



**ANNEX**

of the Commission Implementing Decision on the Neighbourhood East Regional Action Programme 2020 Part 3

**Action Document for the support of a better evaluation of the result of judicial reform efforts in the Eastern Partnership – ‘Justice Dashboard Eastern Partnership’**

**ANNUAL PROGRAMME**

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

<b>1. Title/basic act/ CRIS number</b>	Support for a better evaluation of the result of judicial reform efforts in the Eastern Partnership – ‘Justice Dashboard EaP’  CRIS number: 2020 <input type="text" value="2020"/> /042-598 financed under the European Neighbourhood Instrument
<b>2. Zone benefiting from the action/location</b>	Eastern Partnership countries (EaP): Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine
<b>3. Programming document</b>	Programming of the European Neighbourhood East Instrument (ENI) – 2014-2020 – Regional East Strategy Paper (2014-2020) and Multiannual Indicative Programme (2017-2020)
<b>4. Sustainable Development Goals (SDGs)</b>	Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels: <ul style="list-style-type: none"> <li>• 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all</li> <li>• 16.4 Significantly reduce illicit financial and arms flows, strengthen the recover and return of stolen assets and combat all forms of organized crime</li> <li>• 16.5 Substantially reduce corruption and bribery in all their forms</li> <li>• 16.6 Develop effective, accountable and transparent institutions at all levels</li> <li>• 16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels</li> <li>• 16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international</li> </ul>

	agreements <ul style="list-style-type: none"> <li>16.A Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime</li> <li>16.B Promote and enforce non-discriminatory laws and policies for sustainable development</li> </ul> Goal 5: Achieve gender equality and empower all women and girls.			
<b>5. Sector of intervention/ thematic area</b>	Strengthening Institutions and Good Governance	DEV. Assistance: YES <sup>1</sup>		
<b>6. Amounts concerned</b>	Total estimated cost: EUR 2 223 000 Total amount of European Union (EU) contribution EUR 2 000 000			
<b>7. Aid modality(ies) and implementation modality(ies)</b>	Project Modality <b>Indirect management</b> with the Council of Europe			
<b>8 a) DAC code(s)</b>	15130 (Sector: Legal and judicial development) 15113 (Sector: Anti-corruption organisations and institutions)			
<b>b) Main Delivery Channel</b>	Council of Europe - 47138			
<b>9. Markers (from CRIS DAC form)<sup>2</sup></b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	X
	Aid to environment	X	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and Women's and Girl's Empowerment <sup>3</sup>	<input type="checkbox"/>	X	<input type="checkbox"/>
	Trade Development	X	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	X	<input type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	X	<input type="checkbox"/>	<input type="checkbox"/>

<sup>1</sup> Official Development Assistance is administered with the promotion of the economic development and welfare of developing countries as its main objective.

<sup>2</sup> When a marker is flagged as significant/principal objective, the action description should reflect an explicit intent to address the particular theme in the definition of objectives, results, activities and/or indicators (or of the performance / disbursement criteria, in the case of budget support).

<sup>3</sup> Please check the Minimum Recommended Criteria for the Gender Marker and the Handbook on the OECD-DAC Gender Equality Policy Marker. If gender equality is not targeted, please provide explanation in section 4.5.Mainstreaming.

	Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>
<b>10. Global Public Goods and Challenges (GPGC) thematic flagships</b>	N/A			

## SUMMARY

The overall objective of the ‘Justice Dashboard EaP’ action is to support the Eastern partner countries in their efforts to achieve an effective, systematic and data-based monitoring and evaluation of the results of the judicial reform efforts in the six EaP countries

As the adage says, “you cannot manage what you cannot measure”. For this, annual collection and processing of data will be carried out on the functioning of the judicial systems, including prosecution services, of the beneficiary countries: Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine. This evaluation tool will use key performance indicators concerning the accountability,<sup>1</sup> quality and efficiency of the judicial systems, including the prosecutor services.<sup>2</sup> This action is in line with deliverable 10 of the ‘20 Deliverables for 2020’.<sup>3</sup> It will take into account the EU’s policy objectives for the Eastern Partnership beyond 2020, based on the proposals set forth in the joint Communication ‘*Eastern Partnership policy beyond 2020: Reinforcing Resilience – an Eastern Partnership that delivers for all*’.<sup>4</sup>

In parallel, the action will support each beneficiary with technical expertise and capacity building activities in order to improve the collection, processing and analysis of data on the functioning of the judicial systems and judicial statistics according to the European Commission for the Efficiency of Justice (CEPEJ) methodology. Similarly, the information and results obtained, will serve as an assessment tool of the impact of the EU’s assistance in this area.

<sup>1</sup> An “accountability” indicator was developed in cooperation with the GRECO secretariat in the framework of the ‘Dashboard Western Balkans’ and will be used for the “Justice Dashboard EaP”.

<sup>2</sup> According to its methodology the CEPEJ has no independence indicator “as such”. The action will aim at addressing this issue to the extent possible and in complementarity with other ongoing and planned EU funded actions.

<sup>3</sup> [https://eeas.europa.eu/sites/eeas/files/swd\\_2017\\_300\\_f1\\_joint\\_staff\\_working\\_paper\\_en\\_v5\\_p1\\_940530.pdf](https://eeas.europa.eu/sites/eeas/files/swd_2017_300_f1_joint_staff_working_paper_en_v5_p1_940530.pdf)

<sup>4</sup> [https://eeas.europa.eu/sites/eeas/files/1\\_en\\_act\\_part1\\_v6.pdf](https://eeas.europa.eu/sites/eeas/files/1_en_act_part1_v6.pdf)

## 1 CONTEXT ANALYSIS

### 1.1 Context Description

Democracy, the rule of law and the respect of human rights are the cornerstones of stable and secure states and societies. The **rule of law** is both a fundamental principle and an overarching objective of the EU in its cooperation with the Eastern Partners. At the **Eastern Partnership (EaP) Summit on 24 November 2017**, participants re-committed themselves to strengthening democracy, rule of law, human rights and fundamental freedoms. Promoting democratic consolidation and governance through justice reform and reinforcing the rule of law on the basis of the EaP deliverables 9 and 10 of the 20 Deliverables for 2020 agenda endorsed at that Summit, is thus at the centre of the EU's cooperation with its Eastern partners.

Under the rule of law, all **public powers act within the constraints set out by law**, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts. Effective justice systems are based on the crucial foundations of independence, accountability, quality and efficiency, which are crucial for the upholding of the rule of law. Effective justice systems are also essential to ensure the appropriate implementation of the law, a precondition for citizens' trust in the state and in public institutions, for long-term prosperity, social justice and equality, and an investment-safe climate.

The implementation of **key judicial reforms** remains a challenge across the EaP countries. Although some progress has been achieved, more efforts need to be devoted to develop functioning judicial systems based on the principles of independence, accountability, impartiality, quality and efficiency of the judiciary, in line with the targets set by the '20 Deliverables for 2020'. Likewise, **public administration reform** is integrally linked to the rule of law and justice reforms, especially ensuring integrity within the judiciary, as it enhances the transparency, predictability and accountability of government work.

This action is a direct response to **Deliverable 10** of the '20 Deliverables for 2020' for the **implementation key judicial reforms**. It aims at developing a **metrics tool** to strengthen the rule of law by contributing in promoting judicial reforms and standards on the rule of law – based on evidence and performance measurements –, for **monitoring justice reforms and their impact** in the EaP countries. To this end, an **annual overview** will be produced of those indicators with relevance for the independence, accountability, quality and efficiency of justice, as essential parameters of an effective justice system. The action will draw on the elements of a similar exercise being developed for the Western Balkans countries.

On 18 March 2020, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy put forward a proposal for the long-term policy objectives of the Eastern Partnership beyond 2020<sup>1</sup>: the **joint Communication 'Eastern Partnership policy beyond 2020: Reinforcing Resilience – an Eastern Partnership that delivers for all'**. It calls for a renewed commitment to the fundamentals of the partnership to uphold the rule of law, deliver key judicial reforms and strengthening democratic institutions as pillars for strong and resilient states and societies. In this context, this action will contribute to support the Eastern Partner countries to align their judicial reforms to European Standards, through the establishment and use of measurement and metrics mechanisms to assess the real results/impacts of judicial reforms.

---

<sup>1</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_20\\_452](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_452)

## 1.2 Policy Framework (Global, EU)

The **EU Global Strategy**<sup>1</sup> and the revised ENP call for a focus on achieving the overall goal of increasing the **stabilisation** and **resilience** of our neighbours. Through the **revised European Neighbourhood Policy** (ENP) the European Union seeks to enhance its cooperation with the neighbouring countries, especially with the Eastern neighbours in key areas of social and political life. Amongst the priorities, strengthening democratic processes in the ENP countries, good governance, economic growth and integration, energy security, involving civil society, stand out. At the heart of the EU's Neighbourhood Policy lies the stabilisation of the region, in political, socio-economic and security-related terms. **Good governance, democracy, rule of law and human rights** are areas of cooperation with a particular focus, aiming at fostering a just, inclusive and stable society, respect for human rights and space for civil society.

The **Joint Declaration of the Eastern Partnership Summit** of November 2017 set out a number of concrete objectives to guide the reform agenda in the region. This was translated into a strong and ambitious policy framework that is jointly owned by EU institutions, EU Member States and the six EaP countries. All have committed to **“20 Deliverables for 2020”** delivering concrete results to citizens. The EaP countries confirmed their consensus to step up actions in the key priority area to **strengthening institutions and good governance**, namely for the fight against corruption, for the support to justice reforms and to implement reforms in public administration, amongst other topics. These are the preconditions for citizens' trust in the state and in public institutions, for long-term stability, for social justice and equality, and for an investment-safe climate. Only when a functioning justice system is in place, there is a chance that fundamental rights are respected and that crimes, corruption and violence are reduced. A functioning legal system and an efficient, corruption-free public administration are at the basis of all other policies and crucial for social economic development. **Deliverable 10** called for the implementation of **key judicial reforms** to strengthen the **independence, impartiality, efficiency and accountability** of the judiciary, with a **special focus on the track-record of implementation**.

Marking the 10-year anniversary of the Eastern Partnership, former President Jean-Claude Juncker and then-Commissioner for Neighbourhood and Enlargement Negotiations Johannes Hahn, launched in May 2019 a broad and inclusive **structured consultation process** to reflect on the future strategic direction of the Eastern Partnership and a new – post 2020 – set of long-term policy objectives. The **results of the consultation** show the broad consensus amongst all partner countries and relevant stakeholders to keep the **rule of law** at the highest level on the agenda of the post-2020 policy framework with the EaP, including **justice reforms**.

In the context of the ongoing definition of the **EU's policy framework on the future of the Eastern Partnership post-2020**, the implementation of judicial reforms will remain a key priority across the Eastern Partners as a fundamental area for strengthening the rule of law.

As a matter of fact, the recently adopted **joint Communication ‘Eastern Partnership policy beyond 2020: Reinforcing Resilience – an Eastern Partnership that delivers for all’** calls for renewed commitment to the fundamentals of the partnership, a better measurement of the real results and impacts of reforms and their perceptions by citizens. An overarching pillar of this

---

<sup>1</sup> [https://eeas.europa.eu/sites/eeas/files/eugs\\_review\\_web\\_0.pdf](https://eeas.europa.eu/sites/eeas/files/eugs_review_web_0.pdf)

renewed policy framework, ‘**Together for accountable institutions, the rule of law, and security**’ recalls that “*Good governance and democratic institutions, rule of law, successful anti-corruption policies, fight against organised crime, respect of human rights and security, including support to populations affected by conflict, are the backbone of strong and resilient states and societies.*”. The EU’s support in this field will include (i) proposing ways to better measure the impact of judicial reforms; (ii) consider progress in rule of law reforms when deciding on assistance; (iii) reinvigorating EU support for fighting corruption and economic crime. In this vein, delivering on key **judicial reforms** based on the alignment with European standards, a holistic approach that covers prosecution and law enforcement services, and ensuring the independence, accountability, quality and efficiency of the judiciary and prosecution are essential. It is also recognised that there is a need for better measurement of the real results/impacts of reforms and their perceptions by citizens.

In addition to the Eastern Partnership framework, the relations and cooperation with the EaP countries are governed through **bilateral cooperation agreements**. These include Association Agreements (Georgia, Ukraine, and Moldova), Partnership and Cooperation Agreement (Azerbaijan), Comprehensive and Enhanced Partnership Agreement (Armenia). There is however no framework agreement with Belarus. The common denominator of these agreements is the **Justice and Home Affairs chapter** that serves as a fundamental pillar to all of them, which addresses key priorities for judicial reforms needed.

The **EU Justice Scoreboard** assists EU Member States in addressing the challenges they are facing in line with European standards. It serves as a basis for an informed dialogue to focus on tailored solutions, depending on the specific circumstances in a given country. It serves as an inspiration to EU governments, highlighting positive and negative trends in the judiciary. Based on the **methodology and questionnaire provided by CEPEJ**, it continues to develop the different **indicators on independence, accountability, quality and efficiency**, (quality and efficiency indicators provided by the CEPEJ) and takes a closer look at the breakdown of governments’ expenditure. The Scoreboard presents a first overview on standards for the quality of judgements, looks at the functioning of prosecution services and intensifies the focus on independence.

The Communication on *Further strengthening the Rule of Law within the Union – State of play and possible next steps*, adopted on 3 April 2019, identifies the EU Justice Scoreboard as part of the EU’s toolbox to strengthen the rule of law by contributing in promoting judicial reform and standards on the rule of law.<sup>1</sup> Without independent and efficient justice systems, there can be no rule of law, no trust from citizens, and no socio-economic development.

This action will contribute to the achievement of the Sustainable Development Goal 16, namely its target 16.3 on promoting the rule of law at the national and international levels and ensure equal access to justice for all.

The proposed action is relevant in the sense that it responds directly to the need for measuring the impact of justice reforms in the pre and post-2020 EaP. It proposes to provide quantitative and qualitative data on the functioning of the judicial systems, including the prosecutor services, which will allow for a better measurement of the results of the justice reform efforts supported by the European Commission in the Eastern partner countries. In parallel, it will support each beneficiary with technical expertise and capacity building activities in order to improve the data collection mechanisms.

---

<sup>1</sup> COM (2019) 163

### 1.3 Public Policy Analysis of the partner country/region

The EU's Eastern neighbours are facing **similar challenges** when it comes to improving the domestic governance systems and public administration reforms, including preserving the necessary checks and balances key to democracy and instrumental in controlling corruption. While progress may differ from partner country to partner country, the consolidation of deep and sustainable democracy and respect for the rule of law is still to be achieved across the region. Poor governance and in particular corruption are closely interlinked, while the administration of justice does not always meet European standards.

The proposed area of intervention is central to the new European Consensus on Development<sup>1</sup> adopted in May 2017, and to the European Commission's contribution to shape the Conference on the Future of Europe.<sup>2</sup>

#### Armenia

Since 2008-2009 Armenia has undergone several rounds of justice reforms, including judicial reform strategies and relevant action plans of 2009-2011, 2012-2016. The EU support instruments for this period included two budget support programmes (2009-2011 and 2012-2016), two joint projects with the Council of Europe (CoE) on Access to Justice and assistance to budget support implementation, several programmes aimed at strengthening the attorneys, capacity of investigators and judiciary, human rights defendant, and civil society, as well as court monitoring project and development of e-justice tools. Furthermore, programmes on human rights and democracy also had big impact on development of justice.

A TAIEX "Peer Review on Reforms in Judiciary, Penitentiary and Prevention of Torture and Ill-Treatment in Armenia" (6-10 March 2017) produced recommendations as regards:

- Effectiveness of the judicial system;
- Main legislative changes and gap analysis;
- Case management system;
- Rules and practices on independence of the judiciary; recruitment and ethics;
- Functioning and effectiveness of the Council of Justice, Prosecution Offices and Academy of Justice;
- Collection of judicial statistics

Following the Velvet Revolution and early parliamentary elections in December 2018, the new government of Armenia has pursued an ambitious reform plan, with the **reform of the judiciary and fight against corruption as top priorities**. In September 2018, the EU-Armenia justice policy dialogue was launched with the aim to support the design of a comprehensive justice reform strategy and its implementation. A Justice Sector Reform and Anti-Corruption Strategies – with its corresponding Action Plans – were adopted in October 2019. Under the bilateral envelope for the EU's financial support to the country, a **sector reform performance contract (budget support)** is designed under the Annual **Action Plan**

---

<sup>1</sup> [https://ec.europa.eu/international-partnerships/system/files/european-consensus-on-development-final-20170626\\_en.pdf](https://ec.europa.eu/international-partnerships/system/files/european-consensus-on-development-final-20170626_en.pdf)

<sup>2</sup> [https://ec.europa.eu/info/sites/info/files/communication-conference-future-of-europe-january-2020\\_en.pdf](https://ec.europa.eu/info/sites/info/files/communication-conference-future-of-europe-january-2020_en.pdf)

**2020** to support the implementation of the justice and anti-corruption reforms. The **TAIEX instrument** has supported and will continue to complement the EU's assistance, in particular as regards the international monitoring of the integrity checks of judges.

### **Azerbaijan**

On 18 December 2018, the State Programme on Justice Development 2019-2023 was enforced.

On 3 April 2019, the Presidential Decree on Deepening of Reforms in the judicial-legal system was adopted. This Decree intends to increase the independence, efficiency and transparency of the judicial system. It includes measures on decriminalization of certain crimes; access to justice and establishment of specialized courts; an increase of salaries of judges and court officers; training on civil and economic disputes; setting-up a hotline under the Judicial-Legal Council for facts related to intervention into court proceedings; accountability; automatic and random allocation of court cases; enforcement of court decisions; forensic expertise by private entities; promoting mediation and effective arbitration; increase the number of judges by 200.

In the framework of implementation of the Decree, 40 normative acts targeting the areas of specialized courts establishment, improvement of mechanisms to prevent interference to courts, formation of a single judicial practice, digitalization of judicial activities, social protection of judges, judicial examination and enforcement of decisions have been drafted.

Proposals have been developed on piloting the reform of the execution system. A draft law has been prepared to modernize the work in the field of forensic examination to clarify conditions for providing an expert opinion, to expand parties' rights in related procedures.

On 19 July 2019, Presidential Executive Order has been adopted to abolish existing economic-administrative courts and establish new Commercial and separate Administrative Courts in Baku and five regions (started its activities from January 2020). Civil disputes related to entrepreneurial activity will be considered by newly created Commercial courts, while disputes of entrepreneurs with all state authorities and administrative bodies (including disputes on tax, customs payments and payments of compulsory social insurance fees) will be considered by administrative courts.

In accordance with the Decree the Law on Courts and Judges was amended with a view to improving the financial security of judges; the payment of additional allowance to all judges in the amount of official monthly salary, as well as other financial provisions was prescribed.

On 3 April 2019 the Law on Mediation has been adopted. Mediation will be applicable to civil, economic disputes (including disputes with a foreign element), family, labour and administrative disputes. It is voluntary in general, however, the parties to economic, family and labour-related disputes shall participate in the preliminary mediation session before applying to a court. The provisions of the Law on the mandatory participation in the preliminary session shall become effective starting from 1 July 2020.

The EU is currently funding a project "Strengthening the Institutional Capacity of The Ministry of Justice in Introducing Alternative Dispute Resolution Mechanisms and Provision of Legal Aid Services to the Population" that supports the set up of a mediation system in the country. The project launched in November 2019 focuses on a) development of a policy framework on Alternative Dispute Resolution b) establishment of a pool of mediation national trainers and practitioners; c) piloting court mediation; d) educating business owners and the



general public on mediation; e) conducting mapping of existing ADR practices and providers; f) conducting legal research on adjudication of small claims and repetitive cases; g) providing primary and secondary legal aid support to businesses and the population, with a primary focus on vulnerable groups. Since its start the Working Group on the Development of a Charter for the Mediation Council has been established, the Charter drafted and coordinated with all relevant stakeholders, training of trainers conducted for future mediators.

### **Belarus**

The EU Annual Action Programme 2019 included a project on the "Improvement of National Mechanisms for Achieving Sustainable Development Goals in Legal Sphere (EU – BY Legal Co-operation)" which could be the entry point to a more comprehensive justice reform in the country. The action, which focuses on more effective provision of **administrative services to citizens and businesses** (through single window approach), to widening the public consultation in legislative procedures, supporting to the improvement of the data protection law up to international standards, development of the **juvenile justice system**, supporting the fight against cyber-crimes has been approved on the EU side.

### **Georgia**

Support to justice reform has been a key area of EU cooperation with Georgia since the signing of the Partnership and Cooperation Agreement of 1996 and the later EU-Georgia Neighbourhood Action Plan of 2006. These documents were replaced in June 2014 with the Association Agreement, including the Deep and Comprehensive Free Trade Agreement, as well as the Association Agenda.

Since the deployment of the EU Rule of Law Mission in 2004/2005, specific focus has been on criminal justice reforms. Following one-off capacity building projects, the EU engaged in the first Sector Policy Budget Support Programme for the criminal justice sector in 2008 with a focus on juvenile justice and the penitentiary amongst others. The EU launched the second phase of the Budget Support Programme in the criminal justice sector in 2012 with the aim (1) to ensure the implementation of reforms in the juvenile justice area, (2) to address high imprisonment rates, (3) to promote non-custodial sentences, (4) to improve overall access to justice, and (5) to support the Public Defender's Office.

In 2015, the EU and Georgia launched the 3<sup>rd</sup> phase of the Sector Policy Budget Support Programme. Several indicators were related to prosecutorial reforms, and in particular as concerns reducing pre-trial detention rates, adopting a strategy for prosecutorial reform with guarantees for independence, transparency and accountability, introducing quality-based appraisal system for prosecutors and establishing the Prosecutorial Council. The policy matrix is accompanied by a number of different projects, including technical assistance projects on supporting prosecutorial, criminal investigation, judiciary and prison reforms.

Together, the Budget Support Programmes have led to marked improvements of Georgian legislation, administration of justice and free and fair access to justice in the areas mentioned.

Furthermore, projects launched with the Council of Europe under the first and second phases of the Partnership for Good Governance address judicial and criminal justice reforms, as well as anti-corruption policies.

In addition, as part of the Economic and Business Development Programme, the EU supports the area of commercial justice through new projects with GIZ and UNDP (launched in 2019)

with the aim to improve the access of businesses to fair and efficient justice and to alternative dispute resolution mechanisms.

Since 2012, justice and judicial reform has remained a stated priority of the Government of Georgia with gradual reforms being implemented in so-called waves with the following main elements:

- 1<sup>st</sup> wave: depoliticizing the High Council of Justice and increasing transparency;
- 2<sup>nd</sup> wave: introducing life tenures for judges following probationary periods;
- 3<sup>rd</sup> wave: selection criteria for judges, random electronic distribution of cases among judges, establishment of an institute of independent disciplinary inspector, and mandatory publication of court judgements;
- 4<sup>th</sup> wave: notably mandatory substantiation of appointments of judges, and establishment of a detailed list of disciplinary violations.

However, recent developments in the justice sector give rise to serious concerns. An example of the deteriorating situation is the nomination process of Supreme Court judges, which did not adhere to all key recommendations made by the Venice Commission and was characterised by grave shortcomings, including a lack of the necessary transparency, which undermined a genuinely merit-based nomination process. In this context, reforms should be stepped up in the justice sector including measures to strengthen the independence and accountability of the judiciary and to enhance transparency and merit-based selection in the appointment of judges

## **Moldova**

Following the change of Government in the Republic of Moldova mid-November 2019, the European Union's partnership will remain focused on delivering tangible benefits to the Moldovan citizens as outlined in the Single Support Framework. In this spirit, the EU is committed to working with those in the Republic of Moldova who support the reform process that is at the core of our Association Agreement, in particular as regards promoting the Rule of Law, fighting corruption and vested interests, irrespective of the political affiliations, ensuring the independence of the judiciary and de-politicizing the state institutions. It is crucial that an appropriate systematic approach for justice reform is taken with clear benchmarks and transparent and inclusive consultations with all relevant internal and external actors. This approach should have the objective of building the consensus of all stakeholders on the reform objectives of the justice sector.

The Government has indicated that the justice reform remains an indispensable part of the Government's Action Plan and its objectives. However, there are many issues related to the functioning and transparency of the judiciary, which have given rise to very serious concerns. Those are related to insufficient independence of judges and lack of control of the prosecutor's activity, opaque decisions on the selection, appointment, career, evaluation, dismissal and investigation of judges; the lack of a comprehensive Justice Sector Reform Strategy since 2017; and the excessive use of closed hearing procedures in high-profile cases of public interest. Any reform elements have to be flanked by diagnostic to check that decisions are made in line with European standards and in a collaborative and transparent manner.

The EU will continue to base its relationship with the Republic of Moldova on the principle of conditionality and respect for the rule of law and democratic standards. The bilateral 2020

programming on justice is designed based on this principle; the assistance will be conditioned on credible reforms for the creation of an independent, accountable, efficient and professional judiciary within the Republic of Moldova. Multi-country assistance shall be aligned to past, ongoing and future bilateral technical assistance on justice.

## **Ukraine**

The EU has supported Justice Sector Reforms in Ukraine since the aftermath of its independence in 1991 and cooperation in this area has become one of the priorities of EU-Ukraine cooperation since the 2004 Orange Revolution.

Cooperation in this area re-intensified after the 2014 Maidan events, which gave a new momentum to reform efforts. In 2015, a Justice Sector Reform Strategy (2015-2020) was adopted and a re-evaluation of all sitting judges was launched. In 2016, a Constitutional reform of the judiciary strengthened judicial independence in line with recommendations from the Venice Commission; at the same time, a new Supreme Court was established and its 200 judges selected in an unprecedentedly transparent selection procedure. A new specialised High Anti-Corruption Court was created with international participation in the selection of its 35 judges. However, the reform efforts remained incomplete, notably because the judicial governance bodies – responsible for the selection and appointment of as well as disciplinary proceedings against judges - were not reformed in which vested interests continue to have strong influence.

Following the change in political leadership in May 2019, the new President set out to complete the judicial reform. A reform law was adopted in October 2019 but has met with criticism from the international community. While the new law foresees the involvement of international experts in the selection and vetting of judicial governance bodies, it also foresees the dismissal of half of the judges from the Supreme Court. The Venice Commission considered the latter aspect as undermining judicial independence. The Ukrainian authorities signalled flexibility to amend the law, but have not yet submitted the necessary amendments to Parliament<sup>1</sup>. In the meantime, the reform remains blocked. Since the law disbanded the body responsible for selecting judges, it has been impossible for the last four months to recruit new judges to fill the approximately 2000 judicial vacancies in the country.

In recent years, the EU has been supporting justice sector reforms notably through policy dialogue, technical assistance programmes and a Common Security and Defence Policy Mission.

From 2013-2017, a Justice Sector Reform Project, implemented by a consortium of EU Member States (€ 8.6 million) provided expertise, organizational support and services in key policy areas of the justice sector. Support to justice sector reforms was significantly stepped up with the launch of a new programme “PRAVO Justice” which has a budget of EUR 15 Mio continues the successful work of the previous project with more resources and the possibility to fund not only expertise and services but also supplies/IT solutions. The PRAVO Justice programme puts particular emphasis on supporting the reform of the judiciary, but also on the private legal professions (bailiffs, notaries and bankruptcy trustees), including through the introduction of IT tools.

The European Union Advisory Mission (EUAM) Ukraine is a non-executive mission of the European Union that began operations in December 2014 and is headquartered in Kyiv with

---

<sup>1</sup> As of 10 March 2020.

regional presences in four other cities. EUAM Ukraine aims to assist the Ukrainian authorities towards a sustainable reform of the civilian security sector through strategic advice and practical support for specific reform measures based on EU standards and international principles of good governance and human rights. The EUAM’s work covers a number of agencies responsible for law enforcement and rule of law, but focuses inter alia on the criminal justice chain and the reform of the Public Prosecutors’ Office.

**1.4 Stakeholder analysis**

The main beneficiaries of the project will be **governmental bodies at all levels**, notably the Ministry of Justice; the judicial systems, including the prosecution services, the judicial professions and judiciary supervisory bodies; legislative and parliamentary institutions; and civil society organisations active in the field of justice reforms. All actions under this programme are however geared to be beneficial for **citizens in the Eastern partner countries as well as EU citizens** as the ultimate beneficiary of a stable and prosperous Eastern neighbourhood. Whenever possible, **civil society** will be involved in specific activities as an important stakeholder in this sector.

The target group will be relevant staff involved in data collection mechanisms and evaluation within the Ministries of Justice, High Judicial Institutions, prosecution services and courts, as well as parliamentary bodies in the beneficiary countries.

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

The EU and other donors have provided over the past decade important amounts of financial support to strengthening the rule of law, including supporting justice reforms aiming at rendering judicial systems, including the prosecutor services, more efficient, effective and independent. **The impact of these reforms remains difficult to measure.** Impact analysis should **assist decision-makers and donors** to understand the desired and/or undesired effects of reforms. Systematic (annual) and reliable data collection is a first steps towards supporting decision-makers in the EaP as well as the European Commission that are monitoring the reform efforts to assess the impact of the proposed or adopted policies on citizens and institutions.

As members of the Council of Europe, five out of the six EaP beneficiaries already participated in the CEPEJ biannual Evaluation cycle of judicial systems. Difficulties remain in collecting data of high quality in some of them. While in some EaP countries the main hurdles relate to the availability of data, in some other it is more related to the quality of data including the quality control. Belarus has never participated in this exercise due to its non-member status.

**2 RISKS AND ASSUMPTIONS**

<b>Risks</b>	<b>Risk level (H/M/L)</b>	<b>Mitigating measures</b>
Difficulties of the beneficiaries in providing quality data in due time, including due to lack of inter-institutional collaboration.	H	A rigorous and shared definition of the expected data will be provided. Difficulties in gathering data for a specific beneficiary shall be made known

		<p>to the European Commission and/or the CEPEJ immediately, with a view to finding solutions for collecting data in due time.</p> <p>CEPEJ will take all immediate measures to resolve difficulties in gathering data and to find solutions for presenting in due time while respecting the CEPEJ methodology. CEPEJ will do its best to obtain the necessary data in due time.</p>
Weaknesses of data collection mechanisms in some beneficiaries and lack of reliability of judicial statistics.	H	<p>Collected data will be verified in accordance with the CEPEJ methodology of quality check, with the active engagement of the beneficiaries.</p> <p>In addition, capacity-building activities will aim at strengthening the data collection mechanisms. CEPEJ will provide to the European Commission only data with a sufficient level of quality.</p>
Possible implications for data collection and judicial reforms of the use of the data collected in the framework of the Action by the European Commission.	L	<p>According to the CEPEJ methodology, all data will be published in complete transparency with the beneficiaries' authorities in order to maintain the relationship of trust between the CEPEJ and the data providers.</p>
As a non-member of the Council of Europe, Belarus has never been part of the CEPEJ monitoring rounds, which might make Belarus reluctant to engage in this action.	M	<p>Quickly liaise with the national authorities to communicate about the project, and how this initiative will be of added-value for the country's data collection and evidence-based policy making in the justice sector.</p>
<b>Assumptions</b>		
<ul style="list-style-type: none"> <li>- Continuous commitment of the main beneficiaries to improve efficiency and quality of their judicial system in the on-going context of judicial reform.</li> <li>- Commitment to nominate an 'Justice Dashboard EaP correspondent' able to get data from relevant institutions and ensure his/her availability and reactivity during the whole process.</li> <li>- Continuous commitment of main partners to provide reliable data to the CEPEJ in due time.</li> <li>- Continuous commitment of the main beneficiaries to implement CEPEJ methodology and tools to improve data collection mechanisms in line with the recommendations made by CEPEJ.</li> <li>- Availability and responsiveness by all stakeholders and beneficiaries to participate in and contribute to the Action's activities.</li> </ul>		

### **3 LESSONS LEARNT AND COMPLEMENTARITY**

#### **3.1 Lessons learnt**

As explained in the previous sections, the EU Justice Scoreboard provide with a solid amount of experience in developing metrics and diagnostic tools for the efficiency, quality, independence and accountability of the justice systems based on the CEPEJ methodology. This very useful and highly appreciated tool, serves as a basis for an informed dialogue to focus on tailored solutions, depending on the specific circumstances in a given country. It serves as an inspiration to EU governments, highlighting positive and negative trends in the judiciary. Moreover, a similar tool is being developed in the framework of the ‘Dashboard Western Balkans’. This action will draw on that experience and will be adapted to the Eastern Partnership context.

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

As evidenced by the aforementioned analysis, the EU has, is and will continue to provide financial assistance in the area of justice reform to pursue its policy objectives in this fundamental sector, as well as to reinforce the overall rule of law across the region. Therefore, the ‘Justice Dashboard EaP’ action intends to be a complementary metrics tool to support the justice reform efforts in the Eastern partner countries, providing for baselines, assessment analysis and recommendations for improvement.

This action will be implemented in close coordination in particular with two ongoing regional actions: the ‘EU-World Bank Justice Surveys’ and the ‘Partnership for Good Governance phase II (PGG II)’. The former, which is a perception-based analysis, will deliver its first results in the course of 2020, which should feed and be taken into account by this action. The latter has a strong focus on justice reform activities at regional and bilateral level, including actions that aim at supporting the justice reform efforts in the EaP countries. More details on these two projects can be found here below. The Council of Europe will ensure that the ‘Justice Dashboard EaP’ action complements, feeds and considers these two other actions, in particular the on-going projects in Azerbaijan, Moldova and Georgia implemented under PGG II, aiming at further improving the day-to-day functioning, efficiency and quality of the justice systems.

Furthermore, reinforcing and promoting justice reform has been identified as one of the main areas where cooperation between the EU and the Council of Europe provides the highest added value. However, as explained before, complementarity with currently ongoing and future EU funded projects at bilateral and regional level is crucial in this field, as a number of EU Delegations are active in this important area. In the framework of this project, the Council of Europe, together with the EU, will seek synergies with bilateral actions and avoid overlaps with the ongoing as well as planned initiatives in the partner countries in the specific area in question (i.e. justice reform).

For instance, in the specific case of Georgia, the Justice Dashboard EaP action comes at a critical juncture. Taken together, the four waves of judicial reform represent significant progress; however key recommendations from *inter alia* the Venice Commission, still need to be addressed. In this context, the Justice Dashboard EaP will provide an important metrics tool to monitor ongoing and new developments in the fields of justice that could be of particular pertinence in the aftermath of the parliamentary elections to take place in October 2020 at the latest. It will build upon the EU-World Bank Justice Surveys and the EU-CoE judicial project implemented in 2019-2021.

Further **donor coordination** will be ensured in the field through the respective EU Delegations supported by both the Council of Europe field offices and from headquarters. The Council of Europe will ensure complementarity and avoid any overlaps in the financing of this action be it from other donors or the partner governments.

#### **a) Partnership for Good Governance phase II – PGG II project**

The overall objective of the programme is to assist the EaP countries to **prevent and combat threats to the rule of law and to support justice sector reforms**. It is in line with deliverables 9 (rule of law and anti-corruption mechanisms) and 10 (implementation of key judicial reforms) of the '2020 deliverables for the Eastern Partnership'. The PGG II is being implemented in cooperation with the **Council of Europe**. Therefore, it is designed to assist the EaP countries in continuing their efforts to strengthen their national institutions and local good governance systems. It is based on the experience gained from the Council of Europe Facility (2011-2014) and other *ad-hoc* projects, as well as the experience gained during the first implementation phase of the Programmatic Cooperation Framework with the Council of Europe in the Eastern Partnership (2014-2018).

In detail, the programme aims at addressing shortcomings through the following four components of key issues:

- 1) Strengthening the rule of law and anti-corruption mechanisms;
- 2) Fostering implementation of key justice sector reforms;
- 3) To provide *ad hoc* legal expertise/policy advice on areas covered by the Venice Commission *via* a Quick Response Mechanism;
- 4) Assessing the performance of the judiciary in the EaP.

#### **b) Justice surveys in the EaP project**

The implementation of key judicial reforms in line with European standards on independence, accountability, quality and efficiency of the judiciary is of key importance to the European Union. On this basis, as of 2018 a **regional Justice Surveys project** (baseline and follow-up surveys) is being implemented by the **World Bank** to establish a track-record of assessments and analyses of court performance across four EaP countries (Armenia, Georgia, Republic of Moldova and Ukraine), as measured against an agreed set of justice indicators. With this action, the EU aims at **assessing the impact of these judicial reforms for the citizens** through regional justice surveys.

The activities conducted under this action pivot around regional justice surveys enabling the assessment of the establishment of a track-record regarding court performance and independence across the EaP countries by the beneficiaries. This track-record will be assessed and analysed against justice indicators developed in the Rule of Law Panels of Platform 1. The surveys will help authorities and partners to decide on where further work needs to be done. Therefore, they do not aim to be disseminated to the public at large. Preparatory work for the surveys has been conducted in the framework of TAIEX and existing EaP platform and panel meetings.

The Justice Surveys project is based on an analysis of the **perceptions** of court users (general population, lawyer and businesses) and service providers (judges, prosecutors and court staff) in the beneficiary EaP countries. The 'Justice Dashboard EaP' will complement the surveys by providing capacity building and technical assistance to the relevant public authorities and

stakeholders of the beneficiary countries for the **collection, processing and analysis** of justice data.

### c) **EU for Integrity action**

The overall objective of the action is to provide assistance to the EaP countries to prevent and combat threats to the rule of law, to support justice sector and public administration reform, in line with the Eastern Partnership ‘20 Deliverables for 2020’. It will focus on the **‘supply and demand-side’** of necessary reforms in EaP countries, including measures to **foster evidence-based anti-corruption policy implementation** across the region through regional analysis and pressure tools, as well as in-depth regional analysis and experience-sharing on specific corruption-prone sectors, such as education and business (component 1). Furthermore, the programme will help enabling open, inclusive and responsive governments and citizen-centered service delivery through enhanced civil society participation and engagement in the Eastern Partnership region (component 2). The **OECD Anti-Corruption Network (ACN)** will implement component 1 of the action, while the **Open Government Partnership (OGP)** will take on the implementation of component 2.

## **4 DESCRIPTION OF THE ACTION**

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

The **overall objective** of the ‘Justice Dashboard EaP’ action is to support the Eastern partner countries in their efforts to achieve an effective, systematic and data-based monitoring and evaluation of the results of the judicial reform efforts in the six EaP countries.

The action will allow beneficiaries to base their future policies and budget allocations on the CEPEJ findings to address outstanding steps needed to complete their reforms and improve the quality, efficiency and/or accountability of their justice system in line with European standards.

For the cooperation with the Council of Europe and the CEPEJ during the implementation period – and building upon the common strategic objectives and comparative advantages -, this can be translated into the following expected **specific objective(s)**:

1. To support the EaP countries in identifying weaknesses in their judicial data collection mechanisms and to suggest measures for their improvement.
2. To increase the use of new skills to improve the mechanism of collection, processing and analysis of judicial data in accordance with CEPEJ standards and tools in the EaP countries.
3. To develop the capacity of the EaP countries to identify and take into account the strengths and weaknesses of their judicial system and the results of the judicial reforms.

#### **I. Specific objective (SO) 1: To support the EaP countries in identifying weaknesses in their judicial data collection mechanisms and to suggest measures for their improvement.**

Indicative expected results:

- 1.1. The CEPEJ methodology and purpose of the action is properly explained and communicated to relevant stakeholders in each beneficiary country.



1.2. The initial Justice Dashboard EaP evaluation questionnaire (including indicators and questions) is developed at the start of the action in all beneficiary countries.

Indicative activities:

1.1.1. Seminars, workshops and/or awareness raising events organised in each beneficiary country targeting experts and practitioners from relevant stakeholders, as well as non-experts.

1.2.1. Provide support to beneficiaries at the start of the action on the Justice Dashboard EaP Evaluation questionnaire, through capacity building, technical assistance, expert training and relevant material when relevant.

1.2.2. At least one visit in each beneficiary to provide expert support and advice to the beneficiaries on the questionnaire so that all beneficiaries understand the questions in the same way and that the quality of the data provided is improved.

**II. SO 2: To increase the use of new skills to improve the mechanism of collection, processing and analysis of judicial data in accordance with CEPEJ standards and tools in the EaP countries.**

Indicative expected results:

2.1. An assessment of the capacity of each beneficiary to collect, process and transfer judicial data is provided by CEPEJ, with recommendations for improvement where necessary. Where appropriate, gender disaggregated data will be provided.

2.2. Effective use and implementation of CEPEJ methodology and/or GRECO recommendations.

Indicative activities:

2.1.1 The CEPEJ will undertake an assessment of the capacities of each beneficiary country to collect, process and transfer judicial data, including recommendations for improvement and considering gender disaggregated data.

2.2.1. At least two activities per beneficiary: technical expertise and/or capacity building such as training of the correspondent and any other relevant representative of the MoJ staff and court staff involved in data collection on issues identified during the assessments.

2.2.2. Technical expertise and capacity-building activities implemented based on CEPEJ methodology and/or as a follow-up of the implementation of the GRECO recommendations.

**III. SO 3: To build the capacity of the EaP countries to identify and take into account the strengths and weaknesses of their judicial system and the results of the judicial reforms.**

Indicative expected results:

3.1. A report compiling the results of annual data collection by the CEPEJ is provided to the European Commission each year.

- 3.2. Capacities are developed and relevant staff is trained in each beneficiary country to analyse, identify and process relevant data in relation to the functioning of their judicial systems and the results of their judicial reforms.
- 3.3. The results of the annual data collection and reporting exercises is presented and communicated to relevant stakeholders in each beneficiary country.

Indicative activities:

- 3.1.1 Annual data collection for the results compilation feeding into the annual reports per beneficiary country.<sup>1</sup>
- 3.2.1 Provide capacity building and technical assistance support to each beneficiary country to analyse, identify and process relevant data in relation to the functioning of their judicial systems and the results of their judicial reforms.
- 3.3.1 Seminars, workshops and/or awareness raising events organised in each beneficiary country targeting experts and practitioners from relevant stakeholders, as well as non-experts.

## 4.2 Intervention Logic / Methodology

Following **CEPEJ methodology** and in order to improve the data collection and quality check process, each beneficiary will be invited to appoint an **‘Justice Dashboard EaP correspondent’** entrusted with the collection and coordination of the replies to the CEPEJ questionnaire through the electronic system CEPEJ-COLLECT. Extensive work will be carried out by the action’s team responsible for the data collection within the CEPEJ Secretariat to verify the quality of the data submitted by each ‘Justice Dashboard EaP correspondent’. These correspondents will be the unique interlocutors of the CEPEJ Secretariat during the whole process of data collection and quality check of the data provided.

These correspondents should be able to collect all the data (quantitative but also qualitative) in various institutions and needs to establish their own network. A high level of availability is required from the correspondents during the data collection and quality check process.

The Justice Dashboard EaP questionnaire will contain some questions from the CEPEJ biannual questionnaire and from the ‘Dashboard Western Balkans’ questionnaire.

It should be noted that, in the framework of the on-going projects in Azerbaijan and Moldova, advice and other support would be provided in order to improve data collection mechanisms and in particular to launch a national tool for public access to the database of judicial statistics, based on the concept of CEPEJ-STAT database. The applications should allow a comprehensive analysis of the performance of courts through quantitative and qualitative indicators.

---

<sup>1</sup> Reports will include, but not be limited to, data tables per beneficiary, comparative data tables and graphs between beneficiaries if relevant and according to the CoE rules, descriptive fiches per beneficiary compiling qualitative data, respecting the CEPEJ methodology, and agreed with European Commission services prior to the first draft. Comparisons with previous years will be provided as from the second exercise. Data tables per beneficiary, comparative data tables and graphs between beneficiaries if relevant and according to the CoE rules, descriptive fiches per beneficiary compiling qualitative data to the extent possible, respecting the CEPEJ methodology, and agreed with European Commission services prior to the first draft. Comparisons with previous years will be provided as from the second exercise.

In the framework of the present Action, the CEPEJ will mobilize its expertise and capacities and utilize its experience from its regular process for evaluating the judicial systems of Council of Europe member States, as well as for implementing cooperation projects. More precisely, the Action will rely on:

- CEPEJ methodology, tools and indicators;
- CEPEJ methodology to assess the functioning of judicial systems;
- CEPEJ indicators, including Clearance Rate, Disposition Time, age of the pending cases, length of the proceedings;
- CEPEJ tools such as the Cyberjustice Guidelines;
- Experts and good practices from different European countries with different legal and judicial systems.

Furthermore, value is added by existing synergies with the ECHR and GRECO within the CoE.

#### **a) Data collection**

The Justice Dashboard EaP questionnaire will be based on the CEPEJ questionnaires for the EU Justice Scoreboard for the EU Member States and on the questionnaire for the ‘Dashboard Western Balkan’. Using the existing CEPEJ questionnaires, the Justice Dashboard EaP questionnaire will be further adapted to the EaP region, and in some cases, to each beneficiary, to reflect the context situation in the beneficiary countries. For this, the CEPEJ secretariat will carry out the necessary actions to prepare and develop the questionnaire with the support of the European Commission services and in consultation with the relevant authorities of the beneficiary countries.

#### **b) Capacity building**

To facilitate the data collection and ensure sustainability and ownership within the beneficiaries as regards data collection, the CEPEJ proposes to give a particular focus in this Action to capacity building with a dedicated support that would be provided to the project correspondents and relevant entity in charge of data collection within each beneficiary.

### **4.3 Mainstreaming**

Overall, the action will carefully include a gender-based approach for its implementation, including its activities, namely by gathering and analysing gender disaggregated data. To ensure that a gender-based approach is mainstreamed throughout the action, the following elements will also be considered:

- Providing an assessment and monitoring of the gender representation ratio within the judiciary and relevant public bodies, especially at the highest levels of management;
- Providing data on specific provisions regarding gender equality perspectives in the framework of judicial proceedings, including in relation to access to justice/users;
- Ensuring gender balanced participation in project activities.

Crosscutting issues will be duly taken into account in the planning, organisation and implementation of the Action activities. In general, the areas of co-operation proposed under the Action will have a positive influence on the issues of good governance, democracy, the promotion of human rights, and gender equality. Indeed, the activities of the CEPEJ aim to

improve the efficiency and quality of justice for its users, including, even implicitly, vulnerable groups and minorities. A better functioning of the judicial system contributes to strengthening democracy and good governance, and to ensuring better respect for human rights within the Beneficiary concerned.

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

This intervention is relevant for the 2030 Agenda. It contributes primarily to the progressive achievement of SDG 16 (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels) and SDG 5 (Achieve gender equality and empower all women and girls).

### **5 IMPLEMENTATION**

#### **5.1 Financing agreement**

In order to implement this action, it is not foreseen to conclude a financing agreement with the partner countries.

#### **5.2 Indicative implementation period**

The indicative operational implementation period of this action, during which the activities described in section 4 will be carried out and the corresponding contracts and agreements implemented, is 72 months from the date of adoption by the Commission of this Financing Decision.

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

#### **5.3 Implementation modalities**

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures<sup>1</sup>.

##### ***5.3.1 Indirect management with an international organisation***

This action will be implemented in indirect management with the Council of Europe. This implementation entails that the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe, will be responsible for all aspects of the implementation. This implementation is justified because of the Council of Europe's unique and specific expertise in standard-setting and monitoring tools for the judiciary, including on advice for their introduction and use. The **Council of Europe** is a longstanding strategic partner to the

---

<sup>1</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu) Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website it is the OJ version that prevails.

European Commission, both at the policy level and as an implementing partner in field of rule of law, human rights and democracy.

The CEPEJ was set up by the Committee of Ministers of the Council of Europe in its Resolution Res(2002)12 in September 2002. The CEPEJ is today a unique body, made up of experienced experts from the 47 Council of Europe member States. It assesses the efficiency of judicial systems and proposes practical tools and measures for States to work towards an increasingly efficient service of justice for the public. The CEPEJ is undertaking since 2004 a process for evaluating every two years the judicial systems of the Council of Europe member States. An Evaluation Scheme has been designed and used by the CEPEJ to identify indicators in line with the principles identified in the above-mentioned Resolution, as well as in other relevant Resolutions and Recommendations of the Council of Europe in the field of efficiency and fairness of justice.

In addition, since 2008, the CEPEJ is implementing a peer evaluation process targeting national systems for collecting, processing and analysing judicial data and which makes it possible for national policy makers and justice practitioners to improve the quality and reliability of their judicial statistics and the development of their statistical systems.

The CEPEJ evaluation process as a whole uses fully transparent methods and facilitates the comparison of data between comparable European judicial systems, despite substantial differences between countries depending on the judicial organisation, the economic situation, demography, etc.). This process also makes it possible to exchange experiences between national systems, share good practices and transfer knowledge.

The existing annual “EU Justice Scoreboard” (regarding European Union Member States) contains a large part of CEPEJ quantitative data, in the framework of an existing service contract between DG JUST and the Council of Europe.

In parallel to its intergovernmental activities, the CEPEJ has extensive experience in implementing cooperation programs aimed at raising awareness and applying its methodology and tools for managing judicial time and the quality of justice in Council of Europe member and non-member States. Programs are currently underway in Albania, Azerbaijan, Georgia, Latvia, Malta, Slovakia, Spain, Kosovo\* and Tunisia.

#### **5.4 Scope of geographical eligibility for procurement and grants**

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply, subject to the following provisions.

The Commission’s authorising officer responsible may extend the geographical eligibility in accordance with Budget Article 9(2)(b) of Regulation (EU) No 236/2014 on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realization of this action impossible or exceedingly difficult.

---

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

## 5.5 Indicative budget

	<b>EU contribution (amount in EUR)</b>	<b>Indicative third party contribution, in currency identified</b>
<b>Objective 1 – Justice Dashboard EaP, composed of:</b>	<b>2 000 000</b>	<b>223 000</b>
<b>Total</b>	<b>2 223 000</b>	

## 5.6 Organisational set-up and responsibilities

The Council of Europe will implement the action under indirect management modality, in close cooperation with the European Commission and the six EaP countries.

The **European Commission will ensure**, with the support of the Council of Europe, **the coordination and communication** with the interested stakeholders, including relevant European Commission services and EU Delegations. Programme-specific contact points shall be nominated at headquarters, in EU Delegations and in the CoE field offices to ensure coordinated internal and external communication. The Council of Europe will identify synergies with other relevant programmes, projects and initiatives related to or having impact in the area of justice reform.

The governance structure for the action will pivot around the Steering Committee. The Council of Europe shall organise two **Steering Committee meetings per year**, which will be co-chaired by DG NEAR and the Council of Europe, and will include representatives of Council of Europe’s Commission for the Efficiency of Justice (CEPEJ), and of other relevant European Commission services. The Steering Committee is responsible for monitoring the implementation of the Justice Dashboard EaP on the basis of an inception report and two activity reports per year, to be presented by the Council of Europe and/or CEPEJ, and for agreeing on the activities for the following reporting period, following the formal consultation with EU Delegations. The Steering Committee shall meet at least **twice a year** to decide on the annual activities at the outset of the year (meeting 1) and, at the end of the year, for the monitoring of the implementation (meeting 2). **The Secretariat of the Steering Committee is ensured by the Council of Europe.**

In each country, regular information sessions will be organised with EU Delegations and national stakeholders, including in the margins (or back-to-back) of the Partnership for Good Governance phase II (PGG II) Local Steering Committee meetings, or other relevant meetings.

The Steering Committee approving the Annual Plans of Activities is also responsible for taking into account in its evaluation process complementarity with existing or planned actions and for prioritising those projects where the Council of Europe has particular expertise.

Further to the bi-annual Steering Committee meetings, the Council of Europe will ensure regular contacts with the relevant authorities of the EaP countries, as well as with the European Commission on any relevant issue relating to the project implementation.

## 5.7 Performance and Results monitoring and reporting

Performance measurement will be based on the intervention logic and the log frame matrix, including its indicators, notably for baselines and results.

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

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

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities as well as of the EU operational manager. The different responsibilities for this dual internal monitoring are the following:

- i. The implementing partner's monitoring will aim at collecting and analysing data to inform on progress towards planned results' achievement to feed decision-making processes at the action's management level and to report on the use of resources. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress activity reports (twice a year) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding agreed indicators (and related targets), included in the logframe matrix (for project modality) or the list of result indicators (for budget support). The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. Reporting should not focus on activities and inputs' use, unless it allows reporting on actual (and progress towards) results. The final report, narrative and financial, will cover the entire period of the action implementation.
- ii. The EU operational manager monitoring will aim at complementing implementing the partners' monitoring, especially in key moments of the action cycle. It will also aim at ensuring a sound follow-up on external monitoring recommendations and at informing EU management. This monitoring could take different forms (meetings with the Council of Europe, action steering committees, on the spot checks), to be decided based on specific needs and resources at hand. Reporting will be done based on checklists and synthesised in a monitoring note/report.

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

Further, implementation of the projects and their contribution to EaP deliverables shall be closely monitored by the Steering Committee, as referred to above in section 5.5.

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

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

## 5.8 Evaluation

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

It will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the tangible results of the action and the impact achieved for citizens, the visibility of the action, internal and external communication, and the lessons learnt of the enhanced cooperation between the Commission and the Council of Europe leading to visible and quantifiable improvements in the scope, width and depth of joint Commission and Council of Europe activities and impacts on reforms in the partner countries.

The Commission shall inform the Council of Europe in advance of the dates foreseen for the evaluation missions. The Council of Europe shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

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

The Commission shall form a Reference Group (RG) composed by representatives from the main stakeholders at both EU and Council of Europe levels. The RG will especially have the following responsibilities:

- **Steering the evaluation exercise in all key phases** to comply with quality standards: preparation and/or provision of comments to the Terms of reference; selection of the evaluation team; consultation; inception/desk, field, synthesis and reporting phases. The EU programme manager steers the RG and is supported in its function by RG members.
- **Providing input and information** to the evaluation team. Mobilise the institutional, thematic, and methodological knowledge available in the various stakeholders that are interested in the evaluation.



- **Providing quality control** on the different draft deliverables. The EU programme manager, as lead of the RG, consolidates the comments to be sent to the evaluation team and endorses the deliverables.
- **Ensuring a proper follow-up** after completion of the evaluation.

The financing of the evaluation shall be covered by another measure constituting a financing Decision.

## 5.9 Audit

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

The financing of the audit shall be covered by another measure constituting a financing Decision.

## 5.10 Communication and visibility

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

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

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country (for instance, concerning the reforms supported through budget support), contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

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

In particular, the Council of Europe will ensure adequate visibility of EU financing and of the results achieved. The Council of Europe will draft a communication and visibility plan containing communication objectives, target groups, communication tools to be used and an allocated communication budget.

To enhance internal communication, the European Commission and the Council of Europe have agreed to nominate contact points for the Justice Dashboard EaP at headquarter and field office/ EU Delegation level.

Furthermore, key results will be communicated to all governmental, non-governmental and other stakeholders. All reports and publications produced will be properly disseminated and communicated. All activities will adhere to the European Union requirements for visibility on EU-funded activities. This shall include, but not be limited to, press releases and briefings, reports, seminars, workshops, events, publications.

Visibility and communication actions shall demonstrate how the interventions contribute to the agreed programme objectives. Actions shall be aimed at strengthening general public awareness of interventions financed by the EU and the objectives pursued. The actions shall

aim at highlighting to the relevant target audiences the added value and impact of the EU's interventions. Visibility actions should also promote transparency and accountability on the use of funds.

The Council of Europe shall report on its visibility and communication actions, as well as the results of the overall action to the relevant monitoring committees. This action will be communicated externally as part of a wider context of EU support to the country, where relevant, and the Eastern Partnership region in order to enhance the effectiveness of communication activities and to reduce fragmentation in the area of EU communication.

In the Neighbourhood East, all EU-supported actions shall be aimed at increasing the awareness level of the target audiences on the connections, the outcome, and the final practical benefits for citizens of EU assistance provided in the framework of this action. Visibility actions should also promote transparency and accountability on the use of funds.

APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY) <sup>1</sup>

	Results chain: Main expected results (maximum 10)	Indicators (at least one indicator per expected result)	Baselines (incl. reference year)	Targets (incl. reference year)	Sources of data	Assumptions
<b>Impact (Overall Objective)</b>	<p>The <b>overall objective</b> of the ‘Justice Dashboard EaP’ action is to support the Eastern partner countries in their efforts to achieve an effective, systematic and data-based monitoring and evaluation of the results of the judicial reform efforts in the six EaP countries.</p> <p>The action will allow beneficiaries to base their future policies and budget allocations on the CEPEJ findings to address outstanding steps needed to complete their reforms and improve the quality, efficiency and/or accountability of their justice system in line with European standards.</p>	<ul style="list-style-type: none"> <li>- Number of ‘major’ judicial reforms undertaken within the beneficiaries;</li> <li>- Budget allocated to judicial systems;</li> <li>- Clearance rate;</li> <li>- Disposition time;</li> <li>- Caseload;</li> <li>- Number of criminal cases against judges or prosecutors</li> </ul>	<p>The Joint Declaration of the Eastern Partnership Summit of November 2017 set out a number of concrete objectives to guide the reform agenda in the region. Deliverable 10 of the “20 Deliverables for 2020” called for the implementation of key judicial reforms to strengthen the independence, impartiality, efficiency and accountability of the judiciary, with a special focus on the track-record of implementation.</p> <p>The joint Communication ‘<i>Eastern Partnership policy beyond 2020: Reinforcing Resilience – an Eastern Partnership that delivers for all</i>’ stresses that delivering on key <b>judicial reforms</b> based on the alignment with European standards, a holistic approach that covers prosecution and law enforcement services, and ensuring the independence, accountability, quality and efficiency of the judiciary and prosecution are essential. It is also recognised that there is a need for better measurement of the real results/impacts of reforms and their perceptions by citizens.</p>	<p>The assessment of progress achieved and the identification of shortcomings provide incentives and guidance to the countries to pursue the necessary far-reaching reforms.</p>	<p>CEPEJ Justice Dashboard EaP reports and comparisons between years, EU annual progress reports, CEPEJ evaluation cycle report, Reports of international organisations, Websites and media articles</p>	<p><i>Not applicable</i></p>

<sup>1</sup> Mark indicators aligned with the relevant programming document mark with '\*' and indicators aligned to the EU Results Framework with '\*\*'.

<p><b>Outcome(s) (Specific Objective(s))</b></p>	<p>1. To support the EaP countries in identifying weaknesses in their judicial data collection mechanisms and to suggest measures for their improvement.</p> <p>2. To increase the use of new skills to improve the mechanism of collection, processing and analysis of judicial data in accordance with CEPEJ standards and tools in the EaP countries.</p>	<p>1. level of preparation of possible measures to ensure that the data collection process is implemented regularly and consistently to obtain reliable and specific statistics (with number of measures undertaken to prepare for such process such as appointment of relevant staff, measures to develop CMS which take into account CEPEJ methodology and indicators, etc.).</p> <p>2. a) Level of reply to CEPEJ data collection on new indicators and evolution between years b) Degree of implementation of the relevant CEPEJ indicators and tools into the Beneficiaries' data collection mechanism.</p>	<p>The CEPEJ has knowledge of the capacity of the Beneficiaries to collect data relating to the CEPEJ evaluation cycle indicators / questionnaire to which all the Beneficiaries participate, with the exception of Belarus. More information will be available after assessments of each beneficiary's data collection mechanisms</p>	<p>1. Beneficiaries' authorities, in cooperation with courts, discuss and prepare measures and tools (guidelines, by laws, other) which will strengthen instances responsible for collecting and analysing annual judicial statistics according to CEPEJ standards and tools and ensure that they work with the same methodology and targets.</p> <p>2. Beneficiaries are able to collect data effectively and in particular to reply to new questions (precise target to be determined after assessment of each beneficiary's capacity) -Main CEPEJ indicators and tools included in Beneficiaries' data collection mechanisms by the end of the project</p>	<p>CEPEJ collect (database), CEPEJ report, EU reports, Judicial institutions' reports, courts' statistical reports</p> <p>- Action reports, judicial institutions and courts reports, EU reports, Judicial institutions reports, courts statistical reports</p>	<p>Continuous commitment of the main Beneficiaries to improve efficiency and quality of their judicial system in the on-going context of judicial reform.</p> <p>Continuous commitment of the main Beneficiaries, including Judicial Authorities and Courts to implement CEPEJ methodology and tools to improve data collection mechanisms in line with the recommendations made by CEPEJ</p>
--	--	--	--	---	---	---

	<p>3. To build the capacity of the EaP countries to identify and take into account the strengths and weaknesses of their judicial system and the results of the judicial reforms.</p>	<p>3. Level of ownership within each beneficiary of the results of the process of evaluation of their judicial system (with for example number of ‘major’ judicial reforms undertaken within the beneficiaries, evolution of the budget allocated to judicial systems).</p>		<p>3. On the basis of the results of the evaluation, each beneficiary identify priority areas where improvements can be made within their judicial system and take appropriate measures to strengthen efficiency and quality of justice at structural level</p>		
<b>Outputs</b>	<p>1.1 The CEPEJ methodology and purpose of the action is properly explained and communicated to all relevant stakeholders in each beneficiary country.</p> <p>1.2 The initial Justice Dashboard EaP evaluation questionnaire (including indicators and questions) is developed at the start of the action in all beneficiary countries.</p>	<p>1.1 - Number of visits - Number of relevant staff involved in data collection trained</p> <p>2.1 -Number of assessment visits - Number of assessment reports provided</p>	<p>1.1 - All beneficiaries have knowledge of the CEPEJ evaluation cycle (except for Belarus) but have no knowledge of the new indicators and should be accompanied to have a better understanding and apprehension of what is expected</p> <p>2.1 Will be determined based on the results of the first exercise of data collection and challenges identified during such process.</p> <p>2.2 - TBD based on the results of the assessments and relevant</p>	<p>1.1 - Relevant staff in each beneficiary is trained at the beginning of the 1st exercise of data collection (in relation to new questionnaire and new indicators in particular). A second training by the end of first exercise of data collection might be necessary.</p> <p>2.1 Assessment reports are provided immediately after the end of the 1<sup>st</sup> data collection exercise.</p>	<p>- Action reports - List of participants and participants’ feedback reports, - judicial institutions reports</p>	<p>Availability and responsiveness by all stakeholders and beneficiaries to participate in and contribute to the Action's activities.</p> <p>Continuous commitment of main partners to provide data to the CEPEJ</p>

	<p>2.1. An assessment of the capacity of each beneficiary to collect, process and transfer judicial data is provided by CEPEJ, with recommendations for improvement where necessary. Where appropriate, gender disaggregated data will be provided.</p> <p>2.2. Effective use and implementation of CEPEJ methodology and/or GRECO recommendations.</p> <p>3.1. A report compiling the results of annual data collection by the CEPEJ is provided to the European Commission each year.</p> <p>3.2 Capacities are developed and relevant staff is trained in each beneficiary country to analyse, identify and process relevant data in relation to the functioning of</p>	<p>2.2</p> <ul style="list-style-type: none"> <li>- Number of capacity building activities</li> <li>-Number of relevant staff involved in data collection trained</li> <li>- Number of activities implemented in relation to GRECO recommendations</li> </ul> <p>3.1</p> <p>Level of implementation of the agreed calendar for data collection and provision of data to the EC.</p>	<p>recommendations : technical expertise and capacity-building initiatives will be defined to support beneficiaries in setting up and adopting new skills in collecting processing and analysing judicial data in accordance with CEPEJ standards and tools;</p> <p>3.1 N/A</p>	<p>2.2</p> <ul style="list-style-type: none"> <li>- Capacity building activities start immediately after the first exercise, based on the results of the recommendations provided for each beneficiary.</li> <li>- as a follow-up of the implementation of the GRECO recommendations, technical expertise and capacity-building initiatives are implemented (without duplication of other CoE programmes implemented in that field in the region).</li> </ul> <p>3.1 Calendar to be discussed and agreed upon</p>	<p>CEPEJ data collection system ( CEPEJ collect), CEPEJ dashboard report, Action reports, Communications with CEPEJ Secretariat</p>	
--	--	---	---	---	---	--

	<p>their judicial systems and the results of their judicial reforms.</p> <p>3.3 The results of the annual data collection and reporting exercises is presented and communicated to all relevant stakeholders in each beneficiary country.</p>					
--	---	--	--	--	--	--