



Evaluation of EU External Action – Response of the EU Services



Evaluation title	Title: Evaluation of the European Union support to Rule of Law and anticorruption in Partner Countries		
Lead EU Service	European Commission Directorate-General for International Partnerships (INTPA), Unit D4	EU Delegation(s) involved	Democratic Republic of Congo, Guatemala, Jamaica, Kenya, Kyrgyzstan, Latin America and the Caribbean (regional case study), Myanmar, Nigeria, Philippines, Sahel (regional case study), Vietnam, West Africa (regional case study)
Associated EU Services	European Commission Directorate-General for Neighbourhood and Enlargement (NEAR), European Commission Directorate-General for Justice and Consumers (JUST) and Service for Foreign Policy Instrument (FPI). European External Action Service	Main policy areas addressed by the evaluation	Priority “Partnership for Human development, Governance and Peace”: Rule of Law & Anticorruption
Evaluation budget	EUR 558 666	Contractor	Particip GmbH
		Date of the response	2/12/2022
Additional information	<i>(Including link to the published report if available)</i>		

Recommendations from the independent Evaluation		Response of the EU services (to be updated one year later)
R1	Assume leadership in the promotion of the rule of law and the fight against corruption abroad and at home	Accepted

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<p><i>It is the cornerstone of an upgraded EU response to defending rule of law and anticorruption (RoL&AC) in the next years. Despite the increasingly hostile environment in many places, the EU should assume leadership and deepen its engagement as a proactive advocate for the rule of law and the fight against corruption in order to promote inclusive and sustainable development, safeguard its own interests, and retain its credibility as a normative power. The global context is difficult and, to maintain credibility, the EU must critically assess what it can and cannot achieve, striking a balance between its ambitions and limiting factors. Windows of opportunity to promote the EU's rule of law and anticorruption agendas with partner countries, EU MS, and other international partners need to be identified and pursued. This requires optimally exploiting the potential of SDG 16 (as a minimal standard agreed at international level), adopting "whole of Europe approaches", clarifying the red lines in relation to rule of law and anticorruption, being more conditional on the terms of EU engagement or in setting budget support benchmarks (ideally in close collaboration with DG JUST) and using all possibilities to exercise leverage and greater creativity in forging alliances with democratic forces.</i></p>	<p>The EU agrees that despite, or perhaps because of the increasingly hostile environment, the EU must take a leading role and deepen its engagement as a pro-active advocate for the rule of law and anti-corruption. As President Von der Leyen stated in her speech at the EU Ambassadors Conference 2022 "in these times of transformation and turmoil, Europe must engage even more on the global stage. We must reach out to all countries, from like-minded democracies to others that may share some of our interests on specific issues".</p> <p>Respect for the rule of law and the universality and indivisibility of human rights and fundamental freedoms are founding values of the EU and fundamental principles guiding EU's action in its external relations (TEU Article 21). To a large extent, this is reflected in the policies and operations of the EU development cooperation; for example, the EU's Global Gateway initiative aims to show how democratic values provide certainty and transparency for investors, sustainability for partners and long-term benefits for citizens. It's guiding principles are adherence to (i) democratic values and high standards and (ii) good governance and transparency.</p> <p>The EU promotes democratic governance and the rule of law in its dialogue with countries. This is mutually beneficial to both the EU and our partners, and an enabler for the achievement of the Sustainable Development Goals. The EU Action Plan on Human Rights and Democracy for the period 2020-2024, adopted by the Council, is the compass for the EU's external action in this field. The Action Plan identifies priorities and key actions for the next five years, to ensure that the EU plays a greater role in promoting and defending human rights and democracy throughout its external action. The EU with its member states continue to be the largest providers of development assistance in the area of democratic governance. The Human Rights Based Approach (HRBA) based on principles of inclusion and participation, non-discrimination, equality, transparency and accountability is applied to all EU initiatives.</p>

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	<p>Rule of law and Anti-corruption feature as priority sectors of intervention in our international partnerships, through the Global Europe / NDICI Programme. Within the new bilateral strategies (Multiannual Indicative Programmes - MIPs), the vast majority (86) are supporting Democratic governance, including 52 MIPs specifically prioritizing support for justice and 34 MIPs focusing on anti-corruption. Tackling corruption encompasses legal and policy framework reforms, anti-corruption institutions and oversight bodies, as well as civil society and independent media – providing an essential accountability element to more traditional Rule of Law interventions.</p> <p>At regional level, there are programmes such as EL PACCTO 2.0, which aims to position the EU as partner of choice in Latin America, progressively building a partnership in Justice and Security based on shared interests and common priorities. Actually the future EL PACCTO 2.0 and all ongoing programmes are aligned to the TEI for LAC on Justice and Security (launched in May 2022), with the aim to foster a more effective and strategic EU-LAC partnership to strengthen the rule of law and the fight against organised crime in both regions.. In Sub-Saharan Africa, a new TEI will combat organised crime and illicit financial flows, reflecting the importance of tackling these issues on a global scale. Cooperation at the regional level is also followed up within various fora – e.g., the EU is working closely with the African Union (AU) to support the domestication and implementation of the African Union Transitional Justice Policy (AUTJP).</p> <p>EU support is also implemented through dedicated thematic programmes. The multi-annual indicative programme (MIP) for the NDICI-Global Europe thematic programme on Human Rights and Democracy sets several priorities for action, including strengthening the rule of law, ensuring fair and effective administration of justice and closing the accountability gap. A range of flagship actions are being developed, addressing issues such as the fight against impunity, the protection of human rights defenders, and the role of independent media and journalism.</p>

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	<p>The Team Europe approach driving the Team Europe Democracy (TED) initiative in particular shows an increasing capacity and willingness to develop EU wide actions that harness the diverse expertise of member states. Fourteen member states are already actively involved, and one of its key areas of operation will be rule of law and accountability. Wherever possible we will aim for a whole of Europe approach, using our enhanced reach and depth of expertise to identify and exploit windows of opportunity.</p> <p>In terms of red lines, the adherence to fundamental values is underlined throughout EU policy documents. When monitoring of fundamental values raises concerns, the response aims to be progressive, proportionate, and developed at a country level. Moreover, when the EU works with and through government, a financing agreement is signed. Such agreements indeed include a clause that enables the Commission to suspend (Article 26.1 of the General Conditions) or to terminate (Article 27.1 of the General Conditions) the agreement in case of breach of an obligation relating to respect for human rights, democratic principles and the rule of law. Dialogue and mitigating measures are always a first step, with suspension and termination a last resort.</p> <p>DG INTPA's own internal risk assessment methodology (the new Country Risk Management Framework – RMF+) also pays particular attention to rule of law and corruption risks, ensuring that where risks are identified they are followed up through dialogue and mitigating measures. These risk assessments now guide all programming and implementing decisions, irrespective of modality or context. RMF+ assessments are combined with continuous monitoring of the political context and are then used to drive policy and political dialogue. Wherever risks are significant, the issue should be highlighted in dialogues with the aim of agreeing appropriate measures. It is difficult to impose ex-ante pre-conditions, as these often hinder meaningful dialogue and can be problematic to measure. Considerations of such pre-conditions also need to consider the needs of partner</p>

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	<p>countries, particularly if punitive measures might harm vulnerable sectors of the population benefiting from EU support.</p> <p>The EU notes the global deterioration in the rule of law and democratic standards and recognises the need to monitor and respond to such deteriorations at a country level in a timely and holistic manner. This clearly goes beyond the provision of development assistance, and includes human rights dialogues, trade agreements, EU grey/blacklists, as well as other aspects of EU relations with partner countries. We agree that SDG16 should be seen as a minimum standard and will use our own internal EU benchmarks to drive progress.</p> <p>The development of alliances with like-minded actors is a priority of the EU, and there continues to be a high level of activity on several fronts. Non-state actors participate in a regular and structured dialogue both at Headquarters and at country level, increasingly incorporating the private sector. Regional and continental organisations are also continual partners at a high level, including but going far beyond the provision of development assistance.</p> <p>Relations with UN agencies are strong and exhibit a shared understanding of the huge challenges presented by Agenda 2030, particularly in relation to SDG 16 and issues of the rule of law and good governance in general. IFIs such as the World Bank and the IMF have also developed new strategies in recent years which exhibit an increasing emphasis on issues of governance and anti-corruption and provide for increased cooperation on these issues. Finally other major actors outside the EU - notably the US – have made governance issues a priority, especially anti-corruption. High level and intense involvement in the Summit for Democracy – including leadership of a Summit cohort – exhibit EU willingness to cooperate and lead on such issues on the world stage.</p>

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<p>R2</p> <p>Elaborate a unified and comprehensive anti-corruption framework</p> <p><i>The EU should elaborate a unified and comprehensive anti-corruption framework – linked inextricably to RoL strategies and interventions – with a view to strengthen its support to partner countries’ efforts in fighting corruption as well as promoting a culture that rejects it. The elaboration of such a framework is needed to (i) raise the political profile of anti-corruption in EU external action; (ii) provide conceptual clarity on EU’s approach the anti-corruption agenda and its link with poverty reduction, social cohesion, peace and security; (iii) define clear EU ambitions, objectives and related theories of change; (iv) better explain the interlinkages between the fight against corruption and the rule of law, governance, and other traditional development sectors; and (v) provide strategic directions and operational guidance on how to promote this agenda through country-level, regional and global anticorruption strategies. An immediate step could be refining the integration of RoL&AC principles in budget support operations or mainstreaming concerns for transparency and accountability in all sector interventions.</i></p>	<p>Accepted</p> <p>The EU recognises the huge negative impact of corruption. The cost of corruption is hard to measure but most estimates put it at many times global ODA. The impact falls disproportionately on the poorest – women and children in particular – undermining the central aim of EU development policy. Corruption undermines public investment, distorts the allocation of resources and retards investment and growth. Corruption transfers wealth from poor to rich, worsening inequality and the social contract on which successful societies depend. Corruption also undermines democracy, human rights and the rule of law, rendering societies more unstable and prone to conflict.</p> <p>The incoming Swedish Presidency identifies the fight against corruption as one of its three key priorities in the area of international partnerships and will put forward Council Conclusions in 2023 aiming at a more unified and comprehensive anti-corruption framework at the EU level.</p> <p>DG INTPA is currently developing new operational guidance on anti-corruption, establishing inter alia a rationale, objectives, and best practice, geared to different country contexts, and establishing clear incentives for countries to address corruption. New guidance will assist EU operations to apply an anti-corruption lens irrespective of modality or sector, including but not limited to budget support. A fundamental aim will be to internalise, disseminate and leverage the standard setting and benchmarking of international bodies such as OECD, FATF, GRECO etc. providing easily referenced resources for HQ and EUD staff. The Team Europe approach will be used to aid coordination among EU member states to work on a more strategic approach. DG INTPA can take a leading role, working closely with member states that are already prioritising the anti-corruption agenda, supporting new policy development where needed.</p>

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	<p>As noted above, the EU’s financing agreements signed with third parties allow for the suspension or termination of a programme for breaches of obligations relating to respect for human rights, democratic principles and the rule of law, and in serious cases of corruption. Risk assessments are conducted on a regular basis and contractual and financial procedures seek to ensure value for money and prevent capture or embezzlement by specific interest groups.</p> <p>An assessment of the respect of the rule of law (as part of EU fundamental values) is currently carried out by the Commission to inform decisions on budget support. This assessment is a pre-condition for our more comprehensive SDG-contracts and is taken into account for all other types of budget support contracts, including as part of the new Country Risk Management Framework Plus (RMF+) mentioned above. All EU budget support is conditional on progress in public finance management and all countries are also assessed on their adherence to budget transparency. Any EU intervention can be put on hold if serious concerns arise over fundamental values or cases of corruption.</p>
<p>R3</p> <p>Foster a combined and coherent approach to address rule of law and anticorruption challenges</p> <p><i>The EU should move beyond the siloed approach to RoL currently observed and treat RoL&AC as a theme cutting in all sectors. The EU should not consider RoL and AC as separate, because corruption and impunity for corruption are ultimately failures of RoL. This implies the need to further invest in transitional justice as well as to pay more attention to engaging on the independence / impartiality of the judiciary (as a key condition for an effective fight against corruption). What is also needed is to move away from a “thin” definition of the RoL – focused on legal/institutional reforms and access to justice – to a “thick” definition of the RoL -which includes other crucial dimensions such as</i></p>	<p>Partially accepted</p> <p>The EU agrees that RoL/AC is in many respects a cross cutting theme that should be addressed across sectors and applies a “thick” definition of the Rule of Law within its Union. This is clearly spelled out in the various communications of the European Commission that guide the Rule of Law Mechanism as a tool to address serious rule of law breaches in the Union as foreseen under Article 7 of the Treaty on European Union.</p> <p>The mechanism follows the European Parliament resolution (2015/2254(INL)) recommending the Commission to establish an EU mechanism on democracy, the rule of law and fundamental rights. This resolution not only contains the same thick understanding of the RoL but also indicates the gradual and cumulative nature of the EU’s experience in fulfilling its Rule of Law commitment. The thick definition of the Rule of Law guides the</p>

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<p><i>accountability, just law (in terms of access to public goods and services), open government, the fight against corruption in all sectors or in terms of fiscal equity and domestic resource mobilisation (DRM). To this end, the EU could consider fostering RoL&AC “action plans” (as it has been done for gender and human rights). Other steps essential to success include the adoption of “whole of Delegation” approaches to ensure the integration of RoL&AC issues across themes and sectors, to exploit the potential of the Team Europe innovation, to engage with reformist forces to better identify context specific opportunities such as emerging drivers of change, the private sector, informal systems of justice, etc.</i></p>	<p>yearly assessment of rule of law status in EU member states through the ROL mechanism as well as the screening of candidate countries to the EU. However, this thick definition of the Rule of Law is more difficult to apply consistently in EU external action, even though the EU aims to uphold and promote its values in all areas of engagement.</p> <p>Nonetheless there exist in the external action important policy tools that encompass such thick definition. These include:</p> <ul style="list-style-type: none"> • The Regulation (EU) 2021/947 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, particularly Annex II - Areas of Cooperation for the Geographic Programmes, the Area 1 - PEOPLE on Good governance, democracy, the rule of law and human rights, including gender equality. • The Human Rights and Democracy Country Strategies that are based, most recently, on the EU Action Plan on Human Rights and Democracy 2020-2024. The strategies screen partner countries annually against a thick definition of the Rule of Law. • The Country RMF was designed in 2013 to assess and mitigate risks in the context of budget support programmes and the use of country systems for implementing development aid. In September 2021 it was enlarged to the Country Risk Management Framework Plus (RMF +) providing a structured assessment of the risks related to all implementation and financing modalities in a specific country independently of the EU funding source and instrument. The new Country RMF+ is adapted to the changing context for international partnerships, the evolving geo-political landscape, and the use of new financial instruments. It ensures links to main EU priorities such as the green transition, sustainable and inclusive growth and jobs, migration partnerships, sustainable finance (incl. the elements of the investment climate) and fundamental values, including human rights, democracy and rule of law.

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	<ul style="list-style-type: none"> • The EU Action Plan on Human Rights and Democracy 2020-2024 is the compass for the EU's external action in this field providing coherence with EU internal policies and a renewed operational agenda. It has articulated comprehensive axes of action based on a 'thick' understanding of the democracy, rule of law and human rights, through both the relevant Council Conclusions and Multi-Annual Indicative Programme 2021-2027. • Principles of open government, just law and accountability – part of a 'thick' definition of rule of law – are implicit in implementation of the Human Rights Based Approach which is applied to all EU interventions. <p>Building on the full range of existing tools at the EU's disposal, and considering the degradation of democracy, rule of law and human rights worldwide, the EU agrees that it should update its policy framework to allow for integrated and systematic ways to promote and protect the rule of law – including anti-corruption - as well as democracy and the human rights.</p> <p>Given the global risk level but also the existence of many defenders and promoters of the Rule of Law, the elaboration of enhanced and effective policy tools will benefit from an internal and external reflection on the way forward. At this stage the EU cannot pre-determine if a GAP style Action Plan will be the most appropriate policy choice, but all options will be considered. At this stage, the EU can envision a Roadmap for internal and external initiatives to identify and prepare enhanced policy tools to promote democracy, human rights and the rule of law.</p> <p>Any future initiatives should capitalize on existing international obligations and standards to promote judicial independence, participation in decision making, check and balances in public governance, accountability and equal access to remedy and public services, access</p>

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	<p>to information and fight against corruption in addition to long established of access to justice and institutional reforms.</p> <p>In this context, operationally Team Europe Initiatives (TEI) already provide a more coherent and comprehensive approach. TEIs have become an integral part of the programming process under the NDICI-Global Europe Programme. The Team Europe Democracy Initiative (TED) for example will provide a network for EU and MS partners to work together, providing data, analysis and targeted expertise in the key focal area of accountability and the rule of law.</p>
<p>R4</p> <p>Promote and enable the systematic use of different forms of analyses</p> <p><i>The EU should ensure that RoL&AC engagement strategies are underpinned by solid and iterative political economy analyses, conflict analyses and conflict sensitivity assessments. There is a clear need for a shift away from current approaches to context analysis (often of a superficial nature) to a much deeper examination of the root causes, the (illicit) power structures, the factors of resistance and the levels of ownership/buy in of elites to reform processes. In fragile/conflict countries, the practice of doing serious conflict analyses and mainstream conflict sensitivity assessments (with a view to avoiding “doing harm”) should be a threshold for cooperation programmes. In both cases, it will be essential that these analyses are supported by the political leadership, connected to actual action (e.g., programming) and done in an iterative manner (considering the highly volatile nature of local / national dynamics).</i></p>	<p>Partially accepted</p> <p>The EU partially agrees with this recommendation. The EU has already established this principle in its regulatory framework for development cooperation. The NDICI regulation (Art. 8 and 12) requires development programmes and actions to mainstream, among others, human rights, democracy and gender equality and to this end obliges the conduct of comprehensive multi-disciplinary analysis of context, capacities, risks and vulnerabilities, integrate a resilience approach and be conflict sensitive, considering conflict prevention and peacebuilding. These analyses need to be guided by the principles of ‘do no harm’ and of ‘leaving no one behind’. In situations of crisis, post-crisis or fragility and vulnerability, the NDICI requires the conduct of conflict analyses to ensure conflict sensitivity and that due account is taken of the special needs and circumstances of the partner countries or regions concerned and of their population.</p> <p>The EU recognises that the NDICI does not explicitly refer to the need to understand corruption as a system. Many different analyses must be done to fully understand what drives corruption in different contexts and countries. If not done properly, the contributions can lead to enhanced corruption. The “Do no harm” approach is essential. The NDICI also does not explicitly refer to the need to assess the Rule of Law environment</p>

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	<p>as enabling condition for sound democracies and the protection of human rights. Nonetheless, commitment to and progress in building deep and sustainable democracy, the rule of law, good governance, human rights, and the fight against corruption are recognised as determining criteria in the allocation of funding.</p> <p>To this end, the Country Risk Management Framework (RMF) provides a coherent assessment of the risks of Rule of Law, Corruption and fraud for budget support operations, since 2013. The Country RMF was designed in 2013 to assess and mitigate risks in the context of budget support programmes and the use of country systems for implementing development aid. In September 2021 it was enlarged to the Country Risk Management Framework Plus (RMF +) providing a structured assessment of the risks related to all implementation and financing modalities in a specific country independently of the EU funding source and instrument. The new Country RMF+ is adapted to the changing context for international partnerships, the evolving geo-political landscape, and the use of new financial instruments. It ensures links to main EU priorities such as the green transition, sustainable and inclusive growth and jobs, migration partnerships, sustainable finance (incl. the elements of the investment climate) and fundamental values, including human rights, democracy and rule of law.</p> <p>The new Country RMF+ complements other internal risk assessment or analytical tools, including the EFSD Guarantee Risk Policy Framework and its revised version in view of EFSD+, the EU conflict Early warning system, recent conflict analyses, conflict sensitivity assessments and/or resilience analyses, environmental and climate risk screening and theory of change methodologies. The new Country RMF+ also ensures that the risks associated with the implementation of the country MIPS are monitored (at a minimum) on a yearly basis and appropriate risk mitigation measures/actions are identified and support decision-making throughout implementation.</p>

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	<p>The EU does not systematically use political economy analyses, which have been substituted, in DG INTPA, by policy analyses. PEAs may be conducted, however, by the need to have more in-depth context and sectoral analysis to mitigate different kinds of risks. On the other hand, due to NDICI Global Europe requirements, conflict analyses screenings are being conducted in approximately 66 countries covered by DG INTPA and DG NEAR to support conflict sensitive approaches in the current programming cycle in its various stages, from strategic country and regional programming to individual actions, in order to minimise risks of doing harm.</p> <p>The difference between conflict analyses and PEAs, is not only methodological: conflict analyses screenings (CAS) and conflict sensitivity assessments must generate joint, shared recommendations for EU action, to ensure conflict sensitive programming and identify opportunities for conflict prevention and peacebuilding. A similar process is foreseen for 4-6 countries prioritised within the EU for the EU conflict Early Warning assessments, which focus on opportunities for conflict prevention as well as conflict-sensitive options for actions. Facilities for updating conflict analyses and conflict sensitivity assessments, however, are not available systematically, with the exception of a few EU delegations and the provision of some supports by relevant thematic units. These types of analyses/assessments do take into account Rule of Law dimensions, including security and justice sectors, in conjunction with other fragility or conflict-related dimensions (economic, social, environmental, political).</p> <p>Sectoral specific risk analysis and/or conflict analyses are foreseen for programmatic action on Security Sector Reform (SSR) supports and DDR supports (Disarmament, Demobilisation and Reintegration). These areas of work are closely linked also to Rule of Law issues, transitional justice and justice sector reforms in the context of peace agreement and/or political settlements on peace and reconciliation.</p>

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	<p>However, this set of analytical tools could also be complemented by PEAs when possible and necessary. The on-the-ground knowledge of the EU Delegations and engagement with local stakeholders enables them to assess priorities and issues in a given context to inform programming and to monitor implementation of projects. Bringing external expertise to perform a PEA (through partnerships with national, international or knowledge institutions or through the TED initiative, for instance) or a centrally organised provision of PEA can also be an option. External expertise could provide the Delegations with comparative knowledge of, for instance, ways to engage in the context of limited political will to reform. Working more closely with EU member states also could provide significant economies of scale and allow for specialisation on specific issues.</p> <p>However, political economy analyses cannot always provide sufficient detail on specific issues; for example, PEAs are usually weak on the perspective of gender. In addition, sector analyses are also important in some instances. Overall, the analyses of a country or context have scope to be more holistic and the NDICI’s requirements are a very good basis to build on. The EU also agrees that the production of PEAs needs to be an iterative process, reflecting sometimes rapid changes. In turn, this analysis needs to be owned by EU decisionmakers, concretely influencing the direction of programming and dialogue.</p>
<p>R5 Work towards a “shared ownership approach”</p> <p><i>The EU should further increase its efforts to ensure ownership of its RoL&AC support in partner countries/regions. Building on already existing good practices it means privileging systematically a truly inclusive multi-actor and multi-level approach in terms of setting the agenda, examining conditions for effective implementation, stimulating lead roles for national actors in identification and implementation, jointly reviewing progress achieved,</i></p>	<p>Partially accepted</p> <p>The EU agrees that sustainable cooperation can only be achieved through a shared ownership approach. National ownership is essential for successful reform in any sector. Rule of law and anti-corruption are complex and politically sensitive area and without a strong political commitment to reform – from the very highest level – successful structural reforms are unlikely if not impossible. The notion of ‘country ownership’ rather than</p>

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<p><i>ensuring optimal flexibility so as to seize (often short-lived) windows of opportunities and enhancing the quality and result-oriented nature of policy and political dialogue processes. Blunt conditionalities/sanctions often have a contraproductive effect, while investing in a more transactional relationship (around joint commitments) can yield better outcomes.</i></p>	<p>‘government ownership’ is particularly important- and necessitates broad and meaningful inclusion of all stakeholders in the dialogue with the EU.</p> <p>For that reason, the programming exercise is based on a constant dialogue with the partner countries about their national priorities and strategies. The NDICI has been designed to reinforce the policy-driven approach to EU cooperation and international partnerships, with the aim of making engagement with partners more strategic and responsive, building ever stronger and mutually beneficial partnerships based on shared interests. This way, programming is anchored in strong partnerships established through a multi-stakeholder dialogue and reflecting shared interests and priorities. This principle is reflected in all the MIPs adopted under the current Multiannual Financial Framework (MFF).</p> <p>The NDICI also foresees that EU cooperation with partner countries is based on ‘the partners’ capacity and commitment to promote shared values, principles and interests, including human rights, fundamental freedoms, democracy, the rule of law, good governance, fight against corruption, open civic space and gender equality and to support common goals and multilateral alliances and cooperation, a rules-based international system, as well as the advancement of Union priorities’ (Art. 13). ‘Blunt’ conditionalities are indeed often counter-productive, although more transactional relationships must be implemented with these fundamental values at the forefront.</p> <p>Over the lifetime of a programme, political developments in a country (whether considered positive or negative) can trigger the question of whether the medium-term strategy followed is still the most appropriate. If the adjustments cannot be implemented through the annual action plans, a revision of the programme can be done at any time through ad hoc reviews, as foreseen in Article 16 of the Global Europe Regulation or through the mid-term review planned in 2024. Considerations of national ownership should take into account political shifts, political, social and economic crisis, as well as changes of</p>

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		government that can stall or reverse progress, especially in fragile and conflict affected countries.
R6	<p>Further strengthen the political partnership with civil society</p> <p><i>Building on existing good practices, the EU should reinforce its alliances with a wide diversity of civil society organisations at local, national, regional and global levels to jointly defend RoL principles and ensure an effective fight against corruption, particularly in places where the space for autonomous civic action is shrinking. This implies opening up more space for civil society to effectively participate in setting country/region level agendas for RoL&AC; ensuring systematic and structured dialogues with civil society organisations on the evolving political economy conditions and suitable EU response strategies; and creatively seeking to protect civic space for autonomous civil society by using all means and instruments available, including risk mitigation measures and long-term support.</i></p>	<p>Accepted</p> <p>The EU, in the spirit of Team Europe, will continue to support its close partnership with civil society through global, regional and country actions.</p> <p>The NDICI/Global Europe regulation places a strong emphasis on the involvement of civil society in the design, implementation and monitoring of programmes (e.g., Article 8, 12, etc) and CSO Roadmaps are in place in each Delegation. Empowering civil society actors to exercise their watchdog role and ensure accountability of governments is a priority in the EU Action Plan on Human Rights and Democracy. Support is also provided inter alia through a dedicated CSO programme (1.5bn EUR) and the thematic programme on human rights and democracy (1.5bn EUR). The Commission agrees that partnerships with CSOs across all programmes contribute to enhancing their buy-in, promote their engagement in sector reforms, and extend the benefits of the action at the grassroots level.</p> <p>The thematic programme (Human Rights and Democracy) for 2022-24 is aimed at strengthening the capacity of civil society actors and the protection of human rights and democratic standards. The participation of civil society and relevant authorities at global, regional, national and local levels is a key objective of the programme. Specifically, country allocations support national and local civil society actors and contribute to promote and protect human rights and fundamental freedoms, democracy and the rule of law worldwide.</p> <p>Civil society organisations (CSO) are critical in providing legal aid, empowering the public of their legal rights, promoting the rule of law, fighting corruption and carrying out</p>

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		<p>investigative journalism. The EU will work with them to further the transparency of government and support citizens right to information, raising awareness, and mobilising support for anti-corruption reforms. Enhancing the policy framework for ROL-AC in a deteriorating context, as well as increased emphasis on multi-disciplinary analysis at country level, should also facilitate strengthening of the partnership with civil society.</p>
<p>R7</p>	<p>Ensure a complementary and coherent use of bilateral, regional, global and thematic instruments</p> <p><i>The EU should better link its efforts at bilateral, regional and global levels in the fight against corruption. This will require EU leadership to create political and institutional incentives for reinforced dialogue, collaboration and synergies between the different units in charge of geographic instruments; a clarification of the division of roles and responsibilities of the different actors involved in circulation of information, coordination, decision-making (particularly in regional programmes) and monitoring of linkages between country level actions on corruption, illicit financial flows and EU level judicial tools.</i></p>	<p>Accepted</p> <p>The EU agrees that full complementarity and coordination between thematic and geographic programmes at all levels should be ensured. According to NDICI, Delegations and Headquarter services drafting geographic and thematic programming documents should bear subsidiarity and complementarity in mind and foster coherence between different levels of intervention and with all EU policies. For that reason, the design and approval of geographic and thematic actions follow an internal quality assurance process.</p> <p>Given the complexity and breadth of issues involved in the fight against corruption, the EU agrees that all levels of operations need to be closely linked, following a policy first approach. As noted above DG INTPA is developing enhanced internal operational guidance to facilitate a more strategic approach to anti-corruption efforts. This will be supported by enhancing coordination internally as well as with other relevant actors (E.g. EU member states, DG HOME, DG JUST etc.)</p> <p>In general terms, the Strategic Steering Committee (SCC), chaired by the Director-General and attended by INTPA Senior Management, is the body that endorses the policy alignment of envisaged actions. Geographic and thematic directorates submit the SSC Fiche outlining the annual action plan (AAP), which is assessed by the SSC members. It then expresses a binding opinion on the AAP (and actions included) through conclusions and guidance, formalised in the minutes. Country/Regional/Thematic Cooperation Teams (CCT/RCT/TCT)</p>

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	<p>accompany the design process and ensure quality of all Action Documents. At the Quality Review Meeting, which takes place at the end of the design phase, the proposed actions are examined by the CCT/RCT/TCT members and the extent to which the proposed action meets quality criteria (relevance, effectiveness, efficiency and sustainability) is assessed.</p> <p>There are renewed efforts on building international partnerships, in the spirit of the Team Europe initiatives, as well as to apply more systematically the Humanitarian-Development-Peace Nexus in fragile and conflict affected countries. The aim is to have increased coherence between EU international cooperation and political action in general, as called upon by the <i>EU Integrated Approach to Conflict and Crisis</i>.</p>
<p>R8 Integrate the do no harm principle into the EU’s due diligence mechanisms</p> <p><i>The EU should make sure that the do no harm principle is firmly established within its due diligence mechanisms and that conflict sensitivity is applied according to policy and legal requirements. The EU should seek to minimise the risk of further institutionalising the culture of impunity and/or corrupt practices that pervade some RoL&AC and other public institutions (including law enforcement). It could also ensure that actions in all relevant development sectors/programmes reflect a strategic anti-corruption perspective which (i) critically examines vulnerability to corruption and state capture; (ii) ensures that investments facilities and blending schemes include strong features to prevent corruption; (iii) supports the systematic involvement of civil society in the monitoring of corruption, including in EU supported development programmes and (iv) further extends the protection provided to whistle-blowers and human rights defenders involved in the fight against corruption.</i></p>	<p>Accepted</p> <p>This recommendation further expands recommendation 4 and the answer given in that context is also relevant here. The EU agrees that vulnerability to corruption and state capture requires comprehensive and regular assessments of risk, and the setting in place of appropriate mitigating measure, including the close involvement of state and non-state oversight mechanisms.</p> <p>The requirement for a ‘Do no harm approach’ has in the past decade found particular application through the triple nexus approach (humanitarian-development-peace), where donors work together to further increase the coherence between humanitarian and development aid and peace / stabilisation actions. Policy tools have also been developed to foster an EU Integrated Approach to conflict and crisis. This includes a conflict Early Warning System, in addition to the conflict analysis.</p> <p>The EU recognises that the challenge lies in the translation of analytical findings into viable programmes and actions, often due to the volatility of crisis contexts and the difficulty at engaging where there is limited political will. Moreover, the EU recognises that a strategic</p>

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		<p>Rule of Law and anti-corruption perspective is yet to percolate across all programmes and actions.</p> <p>On anti-corruption in particular, internal efforts are underway to develop a more coherent, comprehensive and effective engagement. This would include developing policy and guidance which translates into structured but flexible approaches; guidance on differentiated anti-corruption approaches by regime type and context; guidance on sector specific anti-corruption approaches, outlining key issues, obstacles, lessons learned and best practice; enhanced and expanded training through modular online courses. We are also increasing our coordination with EU MS and other development actors – leveraging the Team Europe approach. Team Europe Democracy (TED) can provide research and analysis, and expert support to develop common approaches, both generically and at country level.</p> <p>INTPA is also aiming to internalise and leverage the standard setting and benchmarking of international bodies such as OECD, FATF, GRECO etc. providing easily referenced resources for Headquarters and EU Delegations’ staff. Efforts are also being made to break down silos, establishing an anti-corruption working group, and increasing cooperation with relevant EU institutions (e.g. DG JUST, DG HOME, DG NEAR, OLAF, EEAS, FISMA etc.)</p> <p>The Do No Harm principle might differ in its interpretation and application scope in human rights due diligence and in conflict sensitivity. Conflict sensitivity is also about the risk of exacerbating conflict drivers, risks, tensions and existing conflict and violence, as well as mitigating unintended negative impacts in fragile contexts, e.g. to risks that Civil Society might take upon itself when becoming visible and active on anti-corruption and RoL issues.</p>
R9	Systematically apply the Team Europe spirit in providing RoL&AC support	Partially accepted

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<p><i>The EU should show leadership in tapping the full potential of Team Europe approaches when engaging on RoL&AC matters. The Team Europe approach is critically needed in the area of RoL&AC considering the political sensitivity and complexity of the agendas, knowledge and expertise needs within the EU institutions and among MS (to complement the EU's own limited resources), and the opportunities through integrated approaches for greater relevance, leverage and impact. The Team Europe initiative should also contribute to promoting a coherent RoL&AC approach, including in the expanding domain of EU development/climate financing and related blending operations.</i></p>	<p>Team Europe has become a structural component of the EU's external action toolbox when it comes to supporting third countries and Team Europe Initiatives (TEI) are a key element of the programming of Global Europe.</p> <p>TEIs are flagships that deliver concrete, transformational results for partner countries or regions pursued by European development/external action partners as Team Europe. There are 46 country TEIs and 4 regional TEIs on governance, peace and security. Examples include: the regional LAC Continental TEI - Security & Justice partnership, to leverage the transformative impact of EU-LAC cooperation on the rule of law and fight against transnational organised crime by joining forces with EU Member States, Commission DGs and EU Specialised Agencies (EUROPOL, EUROJUST, CEPOL, EMCDDA, FRONTEX); the MALAWI – TEI “Good Governance”, which is built on 3 components (i) Participatory and inclusive governance, (ii) Rule of law and justice and (iii) Effective governance; the GUINEA – TEI “Stability and Good Governance”, that will contribute to the fight against corruption; the KENYA – TEI “Human-centred Digitization”, which supports digital skills and IT infrastructure, but is also focused on e-governance (transparency, efficient PFM, and deterring corruption practices); the NIGER – TEI “Governance, Peace and Rights”, which supports good governance, rule of law and quality public services; and the BURKINA FASO – TEI “Inclusion for Stability”, which fights corruption, and provides budget support and social services.</p> <p>The global TEI Team Europe Democracy (TED) also provides a comprehensive platform for leveraging the different strengths of EU member states, pooling and combining data, analysis and expertise. This should facilitate greater effectiveness on the ground, particularly in sensitive areas of governance, where coordination can greatly increase leverage and mitigate risk. One of the three principal pillars of TED operations will be Rule of Law and Accountability. Areas of operation and overall priorities are set jointly by the TED members and are able to encompass new and emerging issues on a flexible basis.</p>
<p>R10</p>	

Recommendations from the independent Evaluation	Response of the EU services (to be updated one year later)
<p>Improve monitoring, evaluation, accountability and learning (MEAL)</p> <p><i>The EU should experiment with innovative ways to promote the collection and analysis of evidence that makes it possible to assess whether it has succeeded or failed to meet strategic RoL&AC objectives in a given context. It should also put in place mechanisms for institutionalized learning from past experience and explore ways and means to measure results obtained in integrated approaches to RoL&AC. Considering the non-linear nature of RoL&AC processes and the time required to observe deep changes, the EU should identify appropriate methods to assess (intermediate) outcomes that are potentially transformational.</i></p>	<p>Partially accepted</p> <p>The EU already has comprehensive systems and mechanisms for monitoring and evaluation to ensure that learning and knowledge are captured and used to inspire future programming. However, this ambition should be combined with a realistic perspective as to the real potential to measure changes over a long period of time in the cooperation programmes in third countries, given that the programmes on RoL are likely to require generational and non-linear change.</p> <p>The Commission has heavily invested into setting up a performance monitoring system. This system is put in place through the Global Europe Monitoring Performance System (GEPMS). The GEPMS is based on a number of methodological criteria including: i) the definition of a set of corporate indicators, which include NDICI performance indicators, against which all programmes are to report (the Global Europe Results Framework GERF) and which are published annually, ii) the use of logical frameworks as the main tool for reporting on results at intervention level, iii) the definition of sector and thematic core indicators that can be selected and included in logical frameworks (see also SWD(2022) 22 final). This system is currently under implementation across the organisation by the use of OPSYS, a new IT system. OPSYS allows for the encoding of logical frameworks for EU-funded projects and programmes, which includes expected impacts, outcomes and outputs with accompanying indicators to measure the latter (with baseline values, target values, current values). This IT system for monitoring and results is in its infancy and will be rolled out at a large scale for the first time for data collection as of January 2023. Partners implementing EU-funded interventions can access and submit updates based on progress reporting directly in the system.</p> <p>Furthermore, the Commission is developing results chains for a range of thematic areas including governance. These offers support to build strong logical frameworks (identifying SMART results and measurable indicators). The results chains are accompanied by 1) a short narrative explaining the underlying intervention logic and 2) by a set of key indicators</p>

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	<p>associated to each expected result identified in the results chain, along with eventual methodological notes and associated data sources. For further information, see here: https://europa.eu/capacity4dev/results-and-indicators.</p> <p>Regarding performance measurement, the new system will collect a wealth of data points and allow for means to measure performance both at intervention and corporate levels. Specifically, the monitoring data collected for each intervention will serve to calculate a set of performance scores, thereby assisting Operational Managers to keep track of the performance of all interventions in their portfolio. Additionally, these performance scores will be used to update the current key performance indicators for annual management reporting, thereby improving the quality of the information provided to management in Headquarters. These performance scores have been developed, widely tested and will be introduced in OPSYS in 2023 (see also SWD(2022) 22 final).</p> <p>The Commission has also recently embarked upon new or innovative ways to promote the collection and analysis of evidence through the use of artificial intelligence, innovative techniques to collect data, research or new to DG INTPA evaluation methods, such as “systematic reviews” which include impact evaluations, with the aim to boost both learning at operational level and evidence based decision making at higher levels.</p> <p>Moreover, addressing corruption as a major obstacle to development is quite new, and there have been a limited number of interventions taking this approach. Lessons learned are often more circumscribed, relating to a more technical or financial aspect of anti-corruption activities. This is changing as many countries and organisations are increasingly aware of the vast negative implications of corruption. There has been a parallel increase in different evaluations covering the subject. INTPA itself has increased interventions on democratic governance and anti-corruption, and thus has steadily expanding well of experience to rely on.</p>

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		<p>The increased use of political economy analysis and in-depth assessments of risk, combined with more widespread use of the wealth of international indicators and best practice should improve consistency and effectiveness of EU interventions. Similarly, the EU has the expertise gained through the application of its own <i>acquis</i>, as well as internal benchmarking of progress on RoL and AC. The suitably adjusted application of these standards provides a widely understood, tried and tested’ framework with which to measure progress. Nevertheless, local context remains the fundamental key factor in the development of suitable indicators.</p> <p>The EU has already put in place attempts to re-structure its monitoring of progress towards mutually agreed results with EU MS and partner countries, for instance through joint programming, and more recently through the Team Europe approach. The EU recognises that this requires enhanced efforts, which are very resource – intensive, to ensure their sustainability. Moreover, efforts need to be put into developing a shared and actionable knowledge among all partners. Team Europe Initiatives can be a valuable source of learning and best practice. It is critical that lessons learned from past initiatives are quickly and widely understood at political as well as operational level, and applied to both programming, dialogue and other elements of our relations with partner countries.</p>
R11	<p>Support the achievement of sustainable results</p> <p><i>Based on the lessons learnt in supporting the RoL&AC over the past decade, it is recommended that the EU should seek to enhance the sustainability of its future actions by paying particular attention to the following elements:</i></p> <ul style="list-style-type: none"> • <i>Understanding the context and the scope for reform;</i> • <i>Exerting appropriate political and policy leadership (while recognising the limits of the national/regional environment);</i> • <i>Choosing the right (and evolving) mix between supply-driven approaches; (geared at strengthening formal institutions) and</i> 	<p>Accepted</p> <p>This recommendation relates to many of the recommendations made above. In addition to those specific responses the commission also recognises the sustained and global decline in democracy and the rule of law that represents a sombre backdrop to this evaluation. This represents a challenge to the EU and other development partners, but also an opportunity to reassess and realign. Understanding the scale and nature of the problem is a necessary first step, whilst also recognising the limits on what can be achieved with limited leverage and resources.</p>

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<p><i>demand-driven approaches (geared at empowering citizens and other actors to claim RoL&AC reforms);</i></p> <ul style="list-style-type: none"> • <i>Engaging with different state-and non-state actors so as to ensure broad based ownership as well as demand-driven implementation approaches (based on feasible agendas);</i> • <i>Ensuring flexible approaches to allocating resources;</i> • <i>Establishing partnerships with implementing agencies and other relevant players.</i> 	<p>Taking political and policy leadership can best be done by taking a collective approach, leveraging EU experience but learning from our partners, and acting together as the EU. Partnerships at country level must be based on broad-based and inclusive interventions, emphasising the real-life impact for ordinary citizens rather than elusive and sometimes illusory future gains. A deteriorating environment also calls for the ability to adapt and redirect resources, to sometimes accept maintenance of the status quo as success, and to accept increased levels of risk if opportunities are to be fully realised.</p> <p>A crucial point for sustainability of Rule of Law actions is that they require a fully joined-up approach of all EU policy instruments, including a political dialogue that prioritises the Rule of Law as foundation for partnerships in other domains. TEIs, Joint programming and other policy tools, like the GSP +, focus monitoring on the impact and outcome level of programme and actions and thus offer tools to engage in evidence – based political dialogue.</p> <p>The EU recognises that it can benefit from the accumulated experience of implementing partners and other allies. This can be done using more effectively existing international practitioners’ fora for dialogue on Rule of Law and anti-corruption and also enhancing EU shared knowledge in view of enhancing the EU policy framework on Rule of Law and anti-corruption in External Action. The current Team Europe Democracy offers a key platform for this.</p>
<p>R11 Specifically for fragile/conflict countries – and in addition to generic recommendations formulated above:</p> <p><i>- Further invest in capitalising and sharing internally existing experiences, good and bad practices, risk mitigation measures and other relevant knowledge accumulated over time by engaging in RoL&AC matters in difficult</i></p>	<p>Accepted</p> <p>The EU agrees that fostering Rule of law and Anti-Corruption is particularly relevant in fragile and conflict-affected countries to contribute to the creation or strengthening of a sustainable environment for peace and stability, institutional responsiveness for basic service provision to the population, job prospects for youth, women empowerment and</p>

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<p><i>settings; this holds particularly true for the collective learning on the relevance and effectiveness of state building contracts¹;</i></p> <ul style="list-style-type: none"> - <i>Put the question of legitimacy of powerholders and “zero-sum game logic” more centrally in EU external action – avoiding support that would end up reinforcing the hands of those that obstruct meaningful RoL&AC reforms while exercising predatory forms of governance;</i> - <i>“Follow the money” is key to enhanced AC support strategies across the globe (see recommendation 3 above) but even more important in fragile/conflict—affected countries as illicit flows, smuggling, arms traffic tend to be key drivers of conflict;</i> - <i>When providing supply-driven institutional support or capacity development, consider in a more realistic way the (often perverse) incentive structure of the various categories of RoL&AC actors;</i> - <i>Adopt more sophisticated approaches to strengthening the demand side for RoL&AC issues by further diversifying the CSOs engaged and reaching out to other potential allies;</i> - <i>Develop more ambitious strategies to protect the enabling environment for civil society;</i> - <i>Shift cooperation to the local level, combining delivery of key development outcomes and services (including justice) that directly benefit the citizens while restoring trust between state and society through inclusive local governance systems that don respect the RoL and seek to ensure transparent management of public resources;</i> - <i>In recognition of the interactions between these two levels of governance, ensure a strong complementarity between national and regional EU support;</i> - <i>Ensure that EU interventions can flexibly respond to short term emergencies (e.g. restoring basic human security) while investing in longer-term needs (e.g.</i> 	<p>respect of fundamental values (human rights and international humanitarian law) in close cooperation with civil society.</p> <p>Examples of this are the Gambia-TEI “Good Governance” which is aimed at accompanying the country in its transition to a stable democracy where the rule of law applies and human rights are respected, and the regional programme to support transitional Justice in Africa with the objective of supporting the operationalisation of key elements of the African Union Transitional Justice Policy (AUTJP) and its Roadmap.</p> <p>The creation of an EU Facility on Justice in Conflict and Transition has been an important innovation in terms of collective learning. This new tool has made it easier to provide high-level technical assistance to the EU Delegations and partners on the ground and to build on good practices in the areas of transitional justice, constitution building and restoration of justice for the population.</p> <p>Concerning the state building contracts and budget support in general, budget execution by countries is monitored by the Commission, in coordination with domestic control bodies, national parliaments, the IMF and Member States. If concerns on fundamental values or corruption arise, corrective measures are agreed with the partner country. If the measures do not lead to improvements, the Commission puts the operation on hold. The European Court of Auditors’ (ECA) recommendations have been taken on board to further improve EU budget support methodology. Most recently, following the 2019 ECA special report on budget support, the Commission has reinforced its internal guidance and improved the templates for the design of budget support programmes.</p> <p>The EU is also active in the work against money laundering and illicit financial flows, human and drug trafficking, illicit arms trafficking, and other organised crime activities. Moreover, through conflict analysis and conflict sensitive approaches, the EU is aiming at taking more</p>

¹ The need for this was clearly illustrated after the withdrawal of the international community from Afghanistan. A wide range of reports were very critical on the huge funds spend on building legitimate, inclusive and accountable governments, with virtually no impact. Many of the same mistakes can (and do) take place in other fragile/conflict settings

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<p><i>preventing the further erosion of the RoL, investing in capacity development of critical RoL&AC agencies, civic education, etc.).</i></p> <p><i>As an ultimate resort, be willing to pull the plug and stop operations.</i></p>	<p>actively into account unintended elite or armed groups' capture of EU funding in fragile and conflict affected contexts, which might have a direct impact on anti-corruption measures.</p>