

Action Fiche for Syrian Arab Republic

1. IDENTIFICATION

Title/Number	Reforming and Modernising the Judiciary		
Total cost	EUR 5 000 000 Beneficiary contribution: tbd		
Aid method / Method of implementation	Project approach – <i>partly decentralised management</i>		
DAC-code	15130	Sector	Legal and judicial development

2. RATIONALE

2.1. Sector context

The Syrian legal system draws primarily from Civil Law traditions, as well as Islamic and Egyptian legal traditions. It is a dual judicial system, with separate secular and religious courts. The secular courts hear both civil and criminal matters, with the lowest level being the Courts of Peace, and the second level being the Courts of First Instance, with the Felony Court hearing more serious criminal cases. Decisions rendered by these courts may be appealed to the Court of Appeal, or in some instances the Court of Cassation, which can also nullify decisions of the Court of Appeal.

The Shari'a, Doctrinal, and Spiritual Courts have specialised jurisdiction involving personal status, family and inheritance disputes. There are a number of courts with specialised jurisdictions, including the Juvenile, Customs, Labour, Administrative and Military Courts. While the Constitution guarantees the independence of the judiciary, its administrative authority -including the powers to appoint, promote, and transfer judges- is vested in the Supreme Judicial Council, which is presided over by the President of the Republic represented by the Minister of Justice. The existing nine law schools in Syria provide formal legal education, with the Judicial Training Institute (JTI) providing formal training for the judiciary. The Ministry of Justice (MoJ) has responsibility for virtually all administrative functions related to the judicial system, and oversees support personnel for the courts.

A complex web of problems currently plagues the Syrian judicial system, being the overriding issue of corruption both a cause and effect of the core problems. The MoJ faces difficulties related to outdated and inefficient filing, archiving, and document retrieval systems. It demonstrates inappropriate case management methods, has poorly trained support staff, and has insufficient facilities and infrastructure upon which large-scale improvement programmes could be built. The lack of physical space hampers efforts to recruit more judges, despite the very low *per capita* ratio of judges. These problems result in massive procedural delays, huge backlogs of cases, inability to access case documents and archives, and serious human rights violations.

A significant impact of these problems is the systematic destruction of Syria's legal heritage since important court decisions are neither reported nor the files retained. The legislative branch of the MoJ also has specific problems, and needs considerable

updating, for example to improve court procedures, to digitalise legislation, and the modernisation of substantive law (trafficking, asset tracing, money-laundering etc.). These deficiencies result in court delays, a lack of access to legislation by legal professionals and court users, and a failure by the Government to fulfil its regional and international obligations.

The legal profession also faces serious challenges, since it receives inadequate initial training, with little by way of practical exposure to the law; no Continuing Legal Education (CLE) programmes; lack of access to legislation, cases and texts, resulting in ignorance of national and international law; poor quality of judicial decisions and legal representation, and thus the potential for serious human rights violations. The above problems are intensified in rural areas and for certain populations and groups, such as women, juveniles, witnesses and victims. Their overall impact is a lack of access to justice and decreased confidence in the Syrian legal system as a whole.

2.2. Lessons learnt

- (a) The need to co-ordinate legal profession capacity-building with the triumvirate of legal education in Syria, namely the JTI, the Law Schools, and the Bar Association;
- (b) The need for strict infrastructure pre-conditions, project monitoring procedures, strategic staff training and demonstrable long-term sustainability;
- (c) The need to liaise strongly with the MoJ Planning Department, in order to remain within Project timelines; the need to maintain close personal relationships within the MoJ; and the need to ensure full governmental commitment and ownership of any proposal;
- (d) The need to foster a greater knowledge, within the MoJ and key stakeholders, of EU objectives, procedures and terminology.

2.3. Complementary actions

At the end of 2009, UNDP launched a court automation pilot project in Dara'a, which is intended to alleviate severe delays in court proceedings. In addition, the MoJ and local stakeholders have undertaken or are planning a number of initiatives such as building new court complexes, the recruitment and training of experienced lawyers directly to the bench, and a system of automated registration of Powers of Attorney created by the Damascus Bar Association; the German government's legal sector initiatives, which includes working with the MoJ on modernising and translating certain legislation, and conducting training seminars with the Syrian Bar Association; Syrian Bar Association Projects, which have developed several operational databases and professional tools; and the American Bar Association (ABA) Moot Court Project, which could provide complementarity in the provision of training for lawyers. It is also anticipated that this EU Project will be linked with compatible EU and other donor-funded projects in the region (as for example Euromed Justice III and the upcoming Juvenile Justice project implemented by United Nations Development Programme (UNDP)).

2.4. Donor coordination

There are few legal sector projects or donors active in Syria, and hence there is currently no structured donor co-ordination, however this situation could change before or during the project implementation. Given the size of the project and the EU commitment to ongoing assistance with judicial modernisation, and that the Project will be housed within the MoJ thereby facilitating communication and efficiency, it is considered that the EU would be in a position to play a leading coordination role, in line with the principles of the Paris Declaration.

3. DESCRIPTION

3.1. Objectives

The overall objective is to assist the Government of Syria in establishing an efficient, transparent and reliable judiciary system, improving the quality of judicial services, and facilitating access to justice by court users and the general Syrian population. It would target the Syrian courts of general jurisdiction, not the exceptional jurisdictions or religious courts.

The purposes of the project are:

- (a) to provide targeted technical assistance to the Ministry of Justice and Judicial Training Institute, in order to increase the efficiency of the legal system in Syria;
- (b) to increase the capacity and knowledge of the Syrian legal profession, in order to improve the quality and efficiency of the judiciary and the court system, and provide increased access to justice for the Syrian people;
- (c) to provide an effective database system and partial automation to the MoJ and two pilot courts, to improve the efficiency of the MoJ and the court system, and provide increased access to justice for court-users.

3.2. Expected results and main activities

Result 1: Targeted technical assistance is provided to the Ministry of Justice and Judicial Training Institute.

The MoJ will be provided with strategic and technical assistance on statistics, planning, legislation and judicial inspection. This inter-departmental approach will provide strategic development of the key pillars of the MoJ.

Legislative reform assistance will also be provided, in particular to the simplification and streamlining of court procedures, and providing easier access to justice. It will also include the modernisation of legislation related to regional concerns and emerging issues, for example human and other trafficking.

Capacity building at the JTI will be provided through technical assistance, for example with respect to curriculum development and increasing gender representation within the legal profession, and through strategic study tours. A

primary aim of this component is to link initial training of judges with the judicial system's absorption capacity and the deployment of newly-appointed staff where most required, and ultimately to increase the number and gender balance of judges being qualified by the JTI.

The main activities will comprise: (1) Identification of Technical Assistance (TA) needs during the inception phase; (2) Development of a strategy for the judicial system, including TA to MoJ, in particular relative to Planning, Human Resources & Budgeting; (3) Development of strategy document and action plan relative to TA to the Judicial Inspection department of MoJ, including human resources, inspection methods, and ethics; (4) Development of internal tools and mechanisms for data collection and statistical analysis; (5) Support ongoing efforts of MoJ to modernise and simplify legislation and regulations; (6) Targeted study tours for MoJ staff, to increase technical knowledge and strategic awareness; (6) Develop training curricula for JTI that are coordinated with the activities of the Law Faculty of Damascus University and the Syrian Bar Association

Result 2: Improve capacity and knowledge of the Syrian legal profession through coordinated and strategic training.

This will be achieved through the provision of training seminars, workshops, training of trainers (ToT) and study tours to members of the legal profession, as a cooperative effort between the JTI, the Law Faculty of Damascus University and the Syrian Bar Association.

The main activities will comprise: (1) Conduct comprehensive training needs assessment in consultation with members of the legal profession; (2) Prepare training strategy on the basis of needs assessment; (3) Conduct legal professional training, Training of Trainers (TOT), seminars, work-groups and study tours, based on training strategy (Activity 2); (4) Support and facilitate the establishment of a Legal Clinic within the Law Faculty of Damascus University, through the provision of training and technical assistance.

Result 3: Provision of an effective database system and partial automation to both headquarters of MoJ and two pilot courts, to assist with archiving and digitalisation of legislation and cases.

This will be linked to the TA referred to in Result 1, in particular relative to strategic support provided to MoJ departments. The proposed intervention is however conditional upon the MoJ providing the necessary resources both during the implementation stage and to ensure sustainability (see Assumptions below).

The database will be created by supplying two courts (Homs and Damascus Courthouses) with IT equipment, printers, advanced scanners, servers and routers. In addition, one main advanced server will be installed at the Control Room at the Project headquarters at MoJ, with the selected courts connected to the Control Room via routers and internet. The intervention will be supplemented by legal and public administration expertise and IT support, integrated with the activities described in Result 1 above.

The main activities will comprise: (1) The creation of a database at the MoJ to include all Syrian legislation, regulations, Court of Cassation decisions and case

archiving/ data-retrieval system; (2) The partial automation of two pilot courts (Homs Courthouse and Damascus Courthouse), including the creation of information access points for court-users.

3.3. Risks and assumptions

The main assumptions are:

- (d) The Government of Syria remains committed to legislative reform and implementation, and responds to recommendations to reform Syrian legislation;
- (e) The MoJ contributes adequate human and in-kind resources to complement the Project activities; (iii) The MoJ allocates adequate resources to sustain the Project activities beyond the implementation period.

The main risks are:

- (a) The poor infrastructure of courts could frustrate to some degree the implementation of a database system and the effectiveness of court personnel training. This risk will be mitigated through the careful selection of the two pilot courts, taking into consideration the balance between specific needs, accessibility, and degree of modernisation to date;
- (b) The existence of some apprehension and resistance to change within certain target groups could frustrate the implementation of some activities, for example training projects. This risk will be mitigated through qualitative and strategic selection of interlocutors and participants in key activities throughout the Project cycle.

There is a strong likelihood of a sustainable continuation of benefits for the following reasons:

- (a) The judicial authorities are fully aware of the problems identified herein, and have a strong motivation to improve the public's perception of the legal system, and increase Syria's standing in the legal, commercial and wider political field;
- (b) Judicial reform and modernization of the administration of justice are among the main priorities of the government and has therefore allocated an annual budget to establish new courts and provide training programs, which is nevertheless insufficient to provide the "start-up" activities proposed by this project;
- (c) The MoJ has expressed a strong commitment to supporting this project;
- (d) A number of key components of the project have inherently sustainable benefits, for example Training of Trainers within the legal profession, combined with training outputs such as manuals and professional tool-kits.

3.4. Crosscutting Issues

Main cross-cutting issues include good governance (reducing corruption, strengthening the rule of law and increasing access to justice), human rights (improved quality and timeliness of judicial decisions, trial rights, victims' rights, privacy protection), gender equality (increased gender balance within the judiciary, access to justice for victims of gender-based violence, and for women in rural areas).

3.5. Stakeholders

The main stakeholder in the legal sector is the Ministry of Justice (MoJ) –also beneficiary of this project-, which in Syria has the responsibility for legislative reform, administration of the whole court system, and the appointment and training of the judiciary (including the administration of the JTI), with the public prosecution service being integrated within the judiciary itself.

Other key stakeholders include the University of Damascus Law School and the Syrian Bar Association, since Result 2 of the Project aims at strengthening legal professional capacity. The main target groups are members of the legal profession (judges, prosecutors, lawyers), the Ministry of Justice, MoJ court support staff, academic staff and students of the Judicial Training Institute and the University of Damascus, as well as the members of the Syrian Bar Association.

Secondary beneficiaries include users of the judicial system (in particular victims, witnesses, women and juveniles) as well as international, regional and local academia and other actors in the legal sector, who will be able to build on the achievements of the intended project.

4. IMPLEMENTATION ISSUES

4.1. Method of implementation

The implementation method of the project will be *partly decentralised management* through the signature of a Financing Agreement between the EU, the Syrian Ministry of Justice -as beneficiary of the project- and the State Planning Commission as national coordinator. A Project Task Force (PTF) located inside the institutional structure of the MoJ will be established to manage the implementation of the project. This PTF will be staffed through the awarding of a services contract comprising key and non-key experts, and by additional staff provided by the beneficiary, who will also provide the needed office space in its own premises. In line with the provisions of the Backbone Strategy, the management rules for the PTF will be designed in a way that will ensure appropriation, ownership and leadership of the project by the Syrian administration. A Steering Committee will be established for the implementation of the project, involving the EU Delegation and senior supervisors of the major stakeholders.

The Commission controls ex-ante all the procurement procedures except in cases where project estimates are applied, under which the Commission applies ex ante control for procurement contracts > 50,000 EUR and may apply ex post for procurement contracts ≤ 50,000 EUR. The Commission controls ex ante the contracting procedures for all grant contracts.

Contracts financed exclusively with funds from the national contribution shall be governed by the relevant national legislation and rules.

Payments are executed by the Commission except in cases where programmes estimates are applied, under which payments are executed by the beneficiary country for operating costs and contracts up to the ceilings indicated in the table below.

The responsible Authorising Officer ensures that, by using the model of financing agreement for decentralised management, the segregation of duties between the authorising officer and the accounting officer or of the equivalent functions within the delegated entity will be effective, so that the decentralisation of the payments can be carried out for contracts up to the ceilings specified below.

Works	Supplies	Services	Grants
< 300,000 EUR	< 150,000 EUR	< 200,000 EUR	≤ 100,000 EUR

4.2. Procurement and grant award procedures

The Ministry of Justice will be the contracting authority except for the TA service contract, as well as for the audit, evaluation and monitoring contracts which will be contracted by the Commission.

(1) Contracts

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question. Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the European Neighbourhood Policy Instrument (ENPI) Regulation. Further extensions of this participation to other natural or legal persons by the concerned authorising officer shall be subject to the conditions provided for in *Article 21(7) ENPI*.

(2) Specific rules for grants

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EU external actions. They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the general budget. When derogations to these principles are applied, they shall be justified, in particular in the following cases:

- Financing in full (derogation to the principle of co-financing): the maximum possible rate of co-financing for grants is 80%. Full financing may only be applied in the cases provided for in Article 253 of the Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the general budget of the European Communities
- Derogation to the principle of non-retroactivity: a grant may be awarded for an action which has already begun only if the applicant can demonstrate the need to

start the action before the grant is awarded, in accordance with Article 112 of the Financial Regulation applicable to the general budget.

(3) Specific rules on project estimates:

All project estimates must respect the procedures and standard documents laid down by the Commission, in force at the time of the adoption of the project estimates in question. (i.e. the Practical Guide to procedures for programme estimates).

4.3. Indicative budget and calendar

The indicative breakdown of the budget is as follows:

Component	Budget EUR
Services (TA and others, including TA for funds management)	1,900,000
Supplies and Equipment	1,000,000
Operating costs (Study Tours, Data Collection , Running Costs , etc)	1,500,000
Monitoring, Evaluation, Audit	200,000
Visibility	100,000
Contingencies (*)	300,000
TOTAL	5,000,000

(*) Contingencies may be used only with prior agreement of the European Commission.

The project will have an indicative duration of 60 months following the signature of the Financing Agreement. The operational implementation phase will be 36 months and the closure phase will be 24 months.

4.4. Performance monitoring

Day-to-day technical and financial monitoring will be a continuous process throughout the project, and the PTF shall establish a permanent internal, technical and financial, monitoring system for the project, which will be used to elaborate the progress reports. Independent consultants recruited directly by the Commission on specifically established terms of reference will carry out regular external Results Oriented Monitoring.

4.5. Evaluation and audit

Independent consultants recruited directly by the Commission on specifically established terms of reference will conduct one mid-term evaluation mission, and one final evaluation at the beginning of the closing phase. The MoJ and the European Commission shall analyse the conclusions and recommendations of the mid-term evaluation and decide on the follow-up action to be taken and any adjustments necessary. The reports of the other evaluation and monitoring missions will be given to the MoJ in order to take into account any recommendations that may result from such missions. The European Commission shall appoint a reputable external auditor/accountant (i.e. international firm member of an internationally recognised auditing body). The auditor/accountant's role shall include monitoring the project's expenditure and auditing on a twelve-monthly basis.

4.6. Communication and visibility

A majority of project activities will provide an opportunity for the EU Delegation in Syria to conduct parallel communication and visibility activities, such as beneficiary and legal profession consultations and events. Additional activities, such as awareness-raising and consultation/ progress workshops with stakeholders, donors, or Member States will be conducted throughout the project cycle. At all stages of the programme, visibility will be given to the role of the European Union in the programme and to the results obtained. This should be done in line with the "Communication and Visibility Manual for EU External Actions".