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ANNEX 3

of the Commission Implementing Decision on the financing of the annual action plan in favour of the Republic of Kenya for 2021

Action Document for the Programme for Legal Empowerment and Aid Delivery in Kenya Phase II (PLEAD II)

ANNUAL PLAN

This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation, and action plan in the sense of Article 23(2) of NDICI-Global Europe Regulation.

1 SYNOPSIS

1.1 Action Summary Table

1. Title CRIS/OPSYS business reference Basic Act	Programme for Legal Empowerment and Aid Delivery in Kenya Phase II (PLEAD II) CRIS number: NDICI 2021/043-204 Financed under the Neighbourhood, Development and International Cooperation Instrument (<u>NDICI-Global Europe</u>)
2. Team Europe Initiative	Yes Part of the Team Europe Initiative on Human-Centred Digitalisation –Kenya
3. Zone benefiting from the action	Kenya The action shall be mainly carried out at the following locations: Bungoma, Garissa, Isiolo, Kakamega, Kericho, Kisii, Kisumu, Lamu, Mandera, Marsabit, Meru, Migori, Mombasa, Nairobi, Nakuru, Narok, Tana River, Uasin Gishu and Wajir
4. Programming document	Multi-annual Indicative Programme for Kenya 2021-2027
5. Link with relevant MIP(s) objectives / expected results	MIP Priority area : Leave no one behind - Human Development & Digital Inclusion Under the specific objective to enhance human rights for women and youth, including democratic participation and representation, sexual and reproductive health, and reduce gender-based violence. This will contribute to the result that women, youth and children are better protected against all forms violence, including gender-based violence, and have improved access to quality sexual and reproductive health services and information MIP Priority area: Democratic Governance, Peace & Stability Under the specific objective to strengthen the rule of law and democratic governance, built on accountable and transparent public institutions and processes responsive to citizens' rights, at national and local level. This will contribute to the results to have: (i) More accountable, transparent and efficient public institutions provide improved services to citizen and (ii) The rule of law and democratic governance are enhanced both at national and county level, offering inclusive access to justice and to decision-making processes.

PRIORITY AREAS AND SECTOR INFORMATION				
6. Priority Area(s), sectors	Priority area(s) and sectors (3-digit DAC) as identified in the relevant programming document: 151: Government and Civil Society			
7. Sustainable Development Goals (SDGs)	Main SDG: SDG 16 – Peace and Justice Other significant SDGs: SDG 5 – Gender Equality SDG 10 – Reduced Inequalities			
8 a) DAC code(s)	15113 – Anti corruption organisations and institutions: 27 % 15130 – Legal and judicial development: 62 %; including: – 15131 – Justice, law and order policy, planning and administration – 15132 – Police – 15134 – Judicial affairs – 15137 – Prisons 15220 – Civilian peace-building, conflict prevention and resolution: 11 %			
8 b) Main Delivery Channel @	10000 Public Sector Institution 20000 Non-Governmental Institutions and Civil Society 41000 United Nations Agency, Fund or Commission			
9. Targets	<input type="checkbox"/> Migration <input type="checkbox"/> Climate <input checked="" type="checkbox"/> Social inclusion and Human Development <input checked="" type="checkbox"/> Gender <input type="checkbox"/> Biodiversity <input type="checkbox"/> Education <input checked="" type="checkbox"/> Human Rights, Democracy and Governance			
10. Markers (from DAC form)	General policy objective @	Not targeted	Significant objective	Principal objective
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Aid to environment @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and women's and girl's empowerment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Trade development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, maternal, new-born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Disaster Risk Reduction @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Inclusion of persons with Disabilities @	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Nutrition @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	RIO Convention markers	Not targeted	Significant objective	Principal objective

	Biological diversity @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Internal markers and Tags:	Policy objectives	Not targeted	Significant objective	Principal objective
	Digitalisation @ Tags: digital connectivity digital governance digital entrepreneurship job creation digital skills/literacy digital services	<input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	Connectivity @ Tags: transport people2people energy digital connectivity	<input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	Migration @ (methodology for tagging under development)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reduction of Inequalities (methodology for marker and tagging under development)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Covid-19	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BUDGET INFORMATION				
12. Amounts concerned	Budget line(s) (article, item): BGUE-B2021-14.020121-C1-INTPA Total estimated cost: EUR 35 300 000 Total amount of EU budget contribution: EUR 35 000 000 This action is co-financed in joint co-financing by: – The United Nations Office on Drugs and Crime (UNODC) for an amount of EUR 300 000			
MANAGEMENT AND IMPLEMENTATION				
13. Type of financing	Direct management through: - Grants - Twinning grants Indirect management with the United Nations Office on Drugs and Crime (UNODC)			

1.2 Summary of the Action

The Programme for Legal Empowerment and Aid Delivery in Kenya (PLEAD) commenced in December 2017 after a highly contested presidential election. The Programme focused on coordination and increasing efficiency within the criminal justice system, as well as the use of alternatives to imprisonment and access to legal aid. These measures aimed to decongest prisons, enhance security and empower the citizens, especially those living in poor and marginalized situations.

PLEAD has initiated transformative criminal justice reforms in Kenya, and continues to receive strong government buy-in. It has also established the EU as a credible voice and key partner to Kenya in the Justice sector. Accordingly, the present action is based on the achievements and lessons learnt from PLEAD, and while securing EU's position in the sector, it will put stronger emphasis on the fight against corruption and on digital technologies for improved access to and delivery of justice.

The action will continue and expand some previous PLEAD interventions, such as improving coordination between the criminal justice institutions and case management automation interventions. Such interventions aim at strengthening capacities to decongest overburdened courts and reduce pre-trial detention. It will also focus on increased access to justice for groups in vulnerable situations, including some women, people with disabilities and children and juveniles. The action acknowledges the pluralistic nature of the Kenyan legal system and will thus seek to support alternative justice systems (AJS) with the aim to increase access to justice and protect the human rights of all, in particular those living in vulnerable situations. Furthermore, the action will cover seven additional counties (Kakamega, Bungoma, Kisii, Meru, Migori, Narok and Kericho) which have high backlog and AJS role out.

Criminal justice reform is not comprehensive without addressing corruption, specifically since corruption undermines the ability of the system to deliver its mandate. The endemic nature of corruption, including within the criminal justice system, necessitates the inclusion of anti-corruption as a central element in the action, and integrity as a cross-cutting theme. By strengthening the capacities of relevant institutions to more effectively address corruption, the action will also contribute to increasing the security of all rights-holders in Kenya through good governance and the rule of law, while enabling poverty alleviation and economic development.

On the basis of a chain-approach, where the criminal justice chain is only as strong as its weakest link, the action will therefore cover the justice chain from the entry of a case to its conclusion. This will allow for the support of measures that are designed around the case flow in its entirety to eliminate bottlenecks and provide for stronger safeguards in terms of the human rights of individual offenders and victims. The intervention will be guided by human rights standards, norms and principles and in particular the right to access fair and effective justice and due process rights, women's rights, child rights and the rights of those in detention.

The intervention logic is that by supporting the Government of Kenya fight corruption and to improve the administration and accessibility of justice through increased efficiency with greater use of technology and case management, increased use of alternatives to imprisonment and improvement of rehabilitation programmes under both non-custodial and custodial measures, improved access to justice with a special emphasis on groups in vulnerable situations, including some women, children and persons with disabilities; the criminal justice system in a stronger and independent position to administer and effectively deliver justice for the benefits of all rights-holders in Kenya, thus reducing insecurity.

2 RATIONALE

2.1 Context

Corruption is arguably the most significant challenge to achieve sustainable development in Kenya, as it is a key reason for economic underperformance and a major obstacle to poverty alleviation. It affects inclusive growth, the protection of fundamental rights to liberty and security, equal access to public services, fair trial guarantee, the right to equality before the courts (particularly for women and persons in vulnerable situations, including people with disabilities) and the effectiveness of poverty reduction programmes. It discourages foreign investment and may facilitate organised crime while reinforcing state fragility and increasing the likelihood of conflict.

The Worldwide Governance Indicators (WGI) ranked Kenya 24th in the dimension of control of corruption (0 being the lowest rank) and 35th in terms of the rule of law index in 2019, a trend worsening since 2014. Government effectiveness also declined, from 43rd in 2015 to 28th in 2019. Additionally, the 2020 Transparency International's Corruption Perceptions Index ranked Kenya 124th out of 180. Furthermore, the 2019 Global Corruption Barometer showed that 67 % of Kenyans believed corruption to have increased in the previous 12 months. Among the surveyed population, 45 % had paid a bribe to public officials over the previous 12 months.

The 2020 Ibrahim Index of African Governance showed a decline in both Rule of Law and Justice since 2010. The indicator for Accountability and Transparency in 2020 ranked Kenya 15th out of 54 countries, showing a significant decline since 2010. The country's overall score under the 2020 Rule of Law Index of the World Justice Project (WJP) remains in the bottom half of the index (0.45), with a global rank of 102nd out of 128 countries. In the WGI indicator of Rule of Law, the ranking of Kenya remained in the bottom half in 2019, with a slight downward trend from a percentile rank of 28th place in 2014.

Gender-based violence has reached alarming levels, with the spike in such offences during the COVID-19 pandemic highlighting an issue that has not been sufficiently prioritised within the criminal justice system. This is partly owed to the non-consideration of gender based violence services as essential during the initial phases of health restrictions. It can be further gathered from a judgment of the High Court of Kenya issued on 10 December 2020 in favour of four female survivors of Sexual and Gender Based Violence (SGBV) committed during the 2007-2008 post-election violence. The judgment was held against the Government for failing to conduct independent and effective investigations and prosecutions of SGBV committed by state agents. Correspondingly, 2014 World Bank data show that 25.5 per cent of women of age 15-49 reported to have been subjected to physical and/or sexual violence in the last 12 months. More generally, Kenya is ranked to be the 11th best out of the 54 African countries in the 2019 Ibrahim Index of African Governance (IIAG) on gender balance.

In the same vein, prison congestion remains a critical human rights issue. It translates into prisoners having a poor diet, degrading clothing and beddings, poor sanitation, and a high risk of exposure to infectious diseases – as highlighted during the COVID-19 pandemic. Yet, it has been repeatedly recognised that most offenders in Kenyan prisons are imprisoned for petty offences. Prisons are at the same time becoming fertile breeding grounds for radicalisation as well as recruiting grounds for organised crime, and thus posing a high risk to the safety of the citizens in the long term. In contrast, alternatives to imprisonment offer a proven way to facilitate the social reintegration of offenders and reduce recidivism. The overuse of custodial sentences also holds true in the case of children in conflict with the law.

Following the reforms of the 2010 Constitution, the historically under-resourced justice sector has seen a redirection of public resources to the Judiciary and prosecution services. Other key actors in the justice chain, such as legal aid, probation and prisons, have continued to receive modest allocations. However, public resource allocation to the Judiciary has become politically contentious in the context of numerous judgements, including ones touching upon elections, which have been unfavourable to the Executive, undermining judicial independence, a central principle of democracy and the rule of law.

All the same, the Kenyan criminal justice system has been making ever more use of technology, as it entails opportunities for improvement and the realisation of its values, such as accountability, transparency and access to justice. It also offers favourable circumstances for urgently needed efficiency gains and cost savings in the currently resource-starved system. The use of technology in the justice sector has demonstrated its value in a significant way by mitigating the impact of COVID-19, and it is foreseen that its continued uptake will significantly improve access to justice in the coming years.

Policy Framework

The action will support Kenya's effort to adhere to international norms and standards on anti-corruption, criminal justice and human rights. These include the United Nations Convention against Corruption (UNCAC), which Kenya was the first country to sign and ratify in 2003, and the United Nations Standard Minimum Rules (Mandela Rules, Bangkok Rules, Tokyo Rules, Beijing Rules). The action will also address the recommendations of the Committee of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Committee on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities, with regards to the implementation of Kenya of the rights of these respective conventions and other fundamental human rights conventions ratified by the Government of Kenya, in particular the International Convention on Civil and Political Rights (ICCPR) and the International Convention Against Torture (CAT).

The action is in line with the New European Consensus on Development ‘our world, our dignity, our future’¹ and the EU Guidelines for Support to Justice and the Rule of Law as it will foster efficient, transparent, independent, open and accountable justice systems and will promote access to justice for all – in particular the poor and people in vulnerable situations. In addition to supporting the fight against corruption and increasing coherence and cooperation in the justice chain, it addresses critical steps in case management, focuses on service delivery and improving prison conditions, in line with human rights standards. By focusing on the gender dimension of criminal justice, this action is in line with the EU Gender Action Plan III². The action is aligned with the EU Action Plan on Human Rights and Democracy 2020-2024³, on the fair administration of justice and democratic institutions, while supporting the implementation of the Human Rights and Democracy country strategy 2021-2024. CSOs are a core component of the action in line with the Civil Society Roadmap.

The action covers the key element of the third priority area of the Kenya MIP 2021-2027 on democratic governance, peace and stability. The MIP emphasises the fight against corruption and strengthening the justice chain to improve access to justice, in particular for those living in marginalised situations, including by alleviating pressure on the prisons and delivering legal aid. It will address the digital governance pillar of the Team Europe Initiative on Digitalisation, notably on effective service delivery and modernisation of justice through inclusive digital technologies. The commitment of the EU’s contribution to the Team Europe Initiatives foreseen under this annual action plan will be complemented by other contributions from Team Europe partners. It is subject to the formal confirmation of each respective partners’ meaningful contribution as early as possible. In the event that the TEIs and/or these contributions do not materialise the EU action may continue outside a TEI framework. In addition, this action is consistent with the European Joint Cooperation Strategy with Kenya 2018-2022, which describes corruption as a key challenge to democratic governance, and with the Special Report on EU development aid to Kenya by the European Court of Auditors (2020) which recommended prioritising investment in sectors that have the potential to attract foreign investment as well as the rule of law, including the fight against corruption.

Public Policy Analysis

The justice sector is located under the political pillar of Vision 2030, Kenya’s main long term development policy. The Third Medium Term Plan 2018-2022 of Vision 2030 has identified several flagship projects to push reforms in the justice sector, including leadership, ethics and integrity, judicial transformation and strengthening the criminal justice system.

Addressing corruption is a key priority for Kenya, with its President declaring the fight against corruption a ‘War of Liberation’ in 2018. The prevalence of corruption is an element of concern for the Government as high levels of corruption are negatively correlated with public trust and state legitimacy. Kenya has enacted numerous statutes to combat corruption since its ratification of UNCAC in 2003. It is currently guided by a National Ethics and Anti-Corruption Policy (2018) which outlines a comprehensive policy, legal and institutional framework from combating and preventing corruption and promoting ethics and integrity.

In April 2021 the International Monetary Fund (IMF) approved a three year financing package for Kenya to support the Government’s COVID-19 response and its plan to reduce dept vulnerabilities while safeguarding resources to protect vulnerable group. The programme will also advance broader governance reform and improve the anticorruption framework, notably the capacity of the criminal justice system to enforce corruption offences.

Kenya’s National Policy on Gender and Development (2019) aims to create a just, fair and transformed society free from gender based discrimination in all spheres of life. It prioritises strengthening the capacity of relevant institutions to undertake effective and timely investigation and prosecution of SGBV offences, ensure gender considerations are incorporated in the National Legal Aid Service and the development of gender responsive policies and guidelines for the justice sector.

The National ICT Policy (2019) and its Guidelines endorse the development of a national integrated infrastructure plan which will facilitate rational, cost-effective, sustainable and easily maintained ICT infrastructure by multiple stakeholders. These instruments shed light on the Government’s objective to leverage on the power of ICT to assist law enforcement agencies as part of enhancing national security. It is also recognised that ICT can be a pivotal tool to advance gender equality and empowerment despite unfavourable social and cultural attitudes.

¹ OJ C 210 of 30.6.2017.

² JOIN (2020)17 final of 25.11.2020.

³ JOIN (2020) 5 final of 25.03.2020.

The Judiciary is guided by its Sustaining Judiciary Transformation Framework (2017-2021) which identifies six interventions, set to shift the Judiciary towards quality service delivery: automation, digitalisation of work methods, operationalisation of developments systems, enhancing individual and institution accountability, entrenching performance measurement and motoring/evaluation and entrenching policies/manuals already developed. The Judiciary ICT Master Plan 2017-2022 covers the acquisition, use and maintenance of ICT resources; automation and standardisation of court processes; application of ICT in service delivery; and security of data and information.

With PLEAD, the Judiciary has developed a national policy on alternative justice systems (AJS) (2020). The policy acknowledges the value of AJS and their great promise of enhancing access to justice. It sets up a broad obligations framework to align the AJS with a rights-based approach. The policy is a major step in fulfilling the transformational agenda of the Kenyan Constitution, promoting a culture of lawfulness and preventing conflict within society.

PLEAD has established the EU as key partner to Kenya in the Justice sector. The action will further strengthen the EU's and through the twinning activities the EU Member States position in the sector. The EU and UNODC will actively participate in the development partner coordination. The Action also works complementarily to other projects managed by Member States. The Action will endeavour to coordinate and complement with various programmes in the justice sector. This will include active participation in relevant donor coordination working groups. The action will also strengthen the ability of the criminal justice institutions to steer the cooperation with development partners through strategic planning initiatives. The main projects in the field of rule of law, access to justice and anti-corruption include the following:

- *EU: Public Finance Management budget support (PASEDE)* – since April 2020, the EU supports the implementation of Kenya PFM Reform Strategy 2018-2023. Two variable tranche indicators target reforms in areas in which systems can be improved to mitigate the occurrence of corruption, namely (i) implementation of new procurement legislation and adoption a new e-procurement system and (ii) improved Public Investment Management through the utilisation of systematic project appraisal and supported by a new information system. PASEDE programme is therefore complementary to PLEAD II in the sense that it contributes to the fight against corruption from a different angle.
- *IDLO: Access to Justice* – With support from Denmark, Netherlands and Sweden, the International Development Law Organisation (IDLO) has been supporting the Judiciary since 2012 to strengthen its capacity to administer and enhance access to justice for all. IDLO has worked to strengthen the capacity of judicial officers, and the technical capacity of the judiciary to use ICT so that citizens have increased access to information. IDLO has supported efforts to ensure more strategic communications across the judiciary and improved perception by the general public. IDLO is also supporting the Judiciary in documenting jurisprudence on devolution.
 - *FIDA International Federation of Women Lawyers: Access to Justice Programme* – FIDA Kenya is a leading Kenyan Women Lawyers organisation, which promotes access to justice for women across the country. Its programme provides legal representation, which includes legal aid and litigating on behalf of women and girls, strategic impact litigation, which aims to build jurisprudence that advances the rights of girls and women, self-representation, which entails equipping women with skills for representing themselves in court, and psychosocial support.
 - *GIZ Gesellschaft für Internationale Zusammenarbeit: Strengthening Good Governance in Kenya (2021-2023)* – This GIZ project takes a holistic approach along the anti-corruption chain of prevention, disclosure, investigation, prosecution, judicial process and the return of illegally acquired assets. It is working on improving the management of public complaints and the transferral of state functions to the local level, above all by boosting local authorities' abilities to comply with the rules of transparency and accountability. It also supports the prosecution, legal process and punishment of corruption cases, as well as the return of illegally acquired assets. The project supports the introduction of an electronic procurement system and the Integrated Financial Management and Information System (IFMIS) to improve transparency and accountability.
- *The World Bank: Judicial Performance Improvement Project (JPIP) (2013-21)* – The project addresses court administration and case management, training and staff development and court infrastructure. It recently refocused on frontline service providers (magistrates and registry staff), on the speed of case resolution at High

Courts (such as annexed mediation in family and commercial cases and active criminal case management), renovating ten additional registries and developing training programmes and training of registry staff.

- *RWI Raoul Wallenberg Institute: A Programme for Strengthening the Probation and Prison Practices in Kenya (2020-2024)*: The project is supporting both Kenya's Probation and After Care Service (PACS) and Kenyan Police Service (KPS) with the objective of creating sustainable capacity to meet relevant international human rights standards, in particular the Mandela Rules, the Bangkok Rules and Beijing Rules.

For the purpose of ensuring complementarity, synergy and coordination, the Commission may sign or enter into joint donor coordination declarations or statements and may participate in donor coordination structures, as part of its prerogative of budget implementation and to safeguard the financial interests of the Union.

2.2 Problem Analysis

Many of the foundational problems identified in the preparation and design for the ongoing PLEAD I are still in place, as confirmed during multi-stakeholder consultations. Broad-based and inclusive access to fair and equitable justice remains elusive – particularly for communities living in vulnerable situations. The ability of the poor and vulnerable to access legal advice and support from justice service providers to solve their disputes and everyday justice problems are constrained by capacity gaps in the justice system, time, distance, stigma and discrimination, lack of accessible information, and costs. Injustice drives exclusion, fuels grievances and ultimately facilitates social and political instability. Furthermore, large-scale corruption scandals continue to shock Kenyans with a corresponding lack of trust in public institutions. The following challenges can also be cited:

Following the enactment of the 2010 Constitution, Kenya has made significant gains towards the rule of law and respect for human rights, following a long period of colonial rule and ethnic tensions. Impunity and corruption, however, still rank as major concerns in opinion polls on the perception of public institutions. The 2017 presidential election was annulled by the Supreme Court and had to be repeated. Following a contested second election, cooperation between the incumbent President and the opposition leader alleviated the tensions. The period leading up to the 2022 elections will likely be characterised by strong ethno-political polarisation, which may result in political violence and undue pressure on the justice system. This will require strong and accountable institutions, which will de-escalate tension by upholding the rule of law without favour to any political side.

Against this backdrop, the Judiciary has shown remarkable resilience and has pronounced a series of rulings on election petitions that have stressed the principles of accountability and transparency. However, this has been complicated by clashes between the Executive and the Judiciary, which included in a reduced budgetary allocation to the Judiciary. The limited availability of resources has hindered the Judiciary's development and its agenda, and caused the suspension of over 53 mobile courts across the country. Moreover, it caused a halt in the automation of court processes for expeditious disposal of cases. In the same vein, the Judiciary has called upon the Executive to fulfil its constitutional mandate in appointing 41 judges to the High Court and the Court of Appeal, whose delay escalates existing case backlogs.

Courts continue to face heavy backlogs, primarily due to poor case management and trial administration, exacerbated by lack of infrastructure. Prosecutorial services have been significantly enhanced through the establishment of the Office of the Director of Public Prosecutions (ODPP) by the 2010 Constitution, although it still lacks capacity, especially in handling complex cases such as corruption and full devolution of services to the counties is yet to take place. This requires enhanced specialised training, automation of processes (case management) and improved organisational capacity.

While the National Council of the Administration of Justice (NCAJ) has been elevated to a place where it can now be said that it is living up to its potential of playing the central role in coordinating the justice sector, its Secretariat is still not fully functional, as key staff members have not been recruited. Indeed, effective coordination requires dedicated personnel, structures and processes, all of which are currently lacking.

Kenya has adopted a multi-agency approach to enforcing and prosecuting anti-corruption laws. The Ethics and Anti-Corruption Commission (EACC) plays a role in investigation and asset recovery, while the Directorate of Criminal Investigations (DCI) investigates corruption and economic crimes, and ODPP prosecutes corruption offences and handles asset recovery. The prosecution of corruption cases has not shown the desired result, and coordination challenges and poor relations between the relevant institutions have been identified as one of the main stumbling blocks in the successful disposition of cases. Consequently, applying a chain approach to the specific settings around the investigations and prosecution of corruption cases will ensure that these institutions

work shoulder to shoulder in bringing such cases to successful conclusion (including through implementation of Active Case Management (ACM) and case management).

Compromised integrity within the justice system's institutions has also undermined anti-corruption efforts. The action will thus pay attention to promoting integrity and accountability within relevant institutions to increase public trust in criminal justice systems and hence enhance the capacity of the relevant institutions to investigate and prosecute corruption cases.

Prisons remain overcrowded despite great efforts to address the problem. This issue is primarily caused by the limited use of bail and reliance on pre-trial detention and custodial sentences – all of which are compounded by an under-resourced PACS that is required to play a role in both assisting courts to determine bail and in monitoring the implementation of non-custodial orders.

The uptake of automation to support criminal justice processes has been slow and uncoordinated. Accordingly, the solutions provided will be aimed at resolving bottlenecks in terms of case flow (such as transferring files from the police to ODPP). Thus, it is critical that NCAJ plays a greater role in facilitating and coordinating automation. The benefits of the use of technology and the need for coordination became evident during the COVID-19 pandemic which pushed the Judiciary to accelerate its automation efforts in order keep the justice system functioning. For instance, matters were heard virtually and an e-filing portal, wherein litigants can file their pleadings and make e-payment of court fees and fines, was launched. Overall, it is foreseen that the continued uptake of digitisation will allow for considerable efficiency gains and improved access to justice for the citizens in the coming years.

Prison management has improved over the past years through the development of risk and needs assessment tools. Nonetheless, there is still a great need to strengthen rehabilitative programmes and to support measures aimed at early release so that eligible prisoners can be discharged when considered suitable for early release. Also, it is of pivotal importance to incorporate a gender and disability (especially regard to mental health, intellectual disabilities) dimension into the design and implementation of such programmes.

Over the years, the child justice framework has gone through gradual reform by moving away the focus from retributive justice to restorative justice. The move to greater use of non-custodial penalties is in line with this development and in conformity with the internationally recognised principle that institutionalisation should be a measure of last resort.

Witness protection is still a relatively new and underutilised field in Kenya. The Witness Protection Agency (WPA) has been attempting to build its capacity and learn from the experiences of similar agencies in the region. Still, it requires further assistance in developing a management framework and establishing organisational and operational policies in line with international standards.

Alternative Justice is widely practised, including in criminal cases, and dominant within some areas. Associated to the wider set of reforms, such as decriminalisation of petty offences, unlocking the full potential of Alternative Justice Systems (AJS) is critical to resolve the case backlog of courts, reduce overcrowding of the prison system and enhance citizens' access to justice. Specific challenges, such as gender and protection of the vulnerable and marginalized, must be addressed as AJS is mainstreamed to serve as part of the broader justice system.

The 2010 Constitution imposes a duty on the State to provide accused persons with legal counsel in circumstances where substantial injustice might occur. Parliament enacted the Legal Aid Act of 2016, which provided the provisions and institutional framework for legal aid. The Act established the National Legal Aid Service (NLAS) to administer a state-backed legal aid scheme and regulate legal aid service providers. However, there is still a gap in terms of access to justice by the citizens, particularly amongst the most vulnerable groups, such as women with disabilities, in society – hence it is necessary to accelerate support to legal aid providers and interventions aimed at facilitating their work.

UNCAC recognizes the important role of civil society in combating corruption, by pushing governments to increase transparency, improve public access to information and promoting public contribution to government decision-making processes. In sum, the improve governance and monitor areas where corruption is likely to take place – supporting robust and active Kenyan civil society would thus greatly facilitate the action objectives' – it would be especially useful to make proficient use of inclusive and accessible technologies to facilitate civil society organization to play such roles. In the area of access to justice this was evident during the COVID-19 pandemic when justice services were disrupted and efforts were made to turn to virtual proceedings, which created a challenge for the poor and marginalized, CSOs supported by the UNDP-led initiative Amkeni Wakenya through

PLEAD addressed this issue by providing the necessary infrastructure to support such proceedings, including in prisons.

Identification of main stakeholders and corresponding institutional and/or organisational issues (mandates, potential roles, and capacities) to be covered by the action:

The National Council for the Administration of Justice (NCAJ) was established in 2011 to coordinate the administration of justice and reforms of Kenya's justice sector in an effective, efficient and consultative manner. The Council is chaired by the Chief Justice and is composed of heads of all of the justice institutions, principle secretaries of relevant ministries, representatives of CSOs active in human rights and legal aid and a representative of the private sector. It is supported by a Secretariat. The current PLEAD has deployed substantial efforts to support the role of the NCAJ as the main oversight coordinating mechanism in the sector. NCAJ is cascaded from the national level to the court level in the form of Court User Committees (CUCs). These committees bring together all stakeholders (including local chiefs and legal aid CSOs) to find local solutions to problems related to justice delivery. CUCs regularly report to NCAJ, which allows policy makers to respond to challenges faced on the ground.

The Judiciary is mandated to administer justice and promote the rule of law. Furthermore, it shall, ensure access to justice for all, that justice is dispensed irrespective of status and that justice shall not be delayed. The Judiciary has since the promulgation of the 2010 Constitution been continuously improving its services to the people of Kenya.

The Office of the Director of Public Prosecutions (ODPP) is responsible for instituting and prosecuting criminal offences, including corruption, terrorism and other complex offences, advising investigative agencies on instituting criminal charges, directing and supervising criminal investigations, reviewing charges to ensure that accused persons are prosecuted based on adequate evidence and face appropriate charges in the appropriate court; as well as upholding, protecting and promoting human rights.

Ethics and Anti-Corruption Commission (EACC) aims to combat and prevent corruption, economic crime and unethical conduct through law enforcement, prevention, public education and promotion of ethical standards and practices. In recent years, EACC has employed various measures and strategies to prevent corruption and unethical conduct. These include, inter alia, system reviews to identify corruption loopholes, weaknesses and inefficiencies and advising public institutions on measures to mitigate against malpractices. The Commission established the National Integrity Academy in 2018 to utilise education to prevent and combat corruption, economic crime and unethical practices.

National Police Service (NPS) is mandated to provide a professional and people-centred police service through a community partnership and upholding the rule of law for a safe and secure society. NPS consists of the Kenya Police Service, the Administrative Police Service and the Directorate of Criminal Investigation. It has made significant steps towards reforms over the last years. The reforms established the Independent Policing Oversight Authority (IPOA), which is mandated to investigate deaths and serious injuries caused by police action, investigate police misconduct, inspect police premises, and monitor, review and audit investigations and actions by the Internal Affairs Unit of the Police.

Department of Children Services (DCS) is mandated to safeguard and protect the rights and welfare of children. The Department provides services to both children in need of care and protection and children in conflict with the law. In relation to children in conflict with the law, DCS has the duty to ensure their safe custody, care and rehabilitation.

The Probation and Aftercare Service (PACS) administers community-based sanctions in Kenya. It is driven by the premise that offenders can change through appropriate rehabilitation and treatment interventions. It strives to promote and enhance the administration of justice and public safety through supervision and reintegration of offenders, as well as the provision of social inquiry reports, victim support and crime prevention. In addition, PACS plays a key role in rehabilitating children in conflict with the law.

The Kenya Prisons Service (KPS) contributes to public safety and security by ensuring the safe custody of prisoners; it facilitates access to justice by ensuring the timely appearance of inmates to court, rehabilitation of offenders and their effective reintegration into the community. It is also responsible for the care of female offenders' children who accompany their mothers during imprisonment, aged four years or below.

Witness Protection Agency (WPA) is mandated to provide protection for witnesses facing potential risk or intimidation due to their cooperation with law enforcement agencies.

National Legal Aid Service (NLAS) is, inter alia, responsible for providing legal aid services to indigent, marginalised, and vulnerable persons.

Civil Society Organisations (CSOs) will play a key role in assisting the citizens, as well as migrant workers and refugees, in obtaining their rights, in particular through legal aid for those who are accused of criminal offences.

3 DESCRIPTION OF THE ACTION

3.1 Objectives and Expected Outputs

The Overall Objective (Impact) of this action is to reinforce the rule of law, improve access to justice, increase efficiency and accountability in the justice system, and use of technology as an enabler of justice.

The Specific Objective (Outcomes) of this action are to

1. Enable the criminal justice system to fight corruption more effectively
2. Improve administration and coordination of the justice sector
3. Increased competence, quality and efficiency of criminal justice institutions
4. Enhance access to legal aid, especially for individuals living in vulnerable situations

Outcome 1: The criminal justice system is able to fight corruption more effectively

The overarching objectives of the action cannot be obtained without tackling corruption. It will thus aim to enhance coordination between the relevant institutions through support to the NCAJ standing group on corruption. It will seek to strengthen the capacity of the EACC through training, including the development of a curriculum with an e-learning component for its officers. It will also support the National Integrity Academy of the EACC to train Integrity Assurance Officers from various public institutions to strengthen their capacity to prevent and combat corruption. Finally, the action will lay particular emphasis on enhancing the capacity of investigative and prosecution authorities to handle large scale corruption cases. This would include investigative methods, collection of evidence, with a focus on digital evidence, asset recovery and mutual legal assistance. Success in the prosecution of large-scale corruption cases is imperative to achieve changes in the public perception of the public of the criminal justice system and hence its legitimacy.

Main indicative outputs:

- 1.1:** Strengthened coordination on criminal justice responses to corruption through NCAJ
- 1.2:** Strengthened capacity of EACC to investigate corruption cases
- 1.3:** Enhanced capacity of the National Integrity Academy to deliver trainings
- 1.4:** Enhanced capacity of investigative and prosecution authorities to handle large scale corruption cases
- 1.5:** Enhanced ability of civil society to fight corruption and impunity

Outcome 2: Administration and coordination of the justice sector are improved

The action will seek to improve administration of justice through greater application of non-custodial measures, support and streamlining of AJS and coordination of the justice sector, with an emphasis on supporting vulnerable groups, in particular through the use, and making accessible and available, technology. It will support NCAJ to improve the coordination of the justice chain, as one of the main underlying premises of the action is that the justice chain can only be as strong as its weakest link. In consequence, it will cover the justice chain from the entry of a case to its conclusion. This will allow supporting measures designed around the case flow in its entirety, eliminating bottlenecks and providing stronger safeguards for individual offenders' and victims' rights. NCAJ will also be supported to extend its coordination efforts to the areas of data and statistics and thus the action will support the criminal justice system to address gaps in data collection and production of statistics on crime and criminal justice, including relevant data on gender, children and people with disabilities. The action will, additionally, support NCAJ to promote criminal justice reform and alternatives to imprisonment through amendments of statutes and the development of policies. The action will also support CUCs, which provide an entry point for successful practical implementation of new legislation and policies as each court station may have to deal with specific circumstances prevailing in their geographical location which need to be considered. This will include joint

trainings on issues such as AJS and ACM, it will also support outreach to strengthen the linkages between CUCs and citizens.

The action will support the development of an integrated case management system which will be designed around the case flow of the criminal justice chain. The system would allow for seamless transfer of cases and files across criminal justice institutions. Moreover, as it is a particular pain point for the criminal justice system, an automated system will be designed and implemented to allow for instant traffic fines, along with a review of the relevant regulatory framework, and thereby removing the bulk of traffic cases from the judicial process into an administrative one. Finally, the action will support the development and implementation of a bail and bond verification system. This system will enable the authentication of documents to enhance integrity and efficiency in the administration of bail and bond.

Furthermore, the action will provide specific support in improving safeguards to uphold the rights of children in contact with the law (children in conflict with the law, witnesses and victims). It will also promote the rights of women and seek to design gender-sensitive measures for offenders serving both custodial and non-custodial sentences. In the same way, it will seek to protect the rights of persons with disabilities in contact with the law and ensure that their rights to a fair trial are protected. Strengthening the administration of justice will also be pursued through support aimed at AJS. These systems resolve a large part of disputes in Kenya and are dominant within some of the action focal counties; making them integral to providing access to justice. Support to AJS must simultaneously ensure that their processes respect fundamental rights, especially those of women and children.

It has been noted that the lack of awareness among the public of the significance of non-custodial measures and the view that they do not constitute actual punishments translates into their real life relevance being limited, which has then resulted in over-reliance on imprisonment in Kenya. The action will engage in community outreach and education on alternatives to imprisonment, offender reintegration and prison decongestion to create an understanding by the public of their benefits and contribution to public safety. Communication measures will be implemented in a gender-sensitive inclusive manner so that men and women, boys and girls and people with disabilities can be reached equally. This will be a pivotal underpinning to achieve a paradigm shift from a punitive to a rehabilitative criminal justice system.

Main indicative outputs:

- 2.1:** Strengthening of NCAJ to coordinate the criminal justice sector and to promote criminal justice reform and alternatives to imprisonment
- 2.2:** Enhanced effectiveness of CUCs to coordinate the administration of justice at the local level
- 2.3:** Enhanced automation of criminal justice processes
- 2.4:** Improved application of non-custodial measures and re-entry programmes with an emphasis on people in vulnerable situations
- 2.5:** Enhanced capacity of AJS
- 2.6:** Enhanced public awareness on the functions of the criminal justice system and the benefits of alternatives to imprisonment

Outcome 3: Competence, quality and efficiency of the criminal justice institutions are increased

PLEAD II will aim to increase the ability of the criminal justice system to handle cases in an expeditious and human rights compliant manner. Against this backdrop, technical assistance and training will be provided to selected criminal justice institutions, including the Judiciary, ODPP, NPS, DCI, PACS, KPS, DCS and WPA. The support will focus on the automation of case management practices, establishing and supporting the training of criminal justice professionals, particularly through the use of e-learning and supporting the respective training institutions to cast themselves as centres of excellence, as well as strengthening the integrity and accountability of the institutions. The action will also support capacity building through institutional development and change management. The action will also aim to bring in, notably via twinning, expertise from Member States of the European Union.

Furthermore, due to the emphasis on alternatives to imprisonment, interventions aimed to increase their application will also be adopted taking into consideration sustainable empowerment and aftercare programmes to minimize recidivism. Concurrently, the action will intervene to improve the handling of gender and sexual-based violence and general gender mainstreaming among the respective actors in the criminal justice chain.

Main indicative outputs:

- 3.1:** Change management programmes developed and implemented
- 3.2:** Training programmes with e-learning components developed and implemented
- 3.3:** Strengthened complaints mechanisms and codes of conducts implemented
- 3.4:** Enhanced integrity of criminal justice institutions
- 3.5:** Enhanced automation of criminal justice institutions' case management systems
- 3.6:** Strengthened empowerment programmes, aftercare programmes and vocational training programmes
- 3.7:** Enhanced mainstreaming of gender and inclusion of persons in vulnerable situations
- 3.8:** Enhanced capacity of criminal justice institutions to handle gender and sexual-based violence

Outcome 4: Access to legal aid, especially for individuals in vulnerable situations, is enhanced

The action will seek to build upon PLEAD I by supporting interventions to enhance access to justice for the people of Kenya, especially for those living in poor and vulnerable situations. This will be done through the existing Amkeni Wakenya basket fund, which will be reinforcing CSOs providing legal aid services through grants and technical assistance, enhancing awareness of legal aid schemes, supporting the operational environment of legal aid service providers and support community paralegal mechanisms.

Main indicative outputs:

- 4.1:** Enhanced capacity of CSOs to provide legal aid
- 4.2:** Strengthened policy environment on access to justice for improved service delivery
- 4.3:** Enhanced self-regulation capacity for paralegals

3.2 Indicative Activities

Outcome 1: The criminal justice system is able to fight corruption more effectively

Indicative activities include: support to EACC to undertake a change management programme to increase its institutional capacity; development of a curriculum for Integrity Assurance Officers; training of EACC staff; establishment of a mentor training programme for investigative and prosecution authorities handling large scale corruption cases; development of joint protocols and standard operating procedures on investigations of corruption cases; and provision of grants to civil society organizations to complement innovative projects on anti-corruption

Outcome 2: Administration and coordination of the justice sector are improved

Indicative activities include: development and implementation of a case backlog strategy; development and implementation of an integrated case management system covering the entire criminal justice chain; institution of an automated system for instant traffic fines established and review of the regulatory framework for traffic fines; design of legislation and implementing guidelines on parole; review and implementation to the Sentencing Guidelines; training and sensitization of criminal justice actors on AJS, supporting the development and implementation of criminal justice reform policy; and strengthening of the Secretariat of NCAJ.

Outcome 3: Competence, quality and efficiency of the criminal justice institutions are increased

Indicative activities include: translation and publishing of court procedures in Swahili and braille; training and career development policy for judicial officers; train records management officers on e-records management; developing a training curriculum for police officers with an e-learning component; streamlining relationship structures between Independent Policing Oversight Authority (IPOA), Ombudsman, Internal Affairs Unit (IAU), National Police Service (NPS); strengthening of offender empowerment programmes; development of e-learning course for supervisors of community service orders; development of a reintegration policy; and provision of inclusive educational and vocational training to inmates.

Outcome 4: Access to legal aid, especially for individuals living in vulnerable situations, is enhanced

Indicative activities include: provision of grants to CSOs to provide legal awareness and assistance; technical support to grantees in the course of implementing legal awareness and assistance interventions; technical support to grantees in integration of COVID-19 response and recovery strategies; and support institutional development and organizational strengthening of the Paralegal Support Network (PASUNE).

3.3 Mainstreaming

Gender equality and empowerment of women and girls

As per OECD Gender DAC codes identified in section 1.1, this action is labelled as G1. The desired impact of PLEAD II will not be realised without a special emphasis on gender and the rights of women, in all their diversity. The action will thus apply a gender lens to all of its activities and its internal decision-making.

Policy development and training activities will put a particular emphasis on how these impact women and men, boys and girls, including those with disabilities and other vulnerable groups. Action plans and strategies will be conducted in a gender-sensitive and inclusive manner. The action will include activities aimed at combatting SGBV and enhancing the rights of female offenders and both custodial and non-custodial sentences. The action will consider gendered differences in opportunities to participate in corrupt behaviour and will also consider the gendered impact of corruption.

Human Rights

The action is aligned with the EU Action Plan on Human Rights and Democracy 2020-2024, on the fair administration of justice and democratic institutions, while supporting the implementation of the Human Rights and Democracy country strategy 2021-2024.

The action will be designed and implemented with a rights-based approach, focusing on a rights-holder/user-centric approach to access to justice and service delivery. It will directly contribute to improved access to justice and realisation of rights, notably the right to a fair trial, rights of offenders, including their rights to privacy and due process, and rights of victims, in particular of women and children/juveniles.

Disability

As per OECD Disability DAC codes identified in section 1.1, this action is labelled as D1. This implies that there will be an emphasis to facilitate access to justice for groups in vulnerable situations, including for people with disabilities.

Democracy

Following the reforms of the 2010 Constitution in Kenya, the historically under-resourced justice sector has seen a redirection of public resources to the Judiciary and prosecution services. Public resource allocation to the Judiciary has become politically contentious in the context of numerous judgements, including ones touching upon elections, which have been unfavourable to the Executive, undermining judicial independence, a central principle of democracy and the rule of law. This programme seeks to strengthen this arm of the government.

Other considerations if relevant

- *Digitalisation.* The action will address the digital governance pillar of the Team Europe Initiative on Digitalisation, notably on effective service delivery and modernisation of justice through inclusive and accessible digital technologies. Technology will thus be a key component in the implementation of the action, including in design and delivery of activities. For instance, the use of online meeting applications will be preferred over in-person workshops, which will save time and resources.
- *Integrity and the fight against corruption.* PLEAD II will seek to ensure that issues related to integrity are considered across all of the action's interventions. This will complement its focused work on integrity training, accountability mechanisms and measures against corruption. It will, among other things, mean that issues of integrity are considered in the design of other measures, such as policy development, in an effort to ensure the highest level of integrity among criminal justice practitioners in Kenya. It should be remembered that institutions that have integrity and accountability will provide effective responses and access to justice.

3.4 Risks and Lessons Learnt

Category	Risks	Likelihood	Impact	Mitigating measures
External environment	Risk 1: Political instability following the 2022 presidential elections and changing priorities of the beneficiary institutions.	Medium	Medium	EU will engage in political dialogue with the Government to promote a culture of justice and accountability. The project aims to strengthen criminal justice institutions and to build the public trust in them. It will strengthen the independence of the judiciary which has a key role in adjudicating cases related to the elections.
People and organisation	Risk 2: The establishment of a fully functional and properly manned NCAJ Secretariat is delayed.	Low	Medium	NCAJ has made significant progress during PLEAD I. The continued success of NCAJ as a coordination mechanism will facilitate its prioritisation amongst decision makers. EU will emphasise the need for the Secretariat to be fully operationalized. Visibility events will also assist in highlighting the role that NCAJ plays within the justice system.
Communication and information	Risk 3: Donors do not coordinate their interventions.	Low	Low	Implementing partners will be active in the existing donor coordination groups on Judiciary, ODPP, and anti-corruption. UNODC will establish a corrections donor group (for PACS and KPS). Moreover, it will engage with partners implementing large-scale interventions in relevant areas (e.g. GIZ, IDLO, RWI) to seek synergies and prevent overlap.
People and organisation	Risk 4: Lack of institutional capacities, especially to tackle grand corruption and maintain independence.	Low	High	Strong capacity building support is one of the main activities, reinforced by peer-to-peer technical assistance and permanent and innovative methods such as mentoring and specific operational guidance.
People and organisation	Risk 5: Failure by beneficiary institutions to maintain automated systems and procure and sustain IT equipment to ensure functionality of such systems.	Medium	Medium	Systems will be designed in a way to minimize recurring costs. They will also be designed and implemented in an incremental way to mirror institutional capacities. Change management processes will highlight the benefits associated to automation and the need for prioritizing resources to such initiatives.
People and organisation	Risk 6: Resistance to change by criminal justice practitioners, obstructing integrity, human rights and gender initiatives	Low	Medium	The action will involve beneficiary institutions at every stage of implementation and will closely monitor the impact of capacity building / training. It will involve senior leadership of the

				institutions in change management. It will consider gender, human rights, integrity as crosscutting themes.
Legality and regulatory aspects	Risk 7: Financial limitations to ensure sustainability of some of the interventions in light of reduced funding for the criminal justice system	Medium	High	The action will finance capacity building mechanisms that can be maintained by the Government's budget beyond lifespan of the action, without implying extra technical assistance financing.
External environment	Risk 8: Security	High	High	There are security risks in some of the focal counties. Failing to address the rule of law and access to justice in these areas would further increase insecurity in Kenya and contribute to a breakdown in the rule of law. In addition, EU will continue supporting initiatives in the field of security, notably on preventing and countering violent extremism.
External environment	Risk 9: The COVID-19 pandemic and related travel restrictions will limit the possibility of direct engagement with counterparts	Low	Low	It is expected that by the start of the action Kenya's Covid-19 vaccination plan has progressed well and travel restrictions have eased. However, in case the event of temporary restrictions, experience from PLEAD I has shown that implementation can continue with the assistance of countermeasures (eg. online meetings).

Lessons Learnt:

Despite the numerous critical challenges faced by the Kenyan justice sector, it must be recognized that changes are currently taking place within the sector through numerous fundamental structural reforms. A lesson learnt from the implementation of PLEAD I is thus that coordinated integrated and comprehensive interventions are more likely to produce the critical mass required to support justice sector reforms. This notion can help address major public policy challenges on how best to support sustainable change in the justice sector, including the fight against corruption, and facilitate transformational change.

Another notion acquired through the implementation of PLEAD I is that effective coordination of the justice sector will be expedited through the addition of national partners, namely EACC, NPS, DCS and KPS. Existing bottlenecks, such as limited cooperation between police and prosecutors, need to be resolved to enable extensive criminal justice reform. It is as well vital to include prisons to allow the action to focus on preventing recidivism and ensuring that prisoners who no longer need to be there are released, through measures such as parole. Moreover, it is necessary to work with the police and DCS to enhance efficiency at the beginning stages of the process and thereby reduce the amount of time that offenders, and in particular young offenders, are awaiting trial as well as pre-trial detention. Accordingly, it is necessary to increase the reach of the action to embrace the entire justice chain.

The COVID-19 pandemic has accelerated the penetration of technology with far-reaching effects on people's lives. Technology is already playing a much vaster role in the justice sector's service delivery than prior to the pandemic. Indeed, the use of technology allowed the justice sector to considerably mitigate the impact of COVID-19 and it is foreseen that its continued uptake and advancement will allow for great efficiency gains and improved access to justice in the coming years. This is also applicable to trainings, as evident by the development of e-courses for police officers which sought to address challenges related to the pandemic, with a special emphasis on human rights, and has already seen more than 22,000 enlisted officers.

In order to avoid duplication of efforts and enhance synergies of donor support there is a need to effectively coordinate the work of the different actors involved in providing technical assistance to the Kenyan justice sector. PLEAD I included participation in donor coordination groups for the Judiciary and ODPP as well as bilateral coordination meetings with key international partners. Moving forward the beneficiary institutions should play a key role in this coordination to ensure that the resources available are used where they are most needed.

Another critical lesson learnt through PLEAD I, notably through feedback from beneficiary institutions, is the necessity to consider the needs of vulnerable groups, and in particular women, children and persons with disabilities. Many interventions, such as community service and aftercare programmes for those who are released from custody, will have limited success if they are not curtailed to meet the needs of these groups. In addition, gender sensitivities and disability inclusion (especially in regard to mental health) should be well reflected in policies and training materials developed by the action in support of the beneficiary institutions.

Experience has revealed the criticality of enhancing public awareness and understanding for the success of criminal justice reforms. The action will hence seek to demystify Kenya's criminal justice system by improving awareness and understanding among all target groups of the distinct roles and services of the beneficiary institutions and convince frontline decision-makers and end-users of the viability of its interventions, including the use of technology and alternatives to imprisonment, so that they are fully embraced. Robust communication strategies and the utilisation of visibility opportunities to showcase the progress made to the public will thus be critical elements to achieve the objectives of the action.

PLEAD I also responded to need for enhanced provision of legal aid, as the Amkeni Wakenya facility of UNDP provided financial and technical assistance to civil society organizations involved in provision of legal aid and assistance for the vulnerable and marginalized persons. This support is in line with the right to access to justice for all persons under the Constitution of Kenya 2010. In addition, Amkeni Wakenya awarded grants to the Paralegal Support Network (PASUNE) and the Law Society of Kenya (LSK) to build capacities of paralegals and lawyers in provision of legal aid and undertake advocacy interventions aimed at accelerating the full implementation of the Legal Aid Act 2016. Following the spread of the COVID-19 and the subsequent interruptions to the functions of the courts, Amkeni Wakenya grantees with embedded legal aid schemes in some of the target prisons filled-in the gap by establishing infrastructure to support virtual court appearance. Paralegals who had been denied access to prisons were able to provide legal aid through these virtual facilities. Overall, the lesson learnt is that a critical justice gap remains among the most vulnerable for which legal aid assistance interventions are necessary. Such support will advance the citizens' right to access to justice, the right to a fair trial and efforts to reduce the case backlog.

In conclusion, it is imperative that PLEAD II builds on the transformative impact that its forerunner has had on the criminal justice system of Kenya and at the same time upscales the initiatives already undertaken and realigns outcomes to be better fit for purpose and more responsive to the needs of the citizens, in particular through fighting corruption as well as relying on innovation and specialised programming to reach the most vulnerable in Kenyan society, including women, children and persons with disabilities. It would also cement the progress already made by PLEAD and strengthen the ability of the justice system to uphold the rule of law despite uncertainties in the political landscape with the upcoming elections in 2022, including through support for legal aid.

3.5 The Intervention Logic

The underlying intervention logic for this action builds upon the approach tested and adjusted during PLEAD I and is aligned with global good practices. As was the case under the previous Programme, the action will enhance coordination and efficiency within the criminal justice system, as well as the use of alternatives to imprisonment and access to legal aid. Likewise, it will seek to decongest prisons, enhance security and empower right-holders, especially those living in poor and marginalized situations.

Anti-corruption will feature as a central component of the action. It is seen as essential that the action focuses on the capacity of the criminal justice institutions to investigate and prosecute large scale corruption cases as the lack of progress in these cases leads to growing frustrations amongst the public and undermines trust and the rule of law and hence weakens the legitimacy of the State. The inclusion of integrity as a cross-cutting theme will further increase the efficiency of the criminal justice institutions. One of the main assumptions behind the action is that the criminal

justice chain is only as strong as its weakest link. While this was also recognized in the design of PLEAD I, some key criminal justice institutions were not included as beneficiaries. The action seeks to change this and cover the justice chain from the entry of a case to its conclusion. The chain approach will, inter alia, guide the design of the action's intervention when it comes to reintegration of offenders (PACS and KPS) and investigation and prosecution of corruption offences (DCI, EACC and ODPP). In addition, more is needed in terms of coordination to ensure that the institutions work towards the same goals in a coherent manner. The action will thus emphasise enhancing the capacity of the NCAJ at the national level, inter alia, by ensuring that its secretariat becomes fully functional, and that CUC at the court station level are empowered to find local solutions to problems related to justice delivery. Due to the representative nature of CUC, they provide an entry point for successful implementation of new legislation and policies and are thus important for the overall success of the action.

There are too many people in Kenya in prison (including pre-trial detention) which do not need to be there. This is in large part due to the underutilization of alternatives to imprisonment, but also the fact that petty offences have not been decriminalized and the design of the system to disfavour poor (many are kept in custody because they cannot raise bail or pay fines). The action will utilize the NCAJ engage in policy making in an effort to significantly decrease the prison population.

As KPS and DCI will be beneficiary institutions of the action, measures aimed at rehabilitation while serving custodial sentences and early release programmes are included in its design. Combined with empowerment and aftercare programmes these should minimize recidivism which will in the long run greatly contribute to prison decongestion. It is vital that a gender and disability dimension are incorporated into the design and implementation of such programmes.

The challenge of over-use of custodial sentences is also applicable to children. Accordingly, the action will promote the use of alternatives to children and youths. Avoiding custodial sentences is particularly important for young offenders as they can be disruptive and commence a trajectory towards further offending.

The action sees implementation of the national AJS Policy as an important factor in enhancing access to justice, reducing case backlog and prison congestion. At the same time, it is acknowledged – in line with the overarching aims of the action – that it must be implemented in a way that considers gender and protection of individuals in vulnerable situations. One of the underlying assumptions of the action is that increasing quality and efficiency in the criminal justice system requires the introduction of improved case management systems throughout the sector and solutions for efficient case flow across the system. Further efficiency gains can be obtained by greater automation of additional criminal justice processes – including the authentication of documents for bail and bond. The action will also integrate the use of technology as a cross-cutting commitment and will, inter alia, enhance the use of e-learning within the training programmes of the national partners. It is assumed that the increased uptake of technology following the COVID-19 pandemic will create momentum that can be used to accelerate the automation of criminal justice processes.

It is recognized that one of the reasons why there has been a slow uptake of alternatives to imprisonment is that the public does not see them as appropriate responses to crime. The action will thus seek to sensitize all target groups of the distinct roles and services of the beneficiary institutions and convince frontline decision-makers and end-users of the viability of its interventions, including the use of technology and alternatives to imprisonment. In an effort to ensure sustainability and the ability of the beneficiary institutions to implement reforms the action will support the criminal justice institutions to undertake change management initiatives. Furthermore, in line with the approach under PLEAD I, the action will continue to emphasise the ownership of institutional change management processes and substantive reform. It will also emphasise the priorities of stakeholders during the conceptualisation and design of the different reform initiatives. This will enhance ownership and hence sustainability and ensure that the interventions are fit for purpose.

The training of practitioners will be a vital factor in the implementation of the action. In line with the approach of strengthening the institutional ownership and sustainability, the focus will be on enhancing the capacity of the respective training institutions to deliver trainings, in tandem with developing training programmes which support the implementation of specific interventions. The use of technology in the delivery of the trainings will also allow

for greater reach and sustainability, as fewer resources are required to continue implementing an online training programmes once the action is completed.

A key factor in cementing the progress made under PLEAD is building on the progress in promoting civil society engagement in the provision of legal aid. This is especially important due to the lack of availability of legal representation for persons living in vulnerable situations, including some women, people with disability and children/youths. The action will strengthen the normative and institutional framework to allow paralegals to provide support to those in need of legal guidance as in practice they are often more accessible than advocates.

The action will create ‘centres of excellence’ to encourage government and other development partners to support the justice chain in a similar fashion in other high risk areas and across the country, the project focuses on 19 ‘focal’ counties. Those counties at greatest security risk are prioritised to avoid a breakdown in the rule of law while the project generally seeks to ensure that all key role players in each county are supported as far as possible. Some of the counties also have high backlog and AJS role out.

Sustainability of the interventions at local level also requires involvement and supervision of the central institutions, as well as policy making informed by the results at a local level. For this reason, the project will also provide capacity building and policy making support to central institutions in Nairobi. This support will also facilitate the replication process in the rest of Kenya beyond the duration of the action, assuming that service delivery in the focal counties improves markedly as a result of the action.

3.6 Indicative Logical Framework Matrix

Results	Results chain (a): Main expected results (maximum 10)	Indicators (a): (at least one indicator per expected result)	Baselines (values and years)	Targets (values and years)	Sources of data	Assumptions
Impact	To reinforce the rule of law, improve access to justice, increase efficiency and accountability in the justice system, and use of technology as an enabler of justice	1. Unsented detainees as a proportion of overall prison population (SDG Indicator 16.3.2) (disaggregated by sex, disability and age) 2. Ibrahim Index of African Governance (IIAG) – Overall Rule of Law score 3. Number of backlog of criminal cases (cases which have been under consideration for more than one year since the case was registered in the court) 4. Worldwide Governance Indicators: Control of Corruption			1. Global SDG Indicators Database) 2. IIAG Index 3. Data from the Judiciary's Directorate of Planning and Organizational Performance 4. World Bank World Governance Indicators (latest year available)	<i>Not applicable</i>
Outcome 1	1. The criminal justice system is able to fight corruption more effectively	1.1. Percentage of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months 1.2. Country ranking according to the Transparency International Corruption Perception Index 1.3. Number of cases referred to the ODPP for prosecution by the EACC annually 1.4. Volume of assets recovered in cases concerning corruption annually			1.1. EEAC National Ethics And Corruption Survey 1.2. Transparency International Corruption Perception Index (annual) 1.3. EACC Annual Report 1.4. ODPP and EACC Annual Reports	It is assumed that a more efficient and effective justice system will be able to combat corruption, uphold the rule and protect and promote human rights

<p>Outcome 2</p>	<p>2. Administration and coordination of the justice sector are improved</p>	<p>2.1. Number probation orders and community service orders dispensed annually</p> <p>2.2. Number of CUCs in the action's focal counties who meet regularly (four times a year) in the focal counties annually</p> <p>2.3. Number of children in detention (statutory institutions, including remand homes) per 100,000 child population (disaggregated by sex)</p> <p>2.4. Percentage of persons who have experienced a dispute in the past 12 months and have accessed an AJS mechanism</p>			<p>2.1. Official statistics (KNBS annual economic Survey)</p> <p>2.2. State of the Judiciary and Administration of Justice Report (SOJAR); reports by CUC submitted to the NCAJ</p> <p>2.3. State of the Judiciary and Administration of Justice Report (SOJAR); official statistics (KNBS annual economic Survey); annual reports of DCS, KPS and PACS</p> <p>2.4. Survey to be administered by PLEAD at minimum in the inception and final phase of the project</p>	
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Outcome 3	3. Competence, quality and efficiency of the criminal justice institutions are increased	<p>3.1: Number of beneficiary institutions' training institutes who receive external accreditation</p> <p>3.2: Number of offenders (disaggregated, by sex, age and disability) who are diverted from the criminal justice system by prosecutors annually</p> <p>3.3: Number of investigations of misconduct against judges and public prosecutors</p> <p>3.4: Number of offenders who are under custodial measure and complete an empowerment programme, aftercare programme and / or vocational training</p>			<p>3.1: Annual Reports of beneficiary institutions</p> <p>3.2: Annual Reports of ODPP; data from ODPP data unit</p> <p>3.3: Public sector administrative data to be requested each year of the project; SOJAR</p> <p>3.4: PACS annual report; KPS annual report; field gathered by UN – conducted at minimum in the inception and final phase of the project</p>	
Outcome 4	4. Access to legal aid, especially for individuals living in vulnerable situations, is enhanced	<p>4.1: Number of people directly benefiting from legal aid interventions supported by the EU (EURF 26)</p> <p>4.2: Ratio of children in conflict with the law who have legal representation at trial (disaggregated by sex and disability)</p>			4.1: EU intervention monitoring and reporting systems: annual and final reports from implementing organisations, ROM reviews, and evaluations	

					4.2: Data from the Judiciary's Directorate of Planning and Organizational Performance	
Output 1.1	1.1: Strengthened coordination on criminal justice responses to corruption through NCAJ	1.1 I.1: Number of meetings of the NCAJ Standing Group on Corruption annually supported by the EU-funded intervention 1.1 I.2: Number of guidelines endorsed by the NCAJ Standing Group on Corruption developed with the support of the EU-funded intervention			O 1.1 I.1 S: SOJAR and mission reports O 1.1 I.1 S: SOJAR; copies of guidelines	- Policies and legislation to increase efficiency of the criminal justice system will be adhered to - Government will provide staff for the NCAJ Secretariat
Output 1.2	1.2: Strengthened capacity of EACC to investigate corruption cases	1.2 I.1: Number of EACC officers trained with support of the EU-funded intervention who can demonstrate increased knowledge on ethics and anti-corruption (disaggregated, by sex, age and disability)			O 1.2 I.1 S: Pre- and post-training tests; workshop reports and registers	- Courts will apply legislation allowing for alternatives to imprisonment
Output 1.3	1.3: Enhanced capacity of the National Integrity Academy to deliver trainings	1.3 I.1: Number of criminal justice practitioners who complete training as Integrity Assurance Officer trained (disaggregated, by sex, age and disability)			O 1.3 I.1 S: EACC Annual Report	- Consistent policy of the leadership of the relevant criminal justice institutions to effectively fight
Output 1.4	1.4: Enhanced capacity of investigative and prosecution authorities to handle large scale corruption cases	1.4 I.1: Number of investigators and prosecutors trained with support of the EU-funded intervention who can demonstrate increased knowledge on handling of large scale corruption cases (disaggregated, by sex, age and disability)			O 1.4 I.1 S: Pre- and post-training tests; workshop reports and registers	

Output 1.5	1.5: Enhanced ability of civil society to fight corruption and impunity	1.5 I.1: Number of anti-corruption projects implemented by CSOs with support of the EU funded intervention			O. 1.5 I.1 S: EU monitoring report and annual report submitted by CSOs	corruption in courts - Turnover of staff in beneficiary institutions and CSOs.
Output 2.1	2.1: Strengthened NCAJ to coordinate the criminal justice sector and to promote criminal justice reform and alternatives to imprisonment	2.1 I.1: Percentage of judicial officers in the focal counties trained on the Active Case Management Guidelines (disaggregated, by sex, age and disability)			O 2.1 I.1 S: Online survey to be conducted at minimum in the inception and final phase of the project; data from the Judiciary Training Institute	- Limited internet access in remote counties. - Reluctance of Courts to use bail, diversion and alternatives to imprisonment
Output 2.2	2.2: Enhanced effectiveness of CUCs to coordinate the administration of justice at the local level	2.2 I.1: Number of CUC members in the focal counties trained who can demonstrate increased knowledge on criminal justice (disaggregated, by sex, age and disability)			O 2.2 I.1 S: Pre- and post-training tests; workshop reports and registers	- Poor maintenance of equipment
Output 2.3	2.3: Enhanced automation of criminal justice processes	2.3 I.1: Percentage of criminal justice practitioners who regularly use case management/tracking systems supported by the EU-funded intervention in their work (disaggregated, by sex, age and disability)			O 2.3 I.1 S: Online survey to be conducted at minimum in the inception and final phase of the project; data from the Judiciary Training Institute	
Output 2.4	2.4: Improved application of non-custodial measures and re-	2.4 I.1: Number of policies, guidelines, strategies developed with			O 2.4 I.1 S: Copies of	

	entry programmes with an emphasis on people in vulnerable situations	support of the EU-funded intervention which cover non-custodial measures and re-entry programmes			policies, guidelines, strategies; SOJAR	
Output 2.5	2.5: Enhanced capacity of AJS	2.5 I.1: Number of AJS practitioners trained by the EU-funded intervention who can demonstrate increased knowledge on the normative framework applicable to AJS (disaggregated, by sex, age and disability)			O 2.5 I.1 S: Pre- and post-training tests; workshop reports and registers	
Output 2.6	2.6: Enhanced public awareness on the functions of the criminal justice system and the benefits of alternatives to imprisonment	2.6 I.1: Number of publications and information campaigns supported by the EU-funded intervention which provide information on the criminal justice system / benefits of alternatives to imprisonment 2.6 I.2: Number of online views of videos produced by the EU-funded intervention			O 2.6 I.1 S: Publications on the NCAJ website; webstories O 2.6 I.2 S: Data from social media sites;	
Output 3.1	3.1: Change management programmes developed and implemented	3.1 I.1: Number of strategic plans adopted which were developed with support of the EU-funded intervention			O 3.1 I.1 S: Copies of strategic plans	
Output 3.2	3.2: Training programmes with e-learning components developed and implemented	3.2 I.1: Number of criminal justice practitioners who complete courses (certificate) supported by the EU-funded intervention which are taught in whole or in part online (disaggregated, by sex, age and disability)			O 3.2 I.1 S: Training reports; data from e-learning platform	
Output 3.3	3.3: Strengthened complaints mechanisms and codes of conducts implemented	3.3 I.1: Number of criminal justice practitioners trained by the EU-funded intervention who can demonstrate increased knowledge on the applicable code of conduct			O 3.3 I.1 S: Pre- and post-training tests; workshop reports and registers	

		(disaggregated, by sex, age and disability)				
Output 3.4	3.4: Enhanced integrity of criminal justice institutions	3.4 I.1: Number of offices with Integrity Assurance Officers trained with the support EU-funded intervention			O 3.4 I.1 S: Public sector administrative data to be requested by the project at least at the beginning and end of implementation	
Output 3.5	3.5: Enhanced automation of criminal justice institutions' case management systems	3.5 I.1: Number of criminal justice practitioners trained by the EU-funded intervention with increased knowledge and/or skills in the use of automated case management systems, disaggregated by sex			O 3.5 I.1 S: Pre- and post-training tests; workshop reports and registers	
Output 3.6	3.6: Strengthened empowerment programmes, aftercare programmes and vocational training programmes	3.6 I.1: Number of criminal justice practitioners trained with support of the EU-funded intervention who can demonstrate increased knowledge on empowerment programmes, aftercare programmes and vocational training (disaggregated, by sex, age and disability)			O 3.6 I.1 S: Pre- and post-training tests; workshop reports and registers	
Output 3.7	3.7: Enhanced mainstreaming of gender and inclusion of persons in vulnerable situations	3.7 I.1: Number of policies, guidelines, strategies explicitly including gender and disability considerations developed with the support of the EU-funded intervention (disaggregated by beneficiary institutions)			O 3.7 I.1 S: Copies of policies, guidelines, strategies; SOJAR	
Output 3.8	3.8: Enhanced capacity of criminal justice institutions to	3.8 I.1: Number of criminal justice practitioners trained by the EU-funded intervention who can demonstrate increased knowledge on			O 3.8 I.1 S: Pre- and post-training tests; workshop	

	handle gender and sexual-based violence	handling of gender and sexual based violence cases (disaggregated, by sex, age and disability)			reports and registers	
Output 4.1	4.1: Enhanced capacity of CSOs to provide legal aid	<p>4.1. I.1: Number of women and girls, in all their diversity, have improved access to justice with support from the EU-funded intervention (disaggregated by age and disability) (EU Gender Action Plan III)</p> <p>4.1 I.2 Number of CSO staff trained by the EU-funded intervention with increased knowledge and/or skills on legal aid (disaggregated by sex, age and disability)</p>			<p>O 4.1. I.1: Reports, incl. monitoring missions conducted by UNDP</p> <p>O 4.1 I.2 S: Pre- and post-training tests; workshop reports and registers</p>	
Output 4.2	4.2: Strengthened policy environment on access to justice for improved service delivery	4.2 I.1: Number of meetings between CSO grantees and duty bearers in the area of legal aid services supported by the EU-funded intervention			O 4.2 I.1 S: Meeting reports and webstories	
Output 4.3	4.3: Enhanced self-regulation capacity for paralegals	<p>4.3 I.1: Number of relevant statutes, policies and guidelines developed with the support of the EU-funded intervention</p> <p>4.3 I.2: Number of paralegals trained by the EU-funded intervention with increased knowledge and/or skills in legal aid (disaggregated by sex, age and disability)</p>			<p>O 4.3 I.1 S: Copies of statutes, policies and guidelines; SOJAR</p> <p>O 4.3 I.2 S: Pre- and post-training tests; workshop reports and registers</p>	

4 IMPLEMENTATION ARRANGEMENTS

4.1 Financing Agreement

In order to implement this action, it is envisaged to conclude a financing agreement with the partner country for the part to be implemented via twinning.

4.2 Indicative Implementation Period

The indicative operational implementation period of this action, during which the activities described in section 3 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, and for the part covered by the financing agreement, 60 months from the date of entry into force of the financing agreement.

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

4.3 Implementation of the Budget Support Component

N/A

4.4 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 measures⁴.

4.4.1 Direct Management (Grants)

Grants: (direct management)

(a) Purpose of the grant(s)

The grants to be selected under a call for proposals will cover specifically outcome 1. They will aim to support civil society's initiatives to the fight against corruption and impunity, through the use of innovative technology to support improved governance and provide anti-corruption safeguards. Indicatively, a minimum of two (2) grants are foreseen to be selected under this modality.

(b) Type of applicants targeted

The applicants will primarily be Civil Society Organisations operating nationwide and/or in the PLEAD II focal counties in Kenya.

4.4.2 Direct Management (Twinning)

Twinning grant: (direct management)

(a) Purpose of the grant

The twinning modality will contribute to outcome 3, on improving the competence, quality and efficiency of selected criminal justice institutions.

(b) Type of applicants targeted

EU Member State administrations or their mandated bodies through Twinning grant contracts.

⁴ 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.

4.4.3 Indirect Management with an international organisation

A part of this action may be implemented in indirect management with the United Nations Office on Drugs and Crime. The implementation entails outcomes 1, 2, 3 and 4. The envisaged entity has been selected due to its mandate and expertise to support the highly specialised support to criminal justice system reforms and anti-corruption activities. Furthermore, UNODC Regional Office for Eastern Africa (ROEA) previous experience, analytical and programmatic work in the Kenyan justice sector, in particular in implementing PLEAD I.

4.5 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 on the basis of urgency or of unavailability of services in the markets of the countries or territories concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of this action impossible or exceedingly difficult (Article 28(10) NDICI-Global Europe Regulation).

4.6 Indicative Budget

Indicative Budget components	EU contribution (amount in EUR)	Third-party contribution (amount in EUR)
Implementation modalities – cf. section 4.4		
Outcome 1 (Enhanced capacity of the criminal justice system to fight corruption) composed of	9 600 000	
Grants (direct management) – cf. section 4.4.1	1 000 000	
Indirect management with UNODC – cf. section 4.4.3	8 600 000	
Outcome 2 (Improved administration and coordination of the justice sector) composed of	12 650 000	300 000
Indirect management with UNODC – cf. section 4.4.3	12 650 000	300 000
Outcome 3 (Increased competence, capacity and efficiency of criminal justice actors) composed of	8 900 000	
Indirect management with UNODC – cf. section 4.4.3	8 400 000	
Twinning grant with EU MS (direct management) – cf. section 4.4.2	500 000	
Outcome 4 (Enhanced access to legal aid, especially for the poor and vulnerable) composed of	3 850 000	
Indirect management with an international organisation (UNODC) – cf. section 4.4.3	3 850 000	
Evaluation – cf. section 5.2 Audit – cf. section 5.3	will be covered by another Decision	N.A.
Totals (Grants – total envelope under sections 4.4.1 and 4.4.2: EUR 1,500,000)	35 000 000	300 000

4.7 Organisational Set-up and Responsibilities

A Project Steering Committee (PSC) shall be established to ensure coordination between the action's components and oversee its implementation. The Committee shall meet twice a year and will bring together all the beneficiary institutions, UNODC, UNDP, the European Commission, and representatives of CSO grantees that represent the views of rights-holders. Other stakeholders may be invited as observers and efforts will be made to ensure gender balance. Due to the overlapping membership with NCAJ and to reinforce the ownership of the beneficiary institutions, the meetings the PSC will be aligned to the meetings of NCAJ, as has been the practice under PLEAD I.

UNODC will ensure the proper functioning of the PSC, including preparation of meeting agendas in consultation with other members, convening the meetings and preparation of minutes.

The work of the PSC shall include, but not be limited to, the following tasks:

- Review of workplans;
- Closely monitor risk factors (see section 2), and focus from an early stage on necessary mitigating measures and intervene when major issues arise;
- Ensure that implemented activities have a direct positive impact towards achieving the action's objectives;
- Ensure the action's implementation is inclusive and transparent, that a collaborative partnership is pursued, as foreseen, between government and non-government stakeholders, including civil society, private sector etc., and that all stakeholders, including women, youth, and persons in vulnerable situations benefit from the action;
- Ensure that synergies are built and maintained with other development partners and/or programmes (see section 3.2);
- Support access to information communication and dissemination efforts among the society at large regarding action's activities and results;
- The PSC shall adapt terms of reference to guide its work based on a review of the terms of reference of its predecessor for the first phase of PLEAD.

As part of its prerogative of budget implementation and to safeguard the financial interests of the Union, the Commission may participate in the above governance structures set up for governing the implementation of the action.

4.8 Pre-conditions

The signature of a Financing Agreement is required for the implementation of the twinning modality. A dialogue with the partner country will give clarity on whether such a Financing Agreement can be concluded, in line with the practices and legal requirements of the partner country. Should the signature of FA not be possible, the budget allocated to twinning will be reallocated to one of the other implementation modalities.

5 PERFORMANCE MEASUREMENT

5.1 Monitoring and Reporting

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. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) 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 indicators, using as reference the logframe matrix (for project modality) and the partner's strategy, policy or reform action plan list (for budget support).

The implementing partners will provide a completed logframe with revised indicators, baselines, targets and specific sources for each indicator. Each progress report will include an updated logframe, including current values for each indicator. Furthermore, each report will 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 indicators disaggregated minimum by sex, age, disability and other relevant categories (when pertinent), using as reference the logframe matrix.

All monitoring and reporting shall assess how the action is taking into account the rights-based approach working principles (i.e. applying all human rights for all; meaningful and inclusive participation and access to decision-making; non-discrimination and equality; accountability and rule of law for all; and transparency and access to information supported by disaggregated data).

Reports 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. The final report, narrative and financial, will cover the entire period of the action implementation.

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).

5.2 Evaluation

Having regard to the importance of the action, a mid-term and a final evaluation will be carried out for this action or its components via independent consultants contracted by the Commission.

The mid-term evaluation will be carried out for learning purposes, in particular with respect to adjustment of the scope of project if necessary.

The final evaluation will be carried out for accountability and learning purposes at various levels (including for policy revision) with respect to introducing programmes on alternatives to imprisonment, corruption and digitization of criminal justice process in other countries in Eastern Africa.

Evaluations shall assess to what extent the action is taking into account the human rights-based approach working principles (i.e. applying all human rights for all; meaningful and inclusive participation and access to decision-making; non-discrimination and equality; accountability and rule of law for all; and transparency and access to information supported by disaggregated data) as well as how it contributes to gender equality and women's empowerment. In this regard, expertise on human rights and gender equality will be ensured in the evaluation teams.

The Commission shall inform the implementing partners at least one month in advance of the dates foreseen for the evaluation missions. The implementing partners 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 country and other key stakeholders. The implementing partners 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 financing of the evaluations shall be covered by another measure constituting a financing decision.

5.3 Audit and Verifications

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 audit or verification assignments for one or several contracts or agreements.

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

6 STRATEGIC COMMUNICATION AND PUBLIC DIPLOMACY

The 2021-2027 programming cycle will adopt a new approach to pooling, programming and deploying strategic communication and public diplomacy resources.

It will remain a contractual obligation for all entities implementing EU-funded external actions to inform the relevant audiences of the Union's support for their work by displaying the EU emblem and a short funding statement as appropriate on all communication materials related to the actions concerned. This obligation will continue to apply equally, regardless of whether the actions concerned are implemented by the Commission, partner countries, service providers, grant beneficiaries or entrusted or delegated entities such as UN agencies, international financial institutions and agencies of EU member states.

However, action documents for specific sector programmes are in principle no longer required to include a provision for communication and visibility actions promoting the programmes concerned. These resources will instead be consolidated in Cooperation Facilities established by support measure action documents, allowing Delegations to plan and execute multiannual strategic communication and public diplomacy actions with sufficient critical mass to be effective on a national scale.

Appendix 1 REPORTING IN OPSYS

An Intervention (also generally called project/programme) is the operational entity associated to a coherent set of activities and results structured in a logical framework aiming at delivering development change or progress. Interventions are the most effective (hence optimal) entities for the operational follow-up by the Commission of its external development operations. As such, Interventions constitute the base unit for managing operational implementations, assessing performance, monitoring, evaluation, internal and external communication, reporting and aggregation.

Primary Interventions are those contracts or groups of contracts bearing reportable results and respecting the following business rule: ‘a given contract can only contribute to one primary intervention and not more than one’. An individual contract that does not produce direct reportable results and cannot be logically grouped with other result reportable contracts is considered a ‘support entities’. The addition of all primary interventions and support entities is equivalent to the full development portfolio of the Institution.

The present Action identifies as;

Action level		
<input checked="" type="checkbox"/>	Single action	Present action: all contracts in the present action
Contract level		
<input type="checkbox"/>	Single Contract 1	<foreseen individual legal commitment (or contract)>
<input type="checkbox"/>	Single Contract 2	<foreseen individual legal commitment (or contract)>
	(...)	
<input type="checkbox"/>	Group of contracts 1	<foreseen individual legal commitment (or contract) 1> <foreseen individual legal commitment (or contract) 2> <foreseen individual legal commitment (or contract) #>