monitoring. While the results and recommendation of the first exercise are suggested to be semi-public, the second report will be public and build upon the first one, while analysing progress in each jurisdiction, as well as regionally. This report will in addition include best practices, trends and recommendations for improving the response to OCC cases domestically and regionally. Each report will be discussed with the main relevant authorities in each Western Balkans beneficiary. Regional events to allow for sharing of best practice among relevant authorities based on the reports will be implemented.

In addition, to ensure wider dissemination of the public findings and recommendations of the action and support the update of recommendations by broader constituencies beyond the judiciary, specific outreach to civil society, media and other relevant stakeholders that are involved in the fight against corruption and organised crime will be supported, including through regional events. In this context, the trial monitoring methodology employed will be presented to address potential concerns regarding non-interference in judicial proceedings.

RISKS

The main risks to the successful implementation of the action are:

- Political interference and/or the lack of political will creates obstacles to trial monitoring activities or meaningful participation of stakeholders in action activities
- Courts and prosecutor's offices deny access to documents necessary for the assessment
- Stakeholders are not willing to participate and/or provide substantive feedback at discussion forums and public conferences
- Statistical data on corruption and organised crime cases is limited

The risks will be mitigated with appropriate measures and actions, such as utilising and, where needed, improving communication channels and working relations between the involved stakeholders, namely OSCE field operations, European Union Delegations and offices in the region, ministries of justice, and institutions and individuals involved in the processing of OCC cases.

CONDITIONS FOR IMPLEMENTATION

The relevant IPA II beneficiaries should commit to facilitate the effective implementation of this action by facilitating access to public hearings and public documents such as indictments, verdicts, and appeal decisions for the implementing partner. In co-ordination with the OSCE, the EU will, as necessary, engage with host authorities to secure this cooperation.

3. IMPLEMENTATION ARRANGEMENTS

ROLES AND RESPONSIBILITIES

The main stakeholders targeted by this action are actors responsible for the judicial response to OCC in each beneficiary. The executive will also be targeted in view of raising awareness of this action and sharing the recommendations emanating from the work.

Civil society actors and media will be targeted by outreach to ensure wide dissemination of the final findings and recommendations of the action.

The action will be implemented by the OSCE. Tasks for the action will be distributed among the OSCE-Secretariat, its targeted field operations in the Western Balkans, and the OSCE Office for Democratic Institutions and Human Rights (ODIHR), with overall action coordination provided by the Conflict Prevention Centre of the OSCE Secretariat. Trial monitoring teams will be embedded in each of the targeted aforementioned OSCE field operations. The roles and responsibilities of each of the OSCE stakeholders involved in the management and implementation of the action will be further defined in internal OSCE documentation to ensure coordinated implementation.

Whenever relevant and appropriate, OSCE shall ensure due coordination with relevant regional and international organisations, bilateral partners and non-governmental organisations.

The OSCE will set up a Steering Committee to provide strategic guidance, advice and oversight during the action implementation. The Steering Committee will include at a minimum representatives of OSCE and the EU and meet at a minimum once a year. In order to strengthen institutional ownership, the Steering Committee can agree to extend participation of beneficiaries to its meetings when relevant.

METHOD(S) OF IMPLEMENTATION AND TYPE(S) OF FINANCING (SEE ANNEX IMPLEMENTATION – BUDGET)

This action will be implemented in indirect management with an international organisation (OSCE). The indicative duration of this action is 36 months.

4. PERFORMANCE MEASUREMENT

- Performance measurement will be based on the intervention logic and the log frame matrix, including its indicators. Performance measurement will aim at informing the list of indicators that are part of the log frame matrix.
- In certain cases, mainly depending on when the (internal and/or external) monitoring exercise is launched, contribution to the outcomes will also be part of monitoring and for this to happen indicators defined in this action document at the outcome level will be the ones for which a value of measurement will need to be provided.
- In evaluation, the intervention logic will be the basis for the definition of the evaluation questions. Evaluations do mainly focus on the spheres of direct (outcomes) and indirect (impacts) influence. As such, indicators defined for these levels of the intervention logic will be used in evaluation. Depending on the specific purpose and scope of the evaluation exercise, additional indicators will be defined.

METHODOLOGY FOR MONITORING (AND EVALUATION)

Monitoring is a management tool at the disposal of the action. It is expected to give regular and systemic information on where the action stands at any given time (and over time) relative to the different targets. Monitoring activities will aim to identify successes, problems and/or potential risks so that corrective measures are adopted in a timely fashion. Although it is expected to focus on the actions' inputs, activities and outputs, it is also expected to look at how the outputs can effectively induce, and actually induce, the outcomes that are aimed at.

Internal monitoring

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of both primarily the implementing partner's responsibilities and that of the EU operational manager. Both types of internal monitoring will be undertaken in an inclusive way, involving key stakeholders.

The different responsibilities for this dual internal monitoring are the following:

- i. Implementing partners' monitoring will aim at collecting and analysing data to inform on progress towards planned results' achievement to feed decision-making processes at the action's management level and to report on the use of resources.

To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (at least twice a year) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes jointly introduced, as well as the degree of achievement of its results (outputs and outcomes) as measured by the corresponding agreed indicators (and related targets) included in the log frame matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. Reporting focusing on activities and inputs' use will not be considered. The final report, narrative and financial, will cover the entire period of the action implementation.

In addition, monthly meetings with EU delegations in each beneficiary to update on action activities should be held in the premise of each EU office of the region. As a result of such meetings, the implementing partner should provide minutes to the participants to the meeting and the action coordinator in Brussels. The implementing partner will carry out self-evaluation reports will focus on the level of achievement of the action objective and its results through the set of indicators elaborated in the log frame, as well as overall sustainability. These self-evaluation reports will contain recommendations and lessons learned for design of follow-up activities. Together, they will form the basis for an action-wide self-evaluation, to be led by the action coordinator from the CPC.

- ii. EU operational manager monitoring will aim at complementing implementing partners' monitoring, especially in key moments of the action cycle. It will also aim at ensuring a sound follow-up on external monitoring recommendations and at informing EU management. This monitoring could take different forms (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 on the basis of checklists and synthesized in a monitoring note/report.

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

External monitoring (ROM)

The European Commission may undertake additional monitoring in line with the European Commission rules and procedures through independent consultants recruited directly by the European Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the European Commission for implementing such reviews).

Results reporting

Beside the ROM review, the European Commission may undertake action results reporting through independent consultants recruited directly by the European Commission (or recruited by the responsible agent contracted by the European Commission for implementing such reviews). Their aim would be to identify and check the most relevant results on the action.

Evaluation

Evaluation will give evidence of why intended changes are or are not being achieved.

The European Commission may carry out a mid-term, a final or an ex-post evaluation for this action or its components via independent consultants, through a joint mission or via an implementing partner. In case a mid-term or final evaluation is not foreseen, the European Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision or on the initiative of the partner.

In case a mid-term evaluation is foreseen: it will be carried out for problem solving and/or learning purposes.

In case a final or ex-post evaluation is foreseen: it will be carried out for accountability and learning purposes at various levels (including for policy revision).

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

The evaluations should be carried out following the Directorate-General for Neighbourhood and Enlargement Negotiations guidelines on linking planning/programming, monitoring and evaluation⁷.

Where an evaluation is foreseen and is to be contracted by the European Commission: the European Commission shall inform the implementing partner in advance of the dates foreseen for the evaluation missions.

The European Commission shall form a Reference Group (RG) composed by representatives from the main stakeholders at both EU and beneficiary (representatives from the government, from civil society organisations (private sector, NGOs, etc.), etc.) levels. If deemed necessary, other donors will be invited to join. The RG will especially have the following responsibilities:

- Steering the evaluation exercise in all key phases to comply with quality standards: preparation and/or provision of comments to the Terms of reference; selection of the evaluation team; consultation; inception/desk, field, synthesis and reporting phases.
- The EU programme manager steers the RG and is supported in its function by RG members.
- Providing input and information to the evaluation team. Mobilise the institutional, thematic, and methodological knowledge available in the various stakeholders that are interested in the evaluation.
- Providing quality control on the different draft deliverables. The EU programme manager, as lead of the RG, consolidates the comments to be sent to the evaluation team and endorses the deliverables.
- Ensuring a proper follow-up after completion of the evaluation.

⁷ https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/near_guidelines.zip

5. CROSS-CUTTING ISSUES

GENDER MAINSTREAMING

The methodology of this action will be tailored for the purposes of obtaining gender sensitive and disaggregated data, including the sex of alleged perpetrators, prosecutors and judges dealing with corruption and organised crime cases, as well as the impact of social and judicial stereotypes relating to women, such as weighing of testimony by female witnesses. The collection of this data will allow the identification of potential gender bias permeating the criminal system and endangering the principles of judicial equality, impartiality, and access to justice when processing organised crime and corruption cases.

In addition, gender aspects will be taken into account through promoting gender-balanced composition of monitoring teams, as well as non-discriminatory selection of consultants and trainers.

EQUAL OPPORTUNITIES

The action will not discriminate in any activity it may involve with any person regardless of gender, race, colour, religion, national origin, sexual orientation, physical or mental disability, or age.

Efforts will be made to make sure that there is appropriate balance between female and male representatives of the stakeholders involved in the action.

MINORITIES AND VULNERABLE GROUPS

The methodology of this action will be adjusted, where possible, in order to gather data related to the membership of alleged perpetrators, prosecutors and judges dealing with OCC cases in minority or other vulnerable groups, as well as the impact of social and judicial stereotypes related to these groups, such as weighing testimony by minorities. These data will allow for the identification of potential bias against vulnerable groups permeating the criminal justice system and endangering the principles of judicial equality, impartiality, and access to justice when processing organised crime and corruption cases.

In addition, the action will not discriminate in any activity it may involve with any person for the reason of originating from a minority or other vulnerable group.

ENGAGEMENT WITH CIVIL SOCIETY (AND IF RELEVANT OTHER NON-STATE STAKEHOLDERS)

Civil society plays a crucial watchdog role as regards corruption and organised crime. As such, the findings and recommendations produced by this action could usefully support their advocacy work. Civil society organisations, media and other actors relevant to the fight against corruption and organised crime will be informed and, when relevant, associated to specific parts of this action.

Media analysis throughout the entire duration of the action will ensure that the activities related to trial monitoring and drafting of the recommendations will take into account the perception of the judicial response to corruption and organised crime. Additionally, assessing the media environment will also constitute an auxiliary function in the selection of cases to be taken into consideration for trial monitoring.

ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)

This action does not have any particular impact on the environment or climate change.

Climate action relevant budget allocation: EUR 0
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6. SUSTAINABILITY

Sustainability of the action's results will be ensured through the involvement of key domestic and international actors working on, or interested in working on, ensuring more effective and efficient processing of corruption and organised crime cases.

Inclusive action activities, which foresee the participation of criminal justice system stakeholders in planning and implementing activities, should increase their ownership of action results and commitment to act upon results once the action has been completed.

7. COMMUNICATION AND VISIBILITY

Communication and visibility will be given high importance during the implementation of the action. The implementation of the communication activities shall be funded from the amounts allocated to the action.

All necessary measures will be taken to publicise the fact that the action has received funding from the EU in line with the EU communication and visibility requirements in force. All stakeholders and implementing partners shall ensure the visibility of EU financial assistance provided through IPA II throughout all phases of the programme cycle.

Visibility and communication actions shall demonstrate how the intervention contributes to the agreed programme objectives and the accession process, as well as the benefits of the action for the general public. Actions shall be aimed at strengthening general public awareness and support of interventions financed and the objectives pursued. The actions shall also aim at highlighting to the relevant target audiences the added value and impact of the EU's interventions and will promote transparency and accountability on the use of funds.

Visibility and communication aspects shall be complementary to the activities implemented by the Directorate-General for Neighbourhood and Enlargement Negotiations and the EU delegations in the field. The European Commission and the EU delegations should be fully informed of the planning and implementation of the specific visibility and communication activities.

Further, the communication and visibility of the action may be additionally supported by the OSCE Secretariat and/or field operation communication teams.