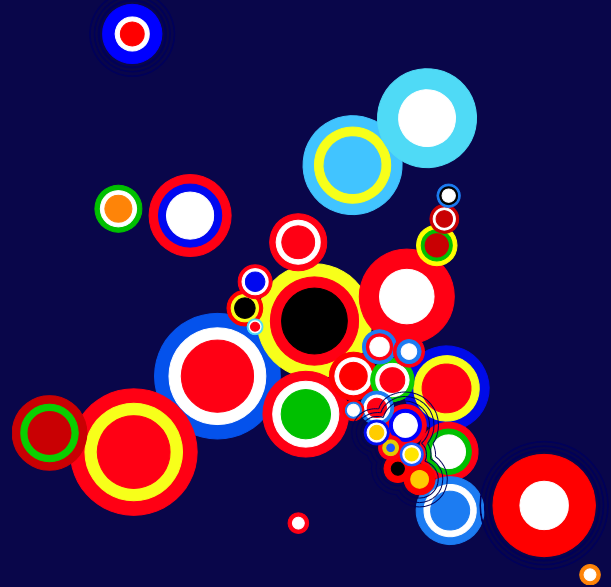




INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Support to the Justice Sector



Action Summary

This Action Document aims to contribute to the improvement of the administration of justice and to a more effective justice sector reforms, in line with EU and international standards. The objective is to improve independence, accountability, efficiency and competence of the judiciary and prosecution, ensure more accessible justice, fairer and more effective criminal justice system, further develop strategic planning, reform management and EU law approximation mechanisms in the justice sector and support administrative justice and misdemeanour reforms.

Action Identification	
Programme Title	Annual Action programme for the former Yugoslav Republic of Macedonia for 2014
Action Title	Support to the Justice Sector
Action Reference	IPA2014 /037-701
Sector Information	
ELARG Sectors	Rule of Law and Fundamental Rights
DAC Sector	15130 - Legal and judicial development
Budget	
Total cost (VAT excluded) ¹	EUR 15,293,000
EU contribution	EUR 13,000,000
Management and Implementation	
Method of implementation	Indirect management
Indirect management: Responsible Unit or National Authority/Implementing Agency	The Central Financing and Contracting Department (CFCD) will be the Contracting Authority and will be responsible for all administrative and procedural aspects of the tendering process, contracting matters and financial management including payment of project activities. The Head of CFCD will act as the Programme Authorising Officer (PAO) of the project. Central Financing and Contracting Department Ms. Radica Koceva (PAO) Ministry of Finance Tel: +389-2-3231 219 Fax: +389-2- 3106 612 e-mail: radica.koceva@finance.gov.mk
Implementation responsibilities	The key beneficiary will be: <u>Ministry of Justice</u> Ms. Frosina Tasevska, Head of Department for European Union and Senior Programme Officer Tel: +389 2 3106 522 Fax: +389 2 3226 975 E-mail: ftasevska@mjustice.gov.mk
Location	
Zone benefiting from the action	The former Yugoslav Republic of Macedonia
Specific implementation area(s)	Nation-wide activities
Timeline	
Deadline for conclusion of	2015 (n+1)

¹ The total action cost should be net of VAT and/or of other taxes. Should this not be the case, clearly indicate the amount of VAT and the reasons why it is considered eligible.

the Financing Agreement	
Contracting deadline	d+3
End of operational implementation period	d+6

1. RATIONALE

Overall, the country's progress in the justice sector² reforms has been mixed. Important policy, legislative and institutional changes to improve rule of law and administration of justice have been undertaken in the country since the Strategy for Judicial Reforms 2004-2007 was adopted. A number of measures were undertaken aimed at strengthening of the legal and institutional framework and capacities of relevant actors. Significant results have been reached in the past period regarding the establishment of institutional standards and a legal framework; however, much remains to be done in order to achieve full alignment with the Acquis and implementation of EU standards in such important area.

PROBLEM AND STAKEHOLDER ANALYSIS

The Council for Judicial Reform (CJR), established in 2004 as part of the Strategy implementation mechanism, has continued its operations in coordinating justice-related policy formulation to this date. Some important constitutional and statutory changes were introduced as a result of the Strategy implementation, including setting up of the judicial and prosecutorial governance (Judicial Council (JC) and Council for Public Prosecutors (CPP)), development of the system of administrative justice (including the establishment of separate administrative courts), establishment of a specialised court in the sphere of serious and organised crime, the founding of the Academy for Judges and Public Prosecutors (AJPP), advancement of structural independence of the judiciary, strengthening of the anti-corruption framework development of the system of recovery of proceeds of crime (by setting up of the Agency for the Management of Confiscated Assets, AMCA), improvements in juvenile justice and prison reform. Significant procedural legislation was adopted as a result of the Strategy implementation, including statutes on Courts, Interception of Communications, Administrative Disputes, Trial Procedure. Another outcome of the above Strategy was a sub-sectorial Strategy for Criminal Law Reform 2007-2011. The Strategy implementation included developments in substantive criminal law and, most importantly, adoption of a new Criminal Procedure Law (CPL) (in force from 1 December 2013), which cemented a shift to a more prosecutor-led investigation and a more adversarial system of handling of evidence at trial. E-justice was also advanced with the notable introduction of the Advanced Court Case Management and Information System (ACCMIS), Joint Configuration management information system (JCMIS) for tracking performance of courts and judges, Accounting and budgeting management system (ABMS) for accounting and budgeting, development of the court websites, and equipment of some courts with the audio recording hardware and software. The EU (as part of IPA I framework) and other donors have carried out various interventions to support most of the reforms mentioned above.

Notwithstanding the comprehensive legislative and organisation changes which have already been made in the justice sector over the past decade, key regulatory and capacity gaps remain and therefore

² In order to retain holistic approach but also find sufficient focus and make recommendations for the purposes of the future EU sector support programme, the definition of 'justice sector' has been held to encompass not only *administration of justice* by courts of ordinary jurisdiction, but some authorities and institutional relationships that *directly support* the courts in the administration of justice - whether by activities preceding (criminal investigation, legal aid etc.) or those deriving from court decisions (civil and criminal enforcement systems etc.). In addition, in defining the sector, focus has been placed on important *cross-cutting* relationships *directly affecting* the administration of justice, including *legal education and professional training, strategic planning, E-justice and IT, alternative dispute resolution (ADRs), anti-corruption, prevention of ill-treatment etc.*

will need to be addressed as priorities in the coming period: most notably, mechanisms and skills are lacking to ensure uniformity of practice of the courts, despite the continuing efforts in this respect by the newly created professional training bodies (especially AJPP). Legislative ‘inflation’ undermines attempts at more coherence, clarity and foreseeability of law and practice; newly created judiciary and prosecutorial governance bodies are still unable to ensure the principle of functional independence of judges and prosecutors. Quality control and performance management systems in most sector stakeholders continue to show weaknesses, despite the gradual improvement in view of the shift towards more merits-based recruitment, qualitative and quantitative evaluation and promotion tools, especially in the judiciary and prosecution areas. Underfinanced and under-staffed legal aid system impedes the possibility to apply a more adversarial criminal procedure in a fair manner, especially in view of weak capacity of the Bar at all levels of governance and performance. Lack of individualised, evidence-based approach in the criminal enforcement system can be expected to improve in view of ambitious reforms undergoing in the penitentiary and probation system. In the last period continuously it is invested in the improvement of the accommodation capacities of the penal-correctional and educational-correctional institutions for the convicted and detained persons.

There is ongoing Project for Reconstruction of 4 penal-correctional institutions including: PCI Idrizovo that is also the largest institution of closed type in the country, Skopje Prison where the largest pre-trial detention section in the country is located and ECI Tetovo and Kumanovo Prison (which construction was completed and since 2013 operates as institution of semi-type). Also, Prilep Prison was completely renovated and functional from March 2008, Prison Sthip was transformed into Penal-Correctional Institution, Skopje Prison, in 2009, a completely new pre-trial detention section was constructed so that this prison can accommodate a total number of 310 pre-trial detainees. Also, the complete renovation of the old pre-trial detention section (25 premises of approximately 600m²) was finished. Bitola Prison operates as an institution of semi-open type with existing capacity (fulfilling the conditions of 4m²/9m³ space for one convicted/detained person) for 60 convicted and 22 detained persons. Namely, on 16.07.2014 in Bitola Prison, a total of 111 convicted persons were serving the sentence imprisonment, while in the pre-trial detention part there were 15 detainees. It is evident that Bitola Prison is currently facing overcrowding. Also the current conditions of the facilities are very bad they are old and dilapidated. Taking into consideration the dilapidated state of the facilities, it is necessary to have complete reconstruction of the institution including: the cells in the prison and pre-trial detention part, the toilets, solving the humidity issue and the bad isolation in the institution, have approach to natural light (specifically in the pre-trial detention part), improving the heating system equipping the prison building, in accordance with the needs of the convicted and detained persons. In that sense, except for the necessary reconstruction of the existing prison building, it is necessary to renovate the facility of the old prison, and then the administration part should be moved from the prison building in the facility of old prison, and the whole prison building to be available for accommodation of convicted and detained persons (this will double the capacity of the institution i.e. it will be enough for approximately 120 convicted and 40 detained persons). The relocation of the administration of the prison from the prison building in the facility of the old prison is much better and cheaper solution, which will provide utilization of the capacity of the old prison that is currently not in use, creating suitable living conditions for convicted and detained persons and at the same time provide enlargement of the accommodation capacities of Bitola Prison, which solves the problem of overcrowding in this institution.

Yet, material infrastructure in a number of penitentiary facilities remains sub-standard. Prevalence of repression-based approaches in criminal justice, at times results in ill-treatment, abuse of intrusive investigation methods, and overuse of detention on remand and confessions as the main incriminating evidence. Criminal procedure with no sufficient streamlining between adversarial and inquisitorial approaches, and underdeveloped procedural tools to increase clarity, foreseeability and fairness (formalised standards of proof, etc.) results in breaches of defence rights, insufficient victim protection and other elements of fairness. Substantive criminal and misdemeanour law remain complicated resulting in potential risks for double jeopardy, selective investigations, jurisdiction disputes and insufficient fairness.

The material infrastructure in most Public Prosecutor's Offices (PPO) remains poor. IT of PPO are very underdeveloped both in terms of hardware and software infrastructure, as well as business processes to put it to proper use. This is characterised by a high degree of under-equipment with PCs, servers, printers. Networks are in a particularly critical condition both with regard to physical cabling, as well as active and passive network equipment for the use of internet, email, and all kinds of software. The state of affairs can be expected to improve somewhat with the procurement (with the support of EU) of audio-video equipment and PPO-adapted version of CMIS for case management. The priority needs of the PPO IS include a Management Information System (MIS) in order to properly cover 'back office' needs, especially in the budgeting, finance, inventory, human resource, document management. Furthermore, internal communication and collaboration suite within PPO have to be developed by means of the intranet system, digital libraries, and knowledge management tools. Another group of urgent measures include interoperability with the law enforcement (especially MOI), courts, penitentiary, Bar IS, in order to ensure electronic exchange of documents, conduct planning and monitoring of actions essential for the effective and efficient prosecution system. A related issue is security of communications, which is absolutely essential for the conduct of SITs and the fight with more sophisticated forms of crime (i.e. financial and cybercrime). Systems need to be built in this respect for the transport of secure data via equipment for data storage and mobile hearings. Digital multimedia data banks have to be put in place with state of the art analytical and search capabilities, disaster recovery systems and facilities etc.

Uncodified civil law prevents both greater clarity and foreseeability of substantive law, as well as greater approximation with EU standards. Private limbs of the justice system, including the Bar, continue to lack proper governance, initial and continuous trainings systems. Various information and communication technologies (ICT) used by the state and non-state actors in the justice chain are not sufficiently interoperable and integrated, preventing both a smooth information exchange and analysis. Legislative and institutional approaches to the protection of privacy or some of its incidental elements (i.e. personal data protection) at times come at the expense of the interest of transparency in the State's dealing with the public, especially in the area of administration of justice. Finally, lack of strategic planning, analysis and research capabilities for definition of targets, development of legislative initiatives and uniform practice, identification of risks and threats to guide the policy development and implementation, is a key obstacle to formulating a coherent approach and achieving effective implementation of many regulatory initiatives. Non-state actors are not systematically involved in the ongoing justice reform processes. Institutional capacities in the area of strategic planning and research remain particularly weak, necessitating enhanced focus of the EU support, especially in view of the application of sector approach to programming, which requires an enhanced degree of sector policy and reform coordination. Since 2010 the country has made significant advancements in the state of affairs of information systems and e-Justice, including improvements in computer facilities and hardware at the courts and registries, software with the case registration and management systems, electronic communication channels within the courts system. Most of these have been achieved with the assistance of donors, notably EU.

E-justice was advanced with the notable introduction of the Advanced Court Case Management and Information System (ACCMIS), JCMIS for tracking performance of courts and judges, ABMS for accounting and budgeting, development of the court websites, and equipment of some courts with the audio recording hardware and software. At the same time, given that all IS infrastructure by definition has a limited lifecycle, permanent upgrades have not been ensured. Moreover, standardisation and sustainability requirements in conducting various upgrades have not been taken into account. ACCMIS, introduced in 2010 as part of the USAID donor assistance, required significant regulatory changes, allocation of resources in training, additional deployment of personnel. The system implementation was perhaps among the most tangible changes in the country's justice sector in the recent years. However, a lack of continuous maintenance and upgrading of the system has resulted in a rather significant level of dissatisfaction (59%) by users of these systems³. Another notable step in the

³ *Survey on User Satisfaction and Quality of IS*, conducted as part of this Assessment by Artisoft, Skopje, July 2014, pp. 6, 10, 11.

IS development was a dedicated JCMIS system for the Judicial Council, developed as an extension of ACCMIS in 2013. The system has various statistical functionalities for tracking performance of courts, judges and staff. It has so far been given a rather adequate degree of user satisfaction (67%)⁴. Another dedicated system (ABMS) had already been introduced since 2007 for budgeting, financial management and accounting purposes. While seriously out-dated, the system still scores a 47% of the user satisfaction. At the same time, it should be awaiting replacement by the Management Information System (MIS) in order to support JC and the judiciary in the strategic planning, budget and finance, and performance management, while ensuring interoperability with other justice sector actors via web-service based technologies. Improvements in application of e-justice tools also took place by way of implementation of the audio recording system in some courts. The first phase of the project was finished recently, allowing recording in some civil cases only.

Open questions persists from the operational and technical side as to the extent to which the system will be employed universally. Development of the court websites with the assistance of a Netherlands-financed Matra Project was another notable step in ensuring external visibility, transparency and effectiveness of the administration of justice. Despite these efforts, the court websites remain largely fragmented in terms of their interface, content (different court jurisprudence in different websites), and the general lack of usability and other qualifiers, as attested by users of these systems, keyword-based effective search engines are non-existent to look for jurisprudence. No linkages exist between the legislative search engines and the ability to look for the courts' practice under a particular piece of legislation. Having said that, further advancement in electronic case-handling procedures may be advocated to improve efficiency. Strengthened strategic, operational and maintenance capabilities of information systems at the judiciary and the justice sector in general. Establishment of an IS mechanism for the justice sector⁵. Improved access to and use of statistics and data by way of the courts' internal (ACCMIS) and external (websites) information systems. Use of big data analytics, search engine implementation, integration and interoperability of the systems by means of web service technologies is needed. Improved methodologies of collection and handling of court statistics by JC and the judiciary in general, including Methodology for Court Statistics adopted by MOJ on the basis of the Guidelines on Judicial Statistics (GOJUST) of CEPEJ. Practical and effective implementation of a full Management Information System (MIS) from the current ABMS to improve policy development and implementation, including monitoring, management and control of the financial and human resource. Greater usability of the courts' websites for the legal community and the society at large by setting up elaborate keywords-based search engines, allowing to access and filter to all domestic court decisions and relevant international (ECHR, ECJ) case-law online. Linkages between the legislation search systems and practice of the national courts (Constitutional Court, Supreme Court etc.) in interpreting and applying that legislation. Relaxing the website traffic and providing an integrated tool for the judiciary by connecting these websites with JDBIS (Jurisprudence Data Base Information System), integrate all jurisprudential data in one single point from the perspective of users.

Greater use of other e-justice tools - including full electronic case management, e-notification (with the mobile technology), random case assignment (with real-time e-notification of the parties), video and/or audio recording of all hearings and video conferencing, electronic provision of models of writs and other forms for court proceedings - to increase access, efficiency, fairness of court proceedings, encourage anti-corruption and disciplinary improvement efforts. Reconciliation of the questions of increased specialisation of judges with the use of random distribution of cases remains.

Interoperability of the courts e-case management system (ACCMIS) and the whole courts' integrated information system (IIS) - both horizontally and vertically. Interoperability with the electronic case management system of PPO (currently being developed) and other justice sector stakeholders (MOI, Customs, Financial Police etc.) information systems. Interoperability of the courts' electronic case management system with those or the Bar (practising lawyers), to facilitate access to case-relevant

⁴ Ibid.

⁵ See Section on coordinated management of IS below.

evidence and other data. Interoperability with the e-Government ECO system is important, especially for the automated exchange of data and information between the administrative courts and other State authorities, especially the registry holders. Increased efficiency is needed in case handling, including upgrading of current systems and development of new systems of measuring backlogs, waiting times and case prioritisation.

Against the above background, the short-to-medium term needs of the country's justice sector could be grouped into these following blocks:

- Improving strategic planning, justice sector reform coordination, research and analysis, and EU law approximation capacities, strengthening access to legal aid, as well as supporting the on-going reforms of misdemeanour law and administrative justice;
- Increasing independence, accountability, efficiency and competence of the judiciary by improving its governance, quality policy, performance management, and professional training systems;
- Improving the E-justice system through the development of ICT infrastructure, E-services and access to justice tools, as well as inter-operability between relevant institutions;
- Enhancing prosecution governance, performance management and professional training systems, strengthening the status and skills of criminal justice actors and material-technical infrastructure of the Public Prosecutor's Offices for fair and effective implementation of the new Criminal Procedure Law (CPL);
- Improving detention conditions, reducing reoffending, consolidating rehabilitation and re-socialisation as a matter of policy and implementation in the penitentiary and probation systems.

The on-going or soon-to-be-launched EU-financed projects will address some of the above needs, most notably strengthening capacities of the JC and launching the probation system (IPA 2010 independent judiciary and probation project), enhancing strategic planning capacities of the Ministry of Justice (IPA 2011 twinning project for the Ministry), providing policy advice and capacity building for justice and home affairs stakeholders (IPA 2012 rule of law project), operationalising the concept of intelligence-led policing and enhancing interaction between police and prosecution services (IPA 2011 twinning project for the Ministry of Interior). At the same time, much scope for further interventions under IPA II remains, with a view to either filling the gaps left by previous interventions, or enhancing support in the same fields in order to ensure greater sustainability of the EU and other donor efforts.

RELEVANCE WITH THE IPA II STRATEGY PAPER AND OTHER KEY REFERENCES

In view of the policies defined in the latest Enlargement Strategy 2013-2014, the most recent Annual Progress Reports and the Government's general priorities, IPA II should focus on strengthening the rule of law and justice sector as a key strategic priority. Progress in the sector will ensure a stable and democratic future for the country, benefitting directly its socio-economic development, including through increased inward investment. In line with the objectives of the Indicative Strategy Paper 2014-2020⁶, IPA 2014 justice sector support programme will *inter alia* assist to advance judicial reforms of the country, to align national law with the EU *acquis* and standards and to enhance protection of fundamental rights. Accordingly, assistance will be provided to activities safeguarding independence, efficiency and professionalism of the judiciary, effectively combating corruption and organised crime, improving the administrative justice system (including misdemeanour law),

⁶ C(2014)5861 final, 19.08.2014

development of institutional capacities and material-technical infrastructure of the justice sector stakeholders, modernisation and harmonisation of private law with EU legislation.

The Stabilisation and Association Agreement, in particular, includes provisions on reform of the judiciary, international cooperation, and fight against organised crime and corruption. Likewise, the 2012 Roadmap of the High-Level Accession Dialogue introduces new dynamics in the reform process by stimulating alignment of the country's legislation in the framework of Chapters 23 and 24. Key challenges and reform goals determined in five areas for the on-going period included: freedom of expression, rule of law, public administration reform, electoral reform and strengthening the market economy. The national justice sector reform policies proposed to be supported by way of this justice sector support action cut across - and should make a sizeable impact on - the progress in all of the above areas. In order to make the EU assistance to the justice sector more effective and sustainable, it is necessary to embed it within a longer-term strategic support framework. Thus, with the introduction of IPA II, a particular attention shall be paid to sector-based support, as opposed to programming by way of individual projects.

SECTOR APPROACH ASSESSMENT

Sector Policy

On 3 September 2013, the Government adopted a Framework for Further Development of Judiciary 2014-2017 (FFDJ), setting out 7 areas for further reform spanning the entire justice sector: (a) strengthening independence, impartiality and efficiency of the judiciary; (b) improving administrative justice; (c) further reforms in the criminal justice system; (d) development of the civil justice system; (e) alternative dispute resolution; (f) access to justice; (g) enhancing the protection of fundamental rights (with a particular focus on the penitentiary). The FFDJ is a broad policy document summarizing the relevant reform priorities which are addressed - or are expected soon to be addressed - in the following primary policy framework (in the order of relevance):

- Justice Sector Reform Strategy/Action Plan (currently under elaboration on the basis of the FFDJ) which will elaborate actions in the 7 main areas mentioned above;
- Strategic Development Plan (SDP) of the Judiciary (currently under elaboration) which aims to improve the judiciary governance system in all aspects of self-regulation, quality policy and performance management;
- Probation Strategy 2013- 2016 which intends to create a fully functioning probation service ;
- National Strategy on the development of the penitentiary system 2015-2020 (to be developed by the end of 2014 with the support of IPA 2009 Council of Europe grant project) ;
- Strategy on Health Care in the Penitentiary institutions 2012-2014;
- Penitentiary Reform Action Plan 2009-2014 with the main focus on the reform of the prison management system, introduction and development of various tools for rehabilitation and re-socialisation;
- Action Plan on the Codification of Civil Law which also foresees review of more than 360 *lex specialis* statutes by the end of 2015.

The secondary policy framework for justice reform, covering some of the important cross-cutting issues in the sector, includes the following documents:

- Anti-Corruption and Conflict of Interest Prevention Programme and Action Plan 2011-2015 with the main focus on introduction and development of various criminal, civil and administrative law tools in the field;
- Strategy for Cooperation of Government with Civil Society 2012-2017, which foresees *inter alia* stringer role of CSOs as an external oversight and monitoring mechanism in the justice sector;
- National Programme for the Adoption of the Acquis (NPAA) which serves as umbrella document for EU integration related reforms in justice and rule of law, chapters on 'rule of law and contract enforcement' and 'administrative law' in the Pre-Accession Economic

Programme 2014-2016, and the Programme of the Government 2011-2015 which foresees reforms of law enforcement and the judiciary.

These policy documents intend to promote approximation with EU law and relevant standards. They are meant to ensure a more effective and coherent structure, sequencing and self-reinforcing relationship between various legislative and institutional developments, and promote increased balance between the competing priorities: independence and accountability of courts, procedural fairness and efficiency⁷, autonomy and effectiveness of the prosecution and criminal investigation services, effective crime detection/prevention and decriminalisation, accessible justice and application of ADRs, development of administrative justice for more transparent and foreseeable relationship between individual and the State, and greater EU law approximation. However, this policy framework is rather fragmented. A strategic approach to the justice sector reform is still at an early stage of development, as attested by the FFDJ and the current efforts to develop a comprehensive sector-wide justice reform strategy, which will have to ensure coherence among all these strategic documents and provide a consolidated sector reform vision.

Consequently, the main developments to be suggested in the short-term to improve the quality of sector policy, in order to increase supportiveness of the domestic context for a sector-based support action are: (a) further development of a comprehensive Justice Sector Reform Strategy/Action Plan based on a more detailed needs assessment with regard to the 7 sub-sectorial reform components already defined in the FFDJ (b) finalisation of the judiciary SDP, including a chapter on the ICT development, and the penitentiary strategy; (c) improvement in output, outcome (result) and impact indicators in all the policy documents which are either under development or review, with linkages to the findings in the context of the monitoring process.

Institutional setting, leadership and capacity

The country's justice sector comprises various intertwined institutions and areas cutting across different sectors and branches of power (judiciary, executive and legislature), as well as various independent or semi-independent bodies and private corporations (lawyers, bailiffs, notaries). Due to the complex nature of the justice sector, a change in a particular instrument does not bring about the required change in the same way as it does in some other sectors – mainly because the very stakeholders of the justice sector are the ones who interpret and apply the new instruments with a significant degree of discretion. A real change in the system of administration of justice can only be achieved by a marked improvement in the sector actors' capacity - including mentality, willingness and skills - to accompany the statutory or institutional changes. Furthermore, leadership in the justice sector is split among several autonomous actors belonging to different branches of power, thus hierarchical subordination among them is constitutionally not possible. It is important to take these sector specificities into account when designing and implementing a sector-oriented EU assistance.

The Ministry of Justice (MoJ) is the leading executive body for policy making in the justice sector. Its competences include preparation, implementation and monitoring of justice sector reforms, strengthening access to justice and legal aid system, approximation of sectorial legislation with EU and international law, international judicial cooperation. The MoJ shall assume a key role under the present justice sector support action as regards the improvement of justice sector reform management and coordination, enhancement of legal aid and EU law implementation mechanisms, and steering of administrative justice and misdemeanour law reforms. While the MoJ has a track record of successful implementation of justice sector reforms, its capacities remain weak which will necessitate provision of capacity building and support to its key departments throughout the implementation of this Action.

The Supreme Court is the highest judicial authority in charge of deciding cases in the final instance and within the extraordinary remedies' procedure, settling jurisdictional disputes between courts, as

⁷ It must be noted that the (lack of) efficiency of case handling by courts is quickly becoming an obsolete issue in the country, while the at times excessive emphasis on speed has brought negative results to the detriment of the interests of thoroughness, fairness, and equality in the conduct of court proceedings, which have not dissipated in relevance.

well as ensuring uniformity of court practice by issuing legal positions on specific questions of law. The Supreme Court, together with the Courts of Appeal and other ordinary and administrative courts, will be involved in implementing activities under the present Action related to the enhancement of efficiency, professionalism and transparency of the judiciary, as well as ensuring higher uniformity of court practice.

The Judicial Council (JC) is the leading judiciary governance body in charge of ensuring autonomy and independence of the judiciary. Its competences include appointment, appraisal, disciplinary responsibility and dismissal of judges, monitoring of courts' performance, as well as handling complaints against courts and distribution of judges across the country. The Court Budget Council (CBC) is a judiciary governance body in charge of planning and execution of judicial budget. The Council of Court Administration (CCA) is another judicial governance body having a seat at the Supreme Court and dealing with issues related to the court administration, including handling disciplinary cases and complaints of court staff. The JC, the CBC and the CCA, each within the remit of their competences, shall be in charge of implementing activities under the present Action related to the governance of the judiciary. A significant attention shall be paid at increasing their capacities and streamlining their roles in ensuring an independent, efficient, accountable and professional judiciary.

The Academy for Judges and Public Prosecutors (AJPP) is one of the judiciary institutions in charge of organizing and conducting initial training of candidates for judges and prosecutors and continuous training to the entire judiciary and PPO staff. The Academy has enjoyed substantial IPA assistance and has gradually strengthened its capacities. It shall be accordingly in charge of Action activities related to training and capacity building to the judiciary and PPO staff, as well as other justice sector actors and will support other justice sector priorities, such as harmonisation of court practice.

The Council of Public Prosecutors (CPP) was established in 2008 to guarantee autonomy of the public prosecutors in performance of their functions. It is competent to decide on the status of public prosecutors, including selection and dismissal, termination or suspension of office, disciplinary procedures and appraisal. Due to the hierarchical principle applied within the prosecutorial organisation, disciplinary and dismissal procedures in relation to prosecutors differ from those valid for judges, whereby the powers in these procedures are shared between the CPP and the PPO. The capacities of the Council remain weak in all areas of its work and are in need of substantial strengthening.

The Public Prosecutor's Office (PPO) is an autonomous state authority in charge of prosecution of perpetrators in criminal and other punishable acts determined by law. With the reform of the Law on Criminal Procedure which shifted the criminal justice from an inquisitorial to an adversarial system, the PPO's powers were significantly expanded and now comprise the authority to lead criminal investigations conducted by the newly formed Judicial Police which is composed of criminal police, financial police and investigative service of the Customs Administration. The reform introduced radical novelties raising inter-institutional tensions between investigative, prosecutorial, defence and judiciary actors, and requiring adjustment of the entire system. Strong support from the international donors will be needed to complete the reforms. Based on their respective competences, the CPP and the PPO shall be leading the implementation of activities under the present Action related prosecutorial governance reforms, fair and effective enforcement of the new criminal procedure framework and improvement of PPO material-technical infrastructure.

The Directorate for Execution of Sanctions within the MoJ is the leading policy maker in the area of penitentiary and probation reforms. It is involved in modernisation and supervision of penitentiary institutions and alternative sanctions. The Directorate is currently developing a comprehensive strategy for the reform of the penitentiary system. It has gradually developed its strategic planning and prison management capacity, however, it still suffers from limited funding and human resources, as well as insufficient management capacities. The Directorate shall be the main beneficiary under the present Action as regards the reforms in the penitentiary and probation system.

Strategic planning, sector reform coordination, analysis and research skills in most justice sector stakeholders need to be either built from the beginning or significantly strengthened, if a more comprehensive and long-term approach to both sector reform and sector performance is to take hold. These attempts are obstructed by the usually hasty law-making process which results in ‘inflation’ of poor quality legislation. There will be a need to substantially strengthen the existing sector and sector reform coordination bodies that would be in charge of implementing the respective activities under the present Action.

A significant cross-cutting issue in all of the above sector categories is a lack of a single ICT policy and ICT coordination and management body within the justice sector. *Interoperability* and *integration* of various information systems (IIS) in the justice sector is still missing. Resolving this issue raises various political, legal, financial and practical questions. The state of *E-justice and the use of ICT* resources also depends on and is influenced by the aforementioned fragmented institutional setting, generally low institutional capacity and insufficient funding in this area. As a result, an excessive pluralism of powers over the various ICT segments and systems and inefficient management of ICT resources can be observed. While the ICT staffing numbers in the sector may be considered satisfactory, management of these resources is inefficient. As a precondition for the launch of IT-related supplies under the present Action, a single ICT policy and ICT management/coordination body will have to be put in place. This body would have to take the lead in coordinating the implementation of ICT-related activities under the Action.

Sector and donor coordination

There are a number of sector and donor coordination mechanisms, however their relevance and performance is of mixed quality. In the area of EU accession, the leading role in driving the justice policy development, implementation and review rests with the NPAA Working Group on Chapter 23 ‘Judiciary and fundamental rights’ (WG23). WG23 is provided with secretarial support by the MOJ EU Department. In addition to this WG, a more general coordination of actions in light of the priorities from the perspective of EU integration is decided in the Working Committee on European Integration (WCEI) and the Subcommittee, which discusses the level of implementation of NPAA and EU-funded programmes.

The WCEI and the WG23 also share the roles of donor coordination for justice sector. Considering the presence of many donors in the justice sector, the Government has made efforts in setting up several donors coordination mechanisms. However, despite initial efforts, in the last several years, the Government-led donor coordination in the justice sector has lost its force.

Several *ad hoc* reform coordination mechanisms were set up to support the reform of criminal procedure and civil law codification respectively. While the former has overall not been an active policy setting body, the latter is suffering from insufficient financial resources to carry out its work.

The Council for Judicial Reform (CJR) was established in 2004 to drive the then Strategy for Judicial Reforms 2004-2007. The CJR has continued operating ever since, meeting at least twice per year to define strategic policy directions in the justice sector. Composed of 30 members, the CJR has a broad and mixed representation including the highest justice sector officials. Since CJR has no dedicated support body at the operational level, it is provided with an *ad hoc* secretarial support and targeted expertise by the MoJ. In the recent years, the CJR has not been active.

The Development of a new sector-wide justice reform strategy on the basis of the FFDJ is led by the MoJ. The FFDJ itself was formally developed by a dedicated Working Group, which has the same composition as the CJR. This inclusive coordination mechanism could serve as a good basis for coordination at policy-setting level. At the same time, additional key actors remain to be included (most notably, the Ministry of Finance and civil society).

Against this background, while various *ad hoc* and permanent mechanisms exist with regard to separate fragments of the justice sector reform and donor coordination, a coherent coordination mechanism at both policy-setting and operational level is lacking. This fragmentation of coordination mechanisms appears to be influenced by the lack of policy decision on sector and donor coordination

and lack of dedicated strategic planning capacities at each sector stakeholder. For a successful implementation of the present sector-oriented Action, an effective coordination mechanism will have to be put in place both at policy-setting and operational level and their capacities regularly strengthened.

Sector budget and medium-term perspective

There is no single justice sector budget, as this heterogeneous sector comprises policy areas that fall within the competence of different institutions and branches of power, and thus different budget lines. Separate budgets are foreseen for the operation of the Ministry of Justice, the PPO and the judiciary, while the Bar is a self-financing institution. The latter, including the Academy for Judges and Prosecutors and the judiciary governance bodies have an autonomous budgeting process managed by the Court Budget Council.

There is no medium-term perspective in the justice sector. The Pre-Accession Programme 2014-2016 includes some general 3-year projections with regard to the basic parameters of the Government's revenues and expenditure. However, it does not reflect costs of any of the justice or other sector-related policies. Comprehensive improvements are required in terms of budgetary structure of sector policies and their integration into a medium-term expenditure framework (MTEF). The present Action will provide the necessary support to improve justice sector and sector reform budgeting processes and develop medium-term expenditure planning capacities.

LESSONS LEARNED AND LINK TO PREVIOUS FINANCIAL ASSISTANCE

Although the previous experience of implementation of justice sector projects was generally positive, a number of cross-cutting challenges identified during the monitoring and evaluation process need to be taken into account and addressed under IPA II:

(a) Absorption capacity of beneficiaries should be properly assessed and not over-estimated, to enable partners to provide the necessary human, material and technical resources; (b) functional needs assessments should be conducted prior to the delivery of assistance; (c) ownership should be increased by supporting the beneficiary country's policies rather than separate donor-driven actions; (d) promote awareness of the Action among the stakeholders and strengthen their programming capacities; (e) factor in sustainability at the earliest design stage; (f) promote balance between various modalities of support within the Action; (g) promote balance between the need to have a clear, foreseeable action design and sufficient flexibility to adjust the action to the circumstances on the ground; (h) activities with cross-sectorial elements or multiple stakeholders should include strong coordination mechanisms; (i) synergies between various activities (taking place at the same time) should be promoted within a sector and among donors; (j) encourage more pro-active donor coordination; (k) promote inclusive sector dialogue and M&E mechanisms to follow performance in the given sector/sub-sector.

At present, notable improvements in the sector policy quality, coordination mechanisms, sector budget and multi-annual expenditure framework (MTEF), Public Finance Management (PFM) and monitoring and evaluation system are required, in order to increase supportiveness of the domestic context for a sector-wide assistance under IPA II. All the on-going projects programmed under the IPA I (2007-2013) should be launched with the above requirements in mind – most notably, the need to help the justice sector stakeholders in particular, and the sector in general, to develop the required capacities in strategic planning, research and analysis, budget formulation and financial management. All the ongoing and upcoming projects, including of other donors, should aim at reinforcing strategic approach to justice reforms at all levels of the sector governance and management while addressing the aforementioned sector gaps and preparing the ground for sector-based interventions in the justice sector under IPA II.

2. INTERVENTION LOGIC

LOGICAL FRAMEWORK MATRIX

OVERALL OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	SOURCES OF VERIFICATION	
<p>To contribute to the improvement of administration of justice and to a more effective justice sector reforms, in line with EU and international standards.</p>	<p>1. Degree of implementation of the national justice sector reform policies (Justice Sector Reform Strategy and Action Plan, JSRSAP) at the end of Action implementation</p> <p>2. Society expresses satisfaction with the state of administration of justice by way of user satisfaction surveys at the end of Action implementation</p> <p>3. EU, other international organisations and NGOs value positively progress in administration of justice in their reviews and rankings at the end of Action implementation</p>	<p>- EU Progress Reports and other EU policy papers</p> <p>- UN, Council of Europe and other International Organisations' and their bodies (incl. ECtHR, GRECO, CPT, CEPEJ, CCEJ, etc.) reports</p> <p>- Governmental and non-governmental reports/studies</p> <p>- International rankings of the country - Governance Indicators and Rule of Law Index of the World Bank Institute, Bertelsmann Stiftung Transformation Index, Freedom House ranking, WB Doing Business report, WJP Rule of Law Index, WEF GCR Institutional pillar index</p> <p>-User satisfaction surveys, external trial monitoring reports and media opinions</p>	
SPECIFIC OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	SOURCES OF VERIFICATION	ASSUMPTIONS
<p>To improve independence, accountability, efficiency and competence of the judiciary and prosecution, ensure more accessible justice, fairer and more effective criminal justice system, further develop strategic planning, reform management and EU law approximation mechanisms in the justice sector and support administrative justice and misdemeanour law reforms</p>	<p>Same as above</p>	<p>Same as above</p>	<p>1. Strong commitment of the country's leadership to justice sector reforms, to this Action and to sector approach</p> <p>2. Continuous support of the EU to the beneficiary country's justice sector reforms, to this</p>

			<p>Action and to sector approach</p> <p>3. Close dialogue between the Government and the EU on common values and specific reforms in the justice sector</p> <p>4. Experts recruited and goods/services/works delivered are of sufficient quality;</p> <p>5. Timely allocation of adequate resources in beneficiary bodies</p>
RESULTS	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	SOURCES OF VERIFICATION	ASSUMPTIONS
<p>Result 1: Improved mechanisms for designing, implementing and monitoring justice sector reforms, strengthened capacities of all justice sector stakeholders in strategic planning and operational EU law implementation; enhanced access to legal aid, improved administrative and misdemeanour law and practice</p> <p>Result 2: Improved judiciary governance system, ethical and disciplinary framework, performance management and professional training system, improved courts administration, more consistent and accessible practice of courts</p> <p>Result 3: Improved E-justice system, ICT infrastructure, inter-connection of the MoJ, Judicial Council, Council of Public Prosecutors, PPO, courts and other justice sector actors, upgraded E-services, databases and statistics for greater access to justice and higher quality policy making.</p> <p>Result 4: Improved prosecution governance system, performance management and professional training systems, administration and its management at PPO, develop conditions for fair and effective implementation of the new Criminal Procedure Law (CPL)</p> <p>Result 5 Improved prison management, detention conditions and reduced reoffending through</p>	<p>1.Strategic planning, research, analysis and monitoring units (SPRAU) at MOJ, JC, Supreme Court, appellate courts, Council of Public Prosecutors, PPO, as well as EU law implementation body established and operational</p> <p>3. Legal aid system providing higher access to justice as attested by the number and kind of persons having access to justice and receiving satisfaction with services</p> <p>4. Administrative and misdemeanour law modernized and applied in practice</p> <p>5. Judiciary governance system reformed to ensure high degree of independence, accountability, efficiency and competence of the judiciary</p> <p>6. Mechanisms to increase uniformity of court practice put in operation and delivering tangible results</p> <p>7. Improved ICT infrastructure, number of interconnections, networks, websites and search engines</p> <p>8. Prosecutorial governance system reformed to ensure high degree of independence, accountability,</p>	Same as above	See above

<p>policy, legislative, institutional and ICT changes in the penitentiary and probation systems and focusing on rehabilitation and re-socialisation, increased internal and external oversight mechanisms, enhanced CSO partnerships.</p>	<p>transparency, efficiency and competence of the prosecution service</p> <p>9. Fairness, efficiency and effectiveness of criminal procedure is enhanced by legal, institutional, practical and infrastructure development.</p> <p>10. Improved detention conditions, prison and probation management and interaction between probation and penitentiary services in individual sentence planning and risk assessment</p> <p>For further Indicators see the Indicator table below.</p>		
ACTIVITIES	MEANS	OVERALL COST	ASSUMPTIONS
<p>Activities to achieve Result 1:</p> <p>Activity 1.1 Strengthening of capacities of the relevant bodies in designing, implementing, monitoring and reviewing the JSRSAP, putting into operation/upgrading of SPRAU within the MOJ, JC, Supreme Court, appellate courts, Council of Court Administration, Council of Public Prosecutors, PPO, strengthening their capacities, creating mechanisms of cooperation between state and non-state actors, enhancing public finance planning and management capacities in the justice sector, fostering sector and donor dialogue, providing continuous technical assistance in implementation of the EU sector support programme.</p> <p>Activity 1.2. Supporting CSOs for assessing performance of the justice sector, cooperating with the public sector stakeholders and providing legal aid to citizens.</p> <p>Activity 1.3 Development of regulatory and institutional framework, as well as capacities for EU law approximation and implementation of European and international standards in the justice sector, providing assistance in harmonisation of national criminal, administrative and civil law with the EU legislation and European/international standards.</p> <p>Activity 1.4 Development of an accessible, effective and sustainable legal aid system and its coordination mechanism, strengthening capacities of legal aid providers and (potential) legal aid receivers.</p> <p>Activity 1.5 Supporting the modernisation of substantive and procedural administrative and misdemeanour law and building capacity to implement it.</p>	<p>Procurement of services, FwC, supplies works, grants and twinnings with EU MS.</p>	<p><i>Total EUR 15,293, 000</i></p>	<p>See above</p>

Activities to achieve Result 2:

Activity 2.1 Strengthening management of financial and human resources, as well as transparency and internal/external communication mechanisms in the JC, Court Budget Council, Council of Court Administration, Supreme Court and other courts.

Activity 2.2 Development of the performance management system of the judiciary and mechanisms to apply it through review of quality policy and performance standards, appointments, evaluations, promotions and re-assignments (transfers) system, and introducing a new ethical and disciplinary framework

Activity 2.3 Development of more customised, effective and sustainable initial and continuous training systems at the AJPP and mechanisms to assess its impact, expand the trainings scope of the AJPP to other justice sector actors, improving curricula on EU law, the European Convention on Human Rights and other European legal standards.

Activity 2.4. Further development of mechanisms to ensure greater uniformity of court practice by analysing the causes of divergent court practice, by improving the regulatory framework, by strengthening respective capacities of the Supreme Court and appellate courts, as well as by enhancing academic and professional training and encouraging cooperation between training institutions and practitioners and application of IT tools in court practice unification efforts.

Activities to achieve Result 3:

Activity 3.1. Review of the existing ICT policy in the justice sector and further development of the ICT regulatory and institutional framework, upgrading access rights, data protection and information security aspects, strengthening capacities of relevant bodies/experts in planning, implementing and reviewing ICT policy, assistance in preparing coordinated needs assessment and technical specifications for the supply of ICT equipment/systems, support in procurement and development of ICT solutions provided under this Action.

Activity 3.2 Improvement of communication channels and interoperability of ICT systems internally among justice sector stakeholders and externally with the Ministry of Interior (MOI), other investigative agencies, administrative bodies, state registries and other relevant bodies.

Activity 3.3. Improvement of ICT hardware and software infrastructure in the relevant justice sector stakeholders based on a coordinated needs assessment; upgrading active and passive network equipment.

Activity 3.4. Software solutions upgraded/replaced based on cloud computing concept, big data analytics and search engine optimisation, including ACCMIS, ABMS, operational systems for fully electronic case management, e-notification, random case

<p>assignment, audio and video recording of hearings, Jurisprudence Data Base Information System, Legislative Data Base Information System (LDBIS), centralised and local registers, nomenclatures, court websites (replaced with new centrally managed and hosted, and locally edited websites), intranet suites (internally and externally communicating with the courts system); all system users trained, practice guides and training materials released</p> <p>3.5. Creation of an integrated E–Justice portal for access to justice (‘one-stop shop’), linking websites of various justice sector actors, legislation and case law databases, legal aid materials and other access to justice tools.</p>			
<p>Activities to achieve Result 4:</p> <p>Activity 4.1 Further development of budgeting, communication capacities, human resources and performance management system, ethical and disciplinary framework, anti-corruption safeguards, analytical and research capabilities, professional training system at the PPO and the Council of Public Prosecutors.</p> <p>Activity 4.2 Development of regulatory framework and capacities of PPO to effectively control and manage criminal investigations and prosecution and to ensure respect for the principles of lawfulness and proportionality in oversight of criminal investigations and special investigative measures, strengthening the operation of Investigative Centre(s) within the PPO, streamlining confiscation of proceeds of crime, further developing non-custodial measures in pre- and post-trial phases.</p> <p>Activity 4.3 Improvement of regulatory framework and capacities to accommodate prosecutor-led investigation with more adversarial handling of evidence at trial, strengthening the status, rights and capacities of defence in criminal procedures, strengthening the rights of victims and witnesses in criminal procedure.</p> <p>Activity 4.4. Preparation of Feasibility study for reconstruction of the Basic PPO for organised crime and corruption and possible construction/reconstruction of further PPOs countrywide, preparation of a Tender dossier for works</p> <p>Activity 4.5. Construction/Reconstruction of the Basic PPO for organised crime and corruption and further PPOs.</p> <p>Activities to achieve Result 5:</p> <p>Activity 5.1 Support in implementation of Penitentiary and Probation Strategies, improving the strategic planning, prison management, financial and human resource planning and management, communication capacities, enhancing performance management system, internal and external supervision of penitentiary institutions and handling of inmates’ complaints.</p> <p>Activity 5.2 Further development of regulatory/institutional framework and capacities in the probation system, with special emphasis on linkages between analysis, risk management and intelligence for individualised probation process</p> <p>Activity 5.3 Enhancing partnerships between prison, probation services and CSOs to</p>	<p>Procurement of services, FwC, supplies works, grants and twinnings with EU MS.</p>	<p><i>Total EUR 15,293, 000</i></p>	

<p>promote rehabilitation and social inclusion, including providing education, work and other purposeful activities</p> <p>Activity 5.4 Defining the needs for and the concept of IIS within the penitentiary and probation systems, development of ICT institutional and regulatory framework, preparation of technical specifications for the supply of IIS</p> <p>Activity 5.5. Introduction of IIS in the penitentiary and probation systems, including the hardware, software and inter-operability functions</p> <p>Activity 5.5 Preparation of feasibility study and tender dossier for reconstruction of prison Bitola and execution of reconstruction works</p>			
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ADDITIONAL DESCRIPTION

This Action Document aims to contribute to the improvement of the administration of justice and to a more effective justice sector reforms, in line with EU and international standards. The objective is to improve independence, accountability, efficiency and competence of the judiciary and prosecution, ensure more accessible justice, fairer and more effective criminal justice system, further develop strategic planning, reform management and EU law approximation mechanisms in the justice sector and support administrative justice and misdemeanour reforms.

Assistance under this action will contribute to the improvement of administration of justice and to a more effective planning and implementation of justice sector reforms. More specifically, the action will contribute to improving the independence, efficiency, accountability, professionalism and competence of the judiciary and prosecution, ensure a more accessible justice system, more efficient and fair criminal investigation, prosecution and trial, a more efficient and effective criminal system.

The following results are expected to be achieved:

- Improved mechanisms for designing, implementing and monitoring justice sector reforms, strengthened capacities of all justice sector stakeholders in strategic planning and operational EU law implementation; enhanced access to legal aid, improved administrative and misdemeanour law and practice
- Improved judiciary governance system, ethical and disciplinary framework, performance management and professional training system, improved courts administration, more consistent and accessible practice of courts
- Improved E-justice system, ICT infrastructure, inter-connection of the MoJ, Judicial Council, Council of Public Prosecutors, PPO, courts and other justice sector actors, upgraded E-services, databases and statistics for greater access to justice and higher quality policy making.
- Improved prosecution governance system, performance management and professional training systems, administration and its management at PPO, develop conditions for fair and effective implementation of the new Criminal Procedure Law (CPL)
- Improved prison management, detention conditions and reduced reoffending through policy, legislative, institutional and ICT changes in the penitentiary and probation systems and focusing on rehabilitation and re-socialisation, increased internal and external oversight mechanisms, enhanced CSO partnerships.

Assumptions:

- Strong commitment and support of the country's leadership and all beneficiaries to justice sector reforms, to this Action and to sector approach in justice reforms
- Continuous support of the EU to the beneficiary country's justice sector reforms, to this Action and to sector approach in justice reforms
- Close dialogue between the Government and the EU and agreement on common values and specific reforms in the justice sector
- Experts recruited and goods/services/works delivered will be of sufficient quality;
- Effective procurement, implementation and monitoring of implementation of the Action;
- Timely allocation of adequate resources to the beneficiary institutions;
- Beneficiary country's staff available for participation in the activities of the Action.

Preconditions:

- Justice Sector Reform Strategy and Action Plan (JSRSAP) in place by 2015, including medium-term financial projections;

- Short-term, medium-term and long-term steps defined in JSRSAP for operational management and coordination of IT service provision in the justice sector;
- Development and adoption of the ICT policy in the justice sector, including the ICT regulatory, institutional and coordination framework before the launch of tendering procedures for IT-related supplies;
- Functional sector reform coordination mechanism, including the relevant non-state actors, in place at both policy-setting and operational levels before the launch of the Action;
- Functional donor coordination mechanism in place before the launch of the Action;
- Appointment/assignment of staff with adequate professional skills and qualifications and establishment/re-arrangement of institutional structures in the bodies targeted by the Action before the launch of the Action and guaranteeing the continuity of the appointed/assigned staff and new institutional structures;
- Allocation of working space and facilities by the beneficiary for technical assistance before the launch of the Action tendering process;
- Appointment and availability of staff of the beneficiaries to participate in the Action implementation activities ;
- Ensuring proper handling of all regulatory, institutional and financial arrangements necessary for the implementation of the Action;
- Adequate maintenance of equipment/items supplied and works delivered in the course of and after the Action implementation period;
- The government must prepare a roadmap for sector preparedness and the policy matrix, prior to the signature of the Financing Agreement, to allow proper follow up of the reforms in this sector.

Risks:

- Insufficient commitment from the relevant beneficiaries to continue the reform process and to implement the present Action
- Failure to develop and adopt the JSRSAP before the launch of the Action
- Failure to define common policy priorities within the justice sector before the launch of the Action
- Allocation of insufficient human, financial and administrative resources to the beneficiary institutions or delays in allocation of resources
- Dysfunctional or non-existent sector reform and donor coordination mechanisms
- Dysfunctional or non-existent ICT policy and its operational management mechanisms in the justice sector
- Delays in the implementation of IPA I projects in the justice sector and in the launch of the present Action preventing sequencing and timely execution of reforms
- Weak absorption capacity within the beneficiaries as regards the development and implementation of the present Action.

The aforementioned risks will be mitigated with appropriate measures, such as: (a) establishing and maintaining policy dialogue and communication channels between all involved stakeholders in the design and implementation of the Action; (b) conducting risk assessments of the contracts prior to the start of implementation and taking corrective measures throughout the implementation period; (c) providing EU assistance to the beneficiary in designing the JSRSAP and in the setting-up of the necessary sector reform, ICT policy and donor coordination mechanisms; (d) making efforts for timely execution of related IPA I projects, for sequencing EU and other donors' assistance in the justice

sector and for successful launch of the present Action; (e) maintaining regular monitoring of the Action execution and providing technical support to the beneficiary when necessary.

3. IMPLEMENTATION ARRANGEMENTS

ROLES AND RESPONSIBILITIES

Before the launch of the Action, a Memorandum of Cooperation (if a manual for establishing the working relations between the different entities and the SPO does not already exist) between the relevant stakeholders will be concluded in order to define their individual roles and responsibilities and to establish effective coordination mechanisms in both preparatory and Action implementation phases.

The Senior Programme Officer in the Ministry of Justice will be assigned as a central focal point for the overall coordination of activities from the beneficiaries' side. S/he will establish adequate communication channels with all key stakeholders involved under this Action.

The following institutions shall be considered as the main stakeholders in charge of the management and implementation of the present Action, unless otherwise decided in the future Memorandum of Cooperation or under other arrangements:

Result 1: The MoJ will take the leading role under this action area, while other key stakeholders shall include the CJR, the Supreme Court, appellate courts, the JC, the CCA, the CPP, the PPO, working groups in charge of administrative and misdemeanour law reforms and other relevant bodies. These institutions, each within their competence, will focus on improving strategic planning, sector reform coordination, research and analysis, EU law approximation capacities and access to legal aid. The CSOs will be involved in implementing grant projects aimed at monitoring performance of the justice sector and contributing to the reform processes and their monitoring, as well as at providing legal aid to citizens.

Result 2: The Judicial Council will take the lead under this action area on judicial governance aspects, while the Supreme Court shall take the lead on aspects related to the uniformity of case law. Other key stakeholders shall include the CBC, courts, the AJPP, the MoJ, the Association of Judges, the CCA, the Association of Court Administrators. The responsibilities of these institutions shall comprise increasing independence, accountability and competence of the judiciary by improving its governance, quality policy and performance management, as well as professional training systems, while duly respecting their individual legal powers.

Result 3: A single ICT policy coordination and management body in the justice sector shall be established and charged with the preparation and implementation of ICT-related activities under the Action. The institutions targeted under this action area shall include the MoJ, the Judicial Council, the Council for Public Prosecutors, the PPO, courts, the AJPP, state registries, as well as other relevant bodies.

Result 4: The CPP will take the lead under this action area on prosecutorial governance aspects falling within its competence, while the PPO shall take the lead on aspects related to criminal procedure and management of the PPO network. Other stakeholders involved in this action area shall include the Ministry of Interior (MoI), the Financial Police, the Customs Administration, the Judicial Police and the Investigative Centre(s), the Bar Association, the Agency for Management of Confiscated Assets and other relevant criminal justice actors.

Result 5: The Directorate for the Execution of Sanctions shall be the lead institution in coordinating and managing penitentiary and probation reforms under this action area, while other stakeholders shall include penitentiary institutions, the PPO, the courts, the AJPP, as well as CSOs active in this area.

IMPLEMENTATION METHOD(S) AND TYPE(S) OF FINANCING

The action document will be implemented under indirect management with the beneficiary country.

9 procurements of services, supplies, works, Twinning and grants are foreseen, in the total amount EUR 15,293,000 (IPA EUR 13,000,000 and EUR 2,293,000 co-financing).

PERFORMANCE MEASUREMENT

External review (verification) missions will take place at the end of each financial year to assess the progress of reforms supported under the Action on the basis of Indicators presented below. Furthermore, Result Oriented Monitoring (ROM) missions on specifically established terms of reference shall be conducted to assess performance under individual contracts (groups of contracts). Performance in individual action areas shall be assessed on the basis of objectively verifiable indicators defined for each specific action area.

METHODOLOGY FOR MONITORING (AND EVALUATION)

Day-to-day technical and financial monitoring will be the responsibility of the beneficiary institutions under the applicable rules on decentralized management of IPA assistance. The EU Delegation in the country and the relevant European Commission services shall be involved in monitoring of tender and project implementation procedures in line with the applicable IPA II regulations. The Government shall also conduct monitoring and evaluation of reforms supported under the present Action within the framework of its own justice sector reform coordination mechanism and shall share its conclusions with the European Commission.

INDICATOR MEASUREMENT

Indicator	Description	Baseline (2013)	Last (2014)	Milestone 2017	Target 2020	Source of information
General						
<i>CSP indicator</i>	Judicial reform indexes (average of Access to Justice and Judicial independence)	0.53 and 3	0.58 and 3.2	0.62 and 3.7	0.65 and 4.3	Rule of Law Index (World Justice Project, World Economic Forum)
Action area 1						
<i>Action outcome indicator</i>	Justice sector reforms designed, implemented and monitored in the framework of a formal institutional mechanisms	Justice sector reforms designed, implemented and monitored in the framework of a formal institutional mechanisms	No institutional mechanism	Preparation of institutional mechanism started	Institutional mechanism established and resourced	Institutional mechanism fully operational
<i>Action output indicator</i>	Established strategic planning, research, analysis and monitoring units at the MOJ, JC, Supreme Court, appellate courts, CPP, PPO and a designated EU Law implementation body			Completion confirmed		Project/Monitoring report
Action area 2						
<i>Action outcome indicator</i>	Number of cases lodged before the European Court of Human Rights under Art. 6 ECHR per year (separate figures for length of court proceedings/fair trial)	to be communicated soon	to be communicated soon	to be defined based on the current number of cases	to be defined based on the current number of cases	Official data of the Bureau for representation of the country before the ECtHR
<i>Action outcome indicator</i>	Average level of public trust in the judiciary based on the standard CEPEJ Satisfaction Survey of Court Users (0 (worst)-6 (best))	data not available	3	4	5	Annual Satisfaction Survey of Court Users based on CEPEJ methodology
Action area 3						

<i>Action outcome indicator</i>	Degree of interoperability between justice sector institutions and other relevant authorities	no interoperability	No interoperability	Progress noted	Progress noted	Official government data
<i>Action output indicator</i>	Legal and institutional framework to manage and coordinate ICT reforms in the justice sector created	no mechanism	no mechanism	Framework established	Framework fully operational	Official government data
Action area 4						
<i>Action output indicator</i>	Established institutional structure for strategic planning, research and analysis within Public Prosecution Office	No institutional structure	institutional structure established and resourced	institutional structure fully operational	Official government data	Official government data
<i>Action output indicator</i>	Level of operationalisation of Investigative Centre(s) within the Public Prosecution Office	1 investigative centre established, but not yet operational	Preparation work for operationalisation of 1 investigative centre started	investigative centre established and fully resourced	investigative centre(s) fully operational	Official government data
Action area 5						
<i>Action outcome indicator</i>	Fully operational probation service	no probation service	no probation service	Probation service established and resourced	Probation service fully operational	Official government data
<i>Action output indicator</i>	Bitola prison reconstructed in line with international prison standards				Completion confirmed	Official government data

5. CROSS-CUTTING ISSUES

ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)

The European Community has a longstanding commitment to address environmental concerns in its assistance programmes. The support to the institutions will include a specific component to assist the beneficiary to implement an ‘internal environment assessment’ to identify areas where it could improve its internal performance vis-à-vis environmental aspects. Key references include art. 6 of the Treaty and the Cardiff process which foresees the systematic consideration of environmental aspects into EC development cooperation and in other policies (hence very important for the EU *acquis*). The support will include activities for the beneficiary to improve its internal performance vis-à-vis environmental aspects.

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

Considering the important role of the social partners and the civil society sector, especially in the fields related to the policy development and implementation, substantial efforts will be dedicated to regular informing and involvement, whenever possible of the civil society partners, as well as any other institution/organisation as parties concerned regarding the project implementation, outcomes and results achieved within the Action document.

With the implementation of this Action the cooperation and communication with the civil society will be enhanced. CSO will monitor performance of the actors of the justice sector and contribute to the reform processes. Cooperation between CSO and justice sector actors in policy development, implementation and monitoring, user satisfaction studies, as well as assessments of transparency and accountability of justice sector actors will be supported. These activities will strengthen the capacities in the justice sector in the course of EU accession process and lead to increasing public awareness of and confidence in the justice sector.

EQUAL OPPORTUNITIES AND GENDER MAINSTREAMING

The project implementation will ensure the observance of the principles of equal opportunities and non-discrimination. Equal gender opportunities will be fully respected in the composition of the Steering Committee and where necessary. In addition to this, the internal policies, structure or operating procedures of the beneficiaries, as well as products and outputs produced by the beneficiaries (e.g. laws, regulations, policies, and strategies) will conform to the relevant principles of equal opportunities and non-discrimination.

MINORITIES AND VULNERABLE GROUPS

Equal representation of minorities and vulnerable groups will be guaranteed through the Action plan preparation and implementation and the institutions involved will observe providing the equal opportunities for all the citizens regardless of their ethnic and religious background, as well any type of occurrence of social risk faced by the minorities and/or vulnerable groups.

Where the main reference in the country in relation to minority groups is the Ohrid Framework Agreement, in an EU context, reference is made to the “Race directive” of 2000 (2000/43/EC of 29 June), which has an important impact on employment (incl. vocational training, working conditions, social protection etc.) and is also a crucial aspect of the *acquis*. The beneficiaries will be assisted to improve its internal performance vis-à-vis minorities or other vulnerable groups.

6. SUSTAINABILITY

The Action will contribute to strengthening capacities of relevant institutions as a segment of the overall reform of the judicial system. Legal and institutional mechanisms will be introduced aiming to significantly increase the quality and efficiency of procedures and the operation of relevant institutions, while saving costs and increasing legal certainty in the justice sector. The current implementation of procedural laws showed that there is a need for further improvement and

actualisation of the legal decisions in response to contemporary developments in all spheres of life. Strategic planning, human and budgetary resource management within the courts and prosecution services still need to be improved. The challenge facing justice sector in coming years is to ensure that the considerable progress made in the legislative framework translates into an effective implementation of the statutory provisions. By focusing on this particular aspect and by strengthening beneficiary institutions' capacities to implement the laws, the present Action will enhance sustainability of the ongoing justice sector reforms. In addition, the activities envisaged within this Action will support further improvement of the regulatory framework in the relevant sub-sectors and will raise public awareness on the changes introduced. Lastly, sustainability aspects will be embedded within the national justice sector policy framework raising the prospects of sustainability of reforms supported under the present sector-oriented Action.

7. COMMUNICATION AND VISIBILITY

All requirements to ensure the visibility of EU financing will be fulfilled in accordance with Regulation (EU) No. 236/2014⁸, Regulation (EU) No 231/2014⁹, the IPA II Implementing Regulation, the National IPA Communication Strategy and IPA Communication Practical Guidelines drafted by NIPAC relevant under DIS.

In order to ensure the visibility towards the citizens of the beneficiary country and the EU citizens of the EU assistance, there should be, where appropriate, targeted communication and information by adequate means. This would entail greater transparency and visibility of the actions, better information sharing and ensure accountability on all sides.

During the implementation of the actions, the necessary measures will be taken to ensure the visibility of the EU financing or co-financing. Such measures must be in accordance with the applicable rules on the visibility of external action laid down and published by the Commission. The project must observe the latest Communication and Visibility Manual for EU External Actions concerning acknowledgement of EU financing of the different actions (http://ec.europa.eu/europeaid/work/visibility/index_en.htm).

Particular attention should be given to ensuring the sustainability and dissemination of project results. The visibility issues must be addressed in all types of communications, written correspondence and preparation of deliverables (brochures, posters, new letters pamphlets and other type of promotion material). All the deliverables to be published / issued will respect and comply with visibility guidelines.

⁸ Regulation (EU) No. 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action.

⁹ Regulation (EU) No. 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II).