



EN

This action is funded by the European Union

ANNEX 1

of the Commission Decision on the Annual Action Programme 2016 (part 2) in favour of Zimbabwe to be financed from the 11th European Development Fund

Action Document for Support to the Rule of Law and Access to Justice for All

INFORMATION FOR POTENTIAL GRANT APPLICANTS

WORK PROGRAMME FOR GRANTS

This document constitutes the work programme for grants in the sense of Article 128(1) of the Financial Regulation (Regulation (EU, Euratom) No 966/2012), applicable to the EDF in accordance with virtue of Article 37 of the Regulation (EU) 2015/323 in the following sections concerning calls for proposals: 5.4.1 Grants: call for proposals "Support to the Rule of Law and Access to Justice for All" (direct management).

| | | |
|--|--|---------------|
| 1. Title/basic act/ CRIS number | Support to the Rule of Law and Access to Justice for All CRIS number: ZW/FED/ 038-596 financed under the 11 th European Development Fund (EDF) | |
| 2. Zone benefiting from the action/location | Zimbabwe The action shall be carried out at the following location: Zimbabwe | |
| 3. Programming document | National Indicative Programme (NIP) 2014-2020 for Zimbabwe | |
| 4. Sector of concentration/ thematic area | Governance and Institution Building | DEV. Aid: YES |
| 5. Amounts concerned | Total estimated cost: EUR 14 072 223 Total amount of EDF contribution: EUR 12 000 000 This action is co-financed in joint co-financing by: - Government of Germany for an amount of EUR 1 500 000 This action is co-financed by potential grant beneficiaries for an indicative amount of EUR 572 223 | |
| 6. Aid modality and implementa- tion modalities | Project Modality Direct management –grants – call for proposal Indirect management with Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) Indirect management with Government of Zimbabwe | |

| | | | | |
|--|---|--------------------------|------------------------------|--------------------------|
| 7. DAC code(s) | 15130-Legal and Judicial Development | | | |
| b) Main Delivery Channel | Non-governmental organisations (NGOs) and civil society- 20000 | | | |
| 8. Markers (from CRIS DAC form) | General policy objective | Not targeted | Significant objective | Main objective |
| | Participation development/good governance | <input type="checkbox"/> | <input type="checkbox"/> | X |
| | Aid to environment | X | <input type="checkbox"/> | <input type="checkbox"/> |
| | Gender equality (including Women In Development) | <input type="checkbox"/> | X | <input type="checkbox"/> |
| | Trade Development | X | <input type="checkbox"/> | <input type="checkbox"/> |
| | Reproductive, Maternal, New born and child health | X | <input type="checkbox"/> | <input type="checkbox"/> |
| | RIO Convention markers | Not targeted | Significant objective | Main objective |
| | Biological diversity | X | <input type="checkbox"/> | <input type="checkbox"/> |
| | Combat desertification | X | <input type="checkbox"/> | <input type="checkbox"/> |
| | Climate change mitigation | X | <input type="checkbox"/> | <input type="checkbox"/> |
| | Climate change adaptation | X | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Global Public Goods and Challenges (GPGC) thematic flagship | NA | | | |
| 10. United Nations 2030 Agenda and the Sustainable Development Goals (SDGs) | Main SDG Goal: Goal 16 on peace, justice and strong institutions Secondary SDG Goal: Goal 5 on gender equality | | | |

SUMMARY

The 11th European Development Fund (EDF) National Indicative Programme (NIP) envisages support for the rule of law through justice sector reforms and increased access to justice for all without discrimination.

The proposed programme adopts a rights based approach and provides support to the main institutions in the justice sector through a sector-wide approach. The programme design incorporates all key justice institutions and will provide support related to four areas where major challenges were identified during the identification phase: (1) provision of legal services (2) institutional capacity development (staff and systems), (3) research, data analysis and coordination and (4) the fight against corruption.

The overall objective is to support the rule of law through justice sector reforms and increased access to justice for all.

The specific objectives are:

- 1) To increase the independence, competence, integrity and professionalism of the judiciary.
- 2) To enhance the efficiency, transparency, integrity and accountability of the justice delivery systems.
- 3) To enhance the capacity of all citizens, especially woman and vulnerable groups, to exercise their rights and access to justice.

1 CONTEXT

1.1 Country context

In July 2012, the European Council suspended the application of appropriate measures under Article 96 of the Cotonou Agreement¹, which permitted the Government of Zimbabwe and the European Union (EU) to launch the 11th EDF programming exercise in August 2012. A Country Strategy Paper (CSP) 2014-2020 was agreed by the EU and the National Authorising Officer (NAO), after which and following the expiration of the appropriate measures in 2014, the EU's response strategy, the National Indicative Programme was drafted and subsequently signed on 16 February 2015. This marked the resumption of development cooperation between Zimbabwe and the EU.

The adoption of multiple currencies in 2009 curbed the record hyper-inflation that had previously brought the economy to its knees and was followed by a strong rebound and healthy levels of growth. However, growth in Zimbabwe has slowed down since 2013 and remains well below potential, while the country addresses the immediate need for clearing its debt arrears to the international financial institutions (IFIs) and other creditors. The 2011-2012 Poverty Income Consumption Expenditure Survey (PICES) reveals that 72.3% of Zimbabweans are poor, whilst 16.2 % of the households are in extreme poverty. Poverty is most prevalent in rural areas, where 84.3% of people are deemed poor and 30.4% extremely poor. Zimbabwe's Human Development Index (HDI) value for 2014 is 0.509 which put the country in the low human development category, positioning it at 155 out of 188 countries and territories. Some 2.8 million people are food and nutrition insecure due to severe drought conditions in 2015 and early 2016 associated with the El Nino phenomenon.

Zimbabwe's national development programme is encapsulated in a five-year (2013-2018) economic blueprint, the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (ZIMASSET). The Government's transformational agenda is anchored on its commitment to implementing a wide range of developmental programmes that are targeted at establishing a comprehensive national infrastructure with public enterprises reforms as a key area of focuses.

There has been some progress in governance, reflected in the 2015 Mo Ibrahim Index, where Zimbabwe, together with Ivory Coast, made the most progress since 2011, in particular in the areas of safety & rule of law and participation and human rights, although its overall ranking remains low at 44th out of 54.

Zimbabwe's 2013 Constitution contains progressive provisions with regard to the independence of the judiciary, an extensive bill of rights that enshrines the right to equal protection and benefit of the law, the rights of an accused person and gender equality. The process of aligning existing laws to the Constitution is underway, albeit slowly in the absence of any mechanism for setting deadlines or compelling action, and is supported by the EU funded action "Supporting the Constitutional Legislative Alignment Process."

¹ http://ec.europa.eu/europeaid/where/acp/overview/cotonou-agreement/index_en.htm_en

Zimbabwe has ratified most of the key international and regional human rights instruments². It has not, however, signed or ratified a number of key conventions, notably the African Charter on Democracy, Elections and Governance and the Convention Against Torture.

The justice sector in Zimbabwe is made up of the Ministry of Justice Legal and Parliamentary Affairs (MoJLPA), the Judiciary (including traditional courts) supported by the Judicial Services Commission (JSC), the Zimbabwe Republic Police (ZRP), the National Prosecuting Authority (NPA), the Law Society of Zimbabwe (LSZ) and the Zimbabwe Prisons and Correctional Services (ZPCS). The new Constitution ushered in reforms that aim to strengthen the justice sector's efficiency, effectiveness, impartiality and ensure equal protection under the law.

Traditional justice mechanisms are recognised in the Constitution as part of the judiciary³. Customary courts do not have criminal jurisdiction but they constitute an important part of the justice sector in Zimbabwe, especially in rural areas, as they represent the most geographically and economically accessible means for citizens to seek redress.

The Zimbabwe Demographic and Health Survey (2011) reports that 30% of women aged 15–49 years reported having experienced physical violence since age 15. In 2013, a National Baseline Survey on Violence Against Women² reported that two in every three women have experienced gender violence in their lifetime.

1.1.1. Public Policy Assessment and EU Policy Framework

Public administration, governance and performance management constitute one of the ZIMASSET sub-clusters aimed at improving policy formulation, advocacy and coordination, combating corruption and fostering good governance. Under section 7.2 "Social Service Delivery and Poverty Eradication Cluster", ZIMASSET includes a justice-related outcome: "Improved access to justice by the indigent persons".

The MoJLPA and the JSC have developed and are implementing strategic plans that are aligned to ZIMASSET and the Constitution. The NPA, established in 2014 in line with the Constitution, finalised the development of its first five- year strategic plan in September 2015.

Support to justice falls under the governance and institution building component of the NIP. This action document is consistent with EU development policies and in particular the Agenda for Change⁴, which emphasises the need for the EU to continue to support the rule of law and judicial systems in partner countries amongst other democratisation processes. Furthermore, the programme aims to promote gender equality and women's empowerment as foreseen in the EU's Gender Action Plan for 2016-2020⁵.

1.1.2. Stakeholder analysis

The justice sector contains a significant number of institutional bodies, complex procedures, parallel formal and customary systems, all of which tend towards fragmentation and the creation of barriers to access to justice. This both raises key issues in respect of coordination and effectiveness and argues in favour of a broad, sector-wide approach to providing support aimed at ensuring better and more accessible service delivery to citizens, in particular women and vulnerable groups such as children, people with disabilities and the poor in rural and peri-urban areas. All key stakeholders have actively participated in the design of the programme by bringing their inputs, sharing their strategic plans and participating in consultation meetings and workshops.

The JSC is critical to this programme due to its important role in ensuring the quality of

² International Covenant on Civil and Political Rights, International Covenant on Social, Economic and Cultural Rights, Convention on the Elimination of All forms of Discrimination Against Women, Convention on the Rights of the Child, African Charter on Human and People Rights, African Charter on the Rights and Welfare of the Child among others.

³ Sections 163 (1)(f) and 174(b).

⁴ http://ec.europa.eu/europeaid/policies/european-development-policy/agenda-change_en

⁵ <http://www.consilium.europa.eu/en/press/press-releases/2015/10/26-fac-conclusions-gender-development/>

justice delivery, protecting the Constitution and provision of continuous training to the judiciary. The MoJLPA (including the Legal Aid Directorate) plays an important role in coordinating the sector, revising and implementing policy and ensuring that the underprivileged have access to justice. Within the criminal justice system, the NPA, ZRP and ZPCS are key actors⁶. The NPA has developed a five-year strategic plan, part of which will be supported through this programme, while the ZPCS has expressed a need for support to systematically address critical issues with regard to administration and over-crowding in prisons.

The LSZ's role is critical throughout the justice chain in representing clients, contributing to the development of the quality of jurisprudence and monitoring the delivery of justice.

The customary law courts are the main point of access to justice for people in rural areas. The JSC and Chief's Council have expressed interest in participating in the programme with respect to supporting the improvement of traditional justice in line with human rights standards. The Zimbabwe Human Rights Commission (ZHRC) is mandated to protect the public from abuse of power and maladministration by state and public institutions. Support provided to the ZHRC will cut across all three programme objectives.

Civil Society Organisations (CSOs), including those specialising in women's empowerment and gender equality, are critical stakeholders. They provide the bulk of legal assistance to the poor and play an oversight role on the delivery of justice by the state.

The ultimate beneficiaries of the action are the citizens of Zimbabwe and foreigners residing in the country, in particular women and vulnerable populations, who will benefit from better access to an improved justice system.

1.1.3. Priority areas for support/problem analysis

A Justice Sector Assessment Mission was conducted in the country from June to August 2015. It identified critical needs across the justice sector with regard to enhancing professionalism and efficiency on the supply side, while also supporting increased access, in particular for vulnerable groups.

On the supply side of justice, a priority area for support is to enhance the expeditious and quality delivery of justice before, during and after trial. The programme will provide institutional and organisational support targeting the MoJLPA, Judiciary, Prosecution and Police to strengthen their structures and systems for improved delivery of adjudicative, prosecutorial, investigative and administrative functions. This will be accompanied by capacity building for the various justice actors (both judicial and law enforcement) i.e. judges, magistrates, court clerks, prosecutors, police, prison guards, lawyers and traditional leaders in order to enhance to enhance professionalism, competence and integrity through the establishment of sustainable models of continuous professional education and accountability.

On the demand side, the mission highlighted the problems of access to justice due to restraining costs, lack of legal advice and representation, lack of knowledge and inefficiencies in the justice delivery system. Legal aid provided by CSOs is critically important for enabling access to justice for the vulnerable but is largely limited in geographical reach and not sufficiently well coordinated with the Legal Aid Department (LAD) at the MoJLPA. People residing in rural areas rely on customary law courts that are low cost and easily accessible, but which lack capacity in complying with human rights standards, including non-discrimination. The action will therefore support increased access to justice for vulnerable members of society through support to strengthen the LAD, the CSOs, including those providing paralegal services and capacity building for the traditional justice system. Women and girls survivors of

⁶ The Ministry of Women Affairs Gender and Community Development and the Gender Commissions are some of the key institutions established to promote gender equality and women empowerment, state justice institutions will collaborate with them in ensuring access to justice for women.

gender-based violence (GBV) have been assisted through victim friendly courts, special units within the police and provision of services by CSOs. These will need reinforcing and improved coordination by donors and the state and non-state actors service providers.

Complementary support to the ZHRC will enable it to monitor, assess and ensure the observance of human rights and fundamental freedoms in the provision of justice. The ZHRC is facing funding constraints, inadequate capacity building of its staff and lack of resources to fully carry out its mandate.

1.2 Other areas of assessment

Not applicable.

2 RISKS AND ASSUMPTIONS

| Risks | Risk level (H/M/L) | Mitigating measures |
|---|--------------------|---|
| Deterioration of political environment prevents or suspends the support to democratic institutions. | M | Close monitoring and enhanced policy and political dialogue among authorities, the EU, development partners, civil society and other relevant stakeholders. |
| Political pressure and interference from various organs of the state is exerted on the implementing partners that may create a hostile environment and compromise the programme's independence and quality. | M | Close monitoring and enhanced policy and political dialogue among authorities, the EU, and other relevant stakeholders. Facilitation of exchange visits and sharing and networking with regional and international bodies in order to learn best practices as well as put the Zimbabwean institutions on the regional stage for peer review. |
| Susceptibility to corrupt practices by citizens and justice actors. | M | Maximising transparency: i) by the collection and publication of data; ii) through the oversight provided by the JSC and CSOs; iii) through efficiency measures that remove opportunities for corruption. |
| Lack of policy dialogue and coordination between relevant institutional bodies. | M | Close monitoring, promotion of forum for dialogue among justice institutions and civil society, promotion of government led coordination mechanisms. |
| Assumptions | | |
| Government of Zimbabwe remains committed to the implementation of reforms in the framework of the Constitution as much as inter-institutions policy dialogue and coordination. Political dynamics allow the institutions supported to effectively operate with significant independence and autonomy, and actually impact on the wider environment. The reengagement process between the EU and the Government of Zimbabwe will progress positively resulting in regular political dialogue which allows for open discussions on issues which affect the democratic process. State justice institutions are committed to the implementation of their institutional capacity building plans. Willingness by targeted institutions to increase enforcement of ethical behaviour and integrity oversight. | | |

3 LESSONS LEARNT, COMPLEMENTARITY AND CROSS-CUTTING ISSUES

3.1 Lessons learnt

- Projects supported by the EU in the justice sector in the past have had some success in enhancing access to justice by the poor through CSOs and supporting justice institutions to implement reforms in line with the Constitution, for instance augmenting the capacities of the judiciary to assert its independence and improve its capacity to deliver justice fairly and impartially.
- Capacity challenges have the potential to adversely impact on the implementation of the programme and achievement of expected outcomes. Therefore sustainable capacity building will be a priority for the programme.
- CSOs have an important role as both gap fillers (where government has no capacity) and bridge makers (between communities and justice institutions), as well as participating in and facilitating policy dialogue amongst stakeholders.
- A key lesson learnt from the Denmark-JSC partnership is the need for stronger financial and political commitment from the government in order to secure sustainability of the actions. The JSC has been fully committed to implementing judicial reforms and is prepared to take over some aspects of the project using its own resources, as the Danish bilateral cooperation is phasing out.
- Constant involvement and consultation with government and relevant stakeholders is important for building trust and also ensuring local ownership of the process. The lesson learnt from the United Nations Development Programme (UNDP) Access to Justice programme is that a sector-wide approach requires development partners to better coordinate and harmonise their programmes.

3.2 Complementarity, synergy and donor coordination

The programme directly supports a co-ordinated approach to the justice sector based on local level and national level capacity building and policy dialogue. This programme will build on past and ongoing EU supported programmes, such as the Support to Judicial Reforms project implemented by the International Commission of Jurists (ICJ), and to the ZHRC and on institutional initiatives such as the pre-trial diversion programme, help desks at courts and Victim Friendly Units of the ZRP.

The programme will complement the Danish support to the justice sector, which is coming to an end as Denmark closes its embassy and development programme in Zimbabwe. The proposed programme therefore takes on an additional significance in taking on the lead role in support to the sector, building on what has been achieved.

A Civil Society funding mechanism called Transparency, Responsiveness, Accountability and Citizen Engagement (TRACE) has been set up by the Department for International Development (DFID), Denmark and Australia, focused on the role of the CSOs in good governance, including access to justice.

There will also be synergies with justice projects supported by UN Agencies, for instance the Pre-trial Diversion Programme for juveniles being supported by UNICEF and UNDP's programme, "Enhancing Justice Delivery and Human Rights for All".

3.3 Cross-cutting issues

Women and girls often come into contact with the formal justice system as victims of violence rather than perpetrators. The programme supports assistance to these women and girls in police, prison and at court providing basic legal advice and support services. The programme also provides support for empowering women and access to information and in reinforcing gender sensitisation in the justice sector and for the justice actors.

The Justice Programme mainstreams a rights-based approach both in terms of international standards and the Constitution of Zimbabwe with particular focus on the bill of rights.

The programme is not expected to impact on the environment.

4 DESCRIPTION OF THE ACTION

4.1 Objectives/results

This programme is relevant for the United Nations 2030 Agenda for Sustainable Development. It contributes primarily to the progressive achievement of SDG 16 on peace, justice and strong institutions but also promotes progress towards Goal 5 on gender equality. This does not imply a commitment by the country benefiting from this programme.

The overall objective is to support the rule of law through justice sector reforms and increased access to justice for all.

Specific Objective 1: To increase the independence, competence, integrity and professionalism of the judiciary.

Result 1.1 Enhanced functioning of the formal courts through improved management competencies and technical capacities of the JSC in line with the institutional strategic plan.

Result 1.2 Efficient, effective, gender sensitive and human rights oriented justice delivery in traditional courts.

Specific Objective 2: To enhance efficiency, transparency, integrity and accountability in the justice delivery systems.

Result 2.1 Capacities of the MoJLPA's Policy and Legal Research Department are reinforced in policy, research and coordination of the justice sector.

Result 2.2 Strengthened institutional capacities particularly internal systems and human resource management for key justice institutions being the NPA, ZPCS and ZRP in line with the institutional strategic plans.

Result 2.3 Improved public perceptions on corruption by justice institutions through enhanced accountability mechanisms and a robust anti-corruption campaign by the JSC, LSZ, ZRP, ZPCS and NPA.

Specific Objective 3: To enhance the capacity of all people, especially women and vulnerable groups⁷, to exercise their rights and access to justice.

Result 3.1 Capacities of the Legal Aid Directorate are reinforced and effective coordination and synergies with other legal aid providers is in place.

Result 3.2 Enhanced promotion, protection and enforcement of gender equality, human rights and administrative justice in Zimbabwe through improved capacities of the Zimbabwe Human Rights Commission.

Result 3.3 Strengthened networks and capacities of paralegals and lawyers to provide legal services, education and awareness to vulnerable groups in particular survivors of GBV and people in places of detention.

4.2 Main activities

Under Result 1.1 indicative main activities are:

- Support and expand information kiosks and help desks at selected courts.
- Implementation of the JSC's capacity building plan and evaluation and monitoring of its impact.

⁷ Vulnerable groups include accused persons in remand and in police holding cells, people living with disabilities, people living with HIV/AIDS, those residing in peri-urban and rural areas amongst others.

- Implementation of the Protocol on the Multi-Sectoral Management of Sexual Abuse and Violence in Zimbabwe.
- Strengthen the implementation of non-custodial measures embracing community services.

Under Result 1.2 indicative main activities are:

- Conduct a capacity needs assessment of Headmen, Chiefs and their court assessors.
- Support the implementation and expansion of the training module (developed by the Legal Resources Foundation (LRF) and JSC through EU support) for the traditional leaders to also cover court assessors, training areas to include correct application of the law, human rights, record keeping and gender equality.

Under Result 2.1 indicative main activities are:

- Provide expertise to the policy and research department of the MoJLPA on implementation of departmental plans and of the Departmental Integrated Performance.
- Support effective coordination, communication and cooperation in the justice sector.
- Support to the pre-trial diversion programme in partnership with MoJLPA and other justice institutions.

Under Result 2.2 indicative main activities are:

- Commissioning baseline surveys (where baseline data does not exist), to establish a starting point on key issues such as the knowledge of staff, public corruption perception, the equipment and systems needs. Follow up surveys, including final evaluation, will gauge the impact the project has had in supporting capacity building of the NPA, ZPCS, and ZRP against initial baselines.
- Support to the NPA, ZPCS, and ZRP for the development and execution of a capacity building plan and the evaluation of its subsequent impact.
- Design and installation of automated case management systems for selected departments and stations of the NPA and ZPCS and training for the utilization of systems including on data analysis.
- Support research and steps towards introduction of probation services.

Under Result 2.3 indicative main activities are:

- Support to the complaints and handling procedure system in place within the NPA, ZPCS, ZRP, and LSZ.
- Support the implementation of the sector-wide anti-corruption campaign.

Under Result 3.1 indicative main activities are:

- Design and install a case management system for the LAD and train staff on use of the system including sex and age disaggregated data analysis to provide evidence for reform.
- Support the development and implementation of a capacity building plan for LAD lawyers and support staff and evaluation and monitoring of its impact.
- Procurement of equipment and relevant tools of trade for the LAD offices

Under Result 3.2 indicative main activities are:

- Support ZHRC's continued organisational development process, internal process optimization, and effective implementation of roles and responsibilities.
- Support to ZHRC interventions that contribute to advancement, protection and enforcement of human rights, and administrative justice in Zimbabwe.

Under Result 3.3 indicative main activities are:

- Expand the number and geographical reach of paralegals to provide basic legal advice and education to people in rural and peri-urban areas, with particular attention to GBV.
- Support the development of a strategy and action plan and its implementation to reduce prison overcrowding in partnership with CSOs, prisons and other State Justice Institutions (SJIs).
- Scale-up legal aid access and other supporting services in rural areas for survivors of sexual violence through legal aid clinics, counselling and one-stop service provision centres.
- Support the strengthening of the pro Deo system.

4.3 Intervention logic

Access to justice has been shown to be constrained by a broad series of factors on both the supply and demand side affecting pre-trial, trial and post-trial stages of the justice delivery system, involving a significant number of institutional actors. The programme will therefore be based on a sector-wide and rights based approach, addressing three identified objectives: enhanced professionalism and integrity of the judiciary; enhanced performance, including integrity and transparency, of the justice delivery systems; and enhanced capacity of all people, especially vulnerable groups, to access the justice system. Critically, the approach taken will support institutional capacity development in support of the strategic plans of the institutional bodies concerned, in order to strengthen sustainability based on ownership.

The provision of support for the capacity development of the formal justice institutions will result in enhanced people-centred justice delivery. Mainstreaming gender, human rights, sector coordination and the fight against corruption is expected to improve the sector's responsiveness to the needs of the population and enhance public perception on their effectiveness and efficiency.

On the demand side, CSOs, LSZ and the LAD will be supported to enhance the delivery of legal services (advice, representation and education) in a complementary and collaborative manner. At the same time, a specific focus on key issues involving denial of or barriers to justice, such as the holding of accused persons in police holding cells and remand prison, as well as provision of support to GBV victims, will ensure that the assistance goes to the population most severely affected by the lack of access to justice. Support for enhanced performance of traditional courts will complement this through seeking to ensure that the customary justice system, which remains for many the only easily accessible source of redress, performs better in providing fair and equitable justice.

A mid-term review will be conducted in order to assess the progress and the feasibility of continuing with the programme.

5 IMPLEMENTATION

5.1 Financing agreement

In order to implement this action, it is foreseen that a financing agreement will be concluded with the Republic of Zimbabwe, referred to in Article 17 of Annex IV to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part (ACP-EU Partnership Agreement).

5.2 Indicative implementation period

The indicative operational implementation period of this action, during which the activities will be carried out and the corresponding contracts and agreements implemented 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 authorising officer responsible by amending this decision and the relevant contracts and agreements; such amendments to this decision constitute non-substantial amendment in the sense of Article 9(4) of Regulation (EU) 2015/322.

5.3 Implementation of the budget support component

Not applicable.

5.4 Implementation modalities

5.4.1. Grants: call for proposals "Support to the Rule of Law and Access to Justice for All" (direct management)

(a) Objectives of the grants, fields of intervention, priorities of the year and expected results

The implementation modality linked to Results 1.1, 1.2, 2.3 and 3.3 will be direct management through a Call for Proposals. The overall objective of the Call will be "to support the rule of law through justice sector reforms and increased equal access to justice for all". The Call will be organised in 3 lots:

LOT 1: To increase the independence, competence, integrity and professionalism of the judiciary (Specific Objective 1).

Result 1.1 Enhanced functioning of the formal courts through improved management competencies and technical capacities of the JSC in line with the institutional strategic plan.

Result 1.2 Efficient, effective, gender sensitive and human rights oriented justice delivery in traditional courts.

LOT 2: To enhance the capacity of all people, especially woman and vulnerable groups, to exercise their rights and access to justice (Specific Objective 3).

Result 3.3 Strengthened networks and capacities of paralegals and lawyers to provide legal services, education and awareness to vulnerable groups in particular survivors of GBV and people in places of detention.

LOT 3: To enhance efficiency, transparency, integrity and accountability in the justice delivery systems (Specific Objective 2).

Result 2.3 Improved public perceptions on corruption by the justice institutions through enhanced accountability mechanisms and a robust anti-corruption campaign by the JSC, LSZ, ZRP, ZPCS and NPA

(b) Eligibility conditions

The initiatives to be financed shall be initiated and directly implemented by legal entities with demonstrable experience on rule of law and access to justice in Zimbabwe.

As applicant: the eligibility of applicants is restricted to all types of Civil Society Organisations, local authorities, public bodies, public sector operators and their associations, originating from countries eligible for the European Development Fund, as well as International Organisations.

Co-applicant and affiliated entities: the eligibility of co-applicant and affiliated entities is restricted to all entities eligible as applicant.

Subject to information to be published in the call for proposals, the indicative amount of the EU contribution per grant is between EUR 250 000 and EUR 1 500 000 and the grants may be awarded to sole beneficiaries and to consortia of beneficiaries (coordinator and co-beneficiaries).

The indicative duration of the grant (its implementation period) is between 24 and 48 months.

(c) Essential selection and award criteria

The essential selection criteria are financial and operational capacity of the applicant.

The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

(d) Maximum rate of co-financing

The maximum possible rate of co-financing for grants under this call is 90%.

In accordance with Article 192 of Regulation (EU, Euratom) No 966/2012 applicable in accordance with Article 37 of Regulation (EU) 2015/323 if full funding is essential for the action to be carried out, the maximum possible rate of co-financing may be increased up to 100%. The essentiality of full funding will be justified by the Commission's authorising officer responsible in the award decision, in respect of the principles of equal treatment and sound financial management.

(e) Indicative timing to launch the call

First trimester 2017.

5.4.2 Indirect Management with GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit)

A part of this action, support to the ZHRC, may be implemented in indirect management with GIZ in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012 applicable in accordance with Article 17 of Regulation (EU) 2015/323. This implementation entails the activities identified under Result 3.2 (support ZHRC's continued Organisational Development process, internal process optimization, and effective implementation of roles and responsibilities; support to ZHRC interventions that contribute to advancement, protection and enforcement of human rights, and administrative justice in Zimbabwe). This implementation modality is justified because GIZ has been working closely with the ZHRC and has the technical and administrative expertise to manage the funds and confirmed adequate co-financing for the action. GIZ is in the process of developing a programme with the ZHRC.

The entrusted entity will mainly (core of the activities) carry out budget-implementation tasks for the execution of all the activities mentioned above. Namely: have a margin of discretionary power to implement the action, manage procurement and grant award procedures, awarding, signing and executing the resulting procurement contracts and grant contracts, accepting deliverables, carrying out payments and recovering the funds unduly paid.

If negotiations with the above-mentioned entrusted entity fail, that part of this action may be implemented in direct management in accordance with the implementation modalities identified in section 5.4.4.

5.4.3. Indirect management with the Government of Zimbabwe

A part of this action (linked to the implementation of the following: Result 3.1 Capacities of the Legal Aid Directorate and other legal aid providers is reinforced and effective coordination and synergies are in place; Result 2.1 Capacities of the Ministry of Justice, Legal and Parliamentary Affairs are reinforced in policy, research and coordination of the justice sector; Result 2.2 Strengthened institutional capacities particularly internal systems and human resource management for key justice institutions being the NPA, ZPCS and ZRP in line with the institutional strategic plans) may be implemented in indirect management with Zimbabwe in accordance with Article 58(1)(c) of the Regulation (EU, Euratom) No 966/2012 applicable in accordance with Article 17 of Regulation (EU) 2015/323 according to the following modalities.

The Government of Zimbabwe will act as the contracting authority for the procurement and grant procedures. The Commission will control ex ante all the procurement procedures except in cases where programme estimates are applied, under which the Commission applies ex ante control for procurement contracts above EUR 100 000 (or lower, based on a risk assessment)

and may apply ex post control for procurement contracts up to that threshold. The Commission will control ex ante the grant procedures for all grant contracts.

Payments are executed by the Commission except in cases where programmes estimates are applied, under which payments are executed by the partner country for direct labour and contracts below EUR 300 000 for procurement and up to EUR 300 000 for grants.

The financial contribution does not cover the ordinary operating costs incurred under the programme estimates.

In accordance with Article 190(2)(b) of Regulation (EU, Euratom) No 966/2012 and Article 262(3) of Delegated Regulation (EU) No 1268/2012 applicable in accordance with Article 36 of Regulation (EU) 2015/323 and Article 19c(1) of Annex IV to the ACP-EU Partnership Agreement, the National Authorising Officer of Zimbabwe shall apply procurement rules of Chapter 3 of Title IV of Part Two of Regulation (EU, Euratom) No 966/2012. These rules, as well as rules on grant procedures in accordance with Article 193 of Regulation (EU, Euratom) No 966/2012 applicable in accordance with Article 17 of Regulation (EU) 2015/323, will be laid down in the financing agreement concluded with the Government of Zimbabwe.

5.4.4 Changes from indirect to direct management mode due to exceptional circumstances

In case of exceptional circumstance which will render impossible the implementation of the component under 5.4.2 in indirect management, these component will be managed in direct management as follows:

Procurement (direct management)

| Subject in generic terms, if possible | Type (works, supplies, services) | Indicative number of contracts | Indicative trimester of launch of the procedure |
|---|----------------------------------|--------------------------------|---|
| Main activities under Result 3.2 "Enhanced promotion, protection and enforcement of gender equality, human rights and administrative justice in Zimbabwe through improved capacities of the Zimbabwe Human Rights Commission" | Services | 1 | Second Trimester 2017 |

In case of exceptional circumstance which render impossible the implementation in indirect management, the procurements of service and supply to achieve Result 2.1 "Capacities of the MoJLPA's Policy and Legal Research Department are reinforced in policy, research and coordination of the justice sector", Result 2.2 "Strengthened institutional capacities particularly internal systems and human resource management for key justice institutions being the NPA, ZPCS and ZRP in line with the institutional strategic plans", and Result 3.1 "Capacities of the Legal Aid Directorate are reinforced and effective coordination and synergies with other legal aid providers is in place" will be launched and managed by the Commission on behalf of the Government of Zimbabwe. Should this be the case, tenders will be launched indicatively during the 2nd trimester 2017 and the 2nd trimester 2018.

5.5 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.

The Commission's authorising officer responsible may extend the geographical eligibility in accordance with Article 22(1)(b) of Annex IV to the ACP-EU Partnership Agreement on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realization of this action impossible or exceedingly difficult.

5.6 Indicative budget

| | EU contribution (in EUR) | Indicative third party contribution (in EUR) |
|---|-------------------------------------|---|
| 5.4.1 Grants: call for proposals "Support to the Rule of Law and Access to Justice for All" (direct management) | 5 150 000 | 572 223 |
| 5.4.2 Indirect management with GIZ | 1 500 000 | 1 500 000 |
| 5.4.3 Indirect management with Government of Zimbabwe | | |
| - Service Contract | 3 000 000 | |
| - Programme Estimate | 1 500 000 | |
| – Evaluation, 5.10 – Audit | 250 000 | N.A. |
| 5.11 – Communication and visibility | 100 000 | N.A. |
| Contingencies | 500 000 | N.A. |
| Totals | 12 000 000 | 2 072 223 |

5.7 Organisational set-up and responsibilities

Programme Steering Committee (PSC)

A Programme Steering Committee (PSC) shall be established to oversee and direct the overall direction of the project. The PSC shall comprise of main actors involved in the action, MoJLPA, LAD, ZPCS, ZRP, NPA, LSZ, EU, implementing partners and CSOs. Technical experts shall participate in SC meetings whenever relevant. The PSC shall be chaired by the NAO or it shall be on a rotational basis.

The PSC shall monitor the overall implementation of the programme, review programme progress, co-ordinate the different results areas and provide such guidance as is necessary to ensure the achievement of the programme objectives. It will also provide support to the MoJLPA secretariat to facilitate communication, co-operation and co-ordination between the justice institutions, service providers and their agents. The PSC shall approve the programme inception report, as well as annual work plans and financial and narrative reports, and monitor the progress of the programme. The PSC may also be invited to monitor activities. Meetings of the PSC shall take place every quarter or more often as needed. These meetings shall be prepared in advance with clear agendas for discussion and documentation in support. Terms of Reference for the PSC shall be drawn up to specify its role and objectives.

Project Technical Committees (PTC)

A PTC shall be established for each institution with the objective of managing the day-to-day implementation of the project ensuring compliance with grant requirements such project visibility. The PTC shall monitor project implementation compiling progress reports and

identifying challenges and opportunities to be reported at the PSC. The PTC shall consist of at least two seconded senior staff of the institution, the technical experts/implementing partner. The PTC can invite another CSO or institution to participate in their meeting whenever relevant. The PTC shall meet bi-monthly and the EU may attend.

5.8 Performance monitoring and reporting

The day-to-day technical and financial monitoring of the implementation of this action will be part of the implementing partner's responsibilities. To this end, 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. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

Independent consultants recruited directly by the Commission will carry out external monitoring missions (ROM). Progress will be monitored by analysing the key performance indicators, which are laid down in the Logical Framework for the programme the EU Delegation in Zimbabwe will be actively involved in the project's coordination mechanisms and supervision of the project.

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).

In the first year of project implementation, the implementing partners will commission baseline surveys to be carried out by independent experts/think tanks selected through a competitive procedure. The baselines will establish data related, to public perceptions on corruption, courts efficiency and effectiveness and number of GBV cases. Follow-up surveys will be carried out at the end of the project in 2019 to measure the change or impact of the programme. Various data for indicators will also measure progress on a continuous basis following the strengthening of data management systems for selected state justice institutions.

5.9 Evaluation

Having regard to the importance of the action, a mid-term evaluation will be carried out for the purpose problem solving, in particular with respect to case management and technical capacity building in the respective institutions and a final evaluation will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that this is the first programme in justice sector in Zimbabwe with a sector-wide approach for this action or its components via independent consultants contracted by the Commission.

The Commission shall inform the implementing partner at least 30 days in advance of the dates foreseen for the evaluation missions. The implementing partner 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 partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

Indicatively, two contracts for evaluation services shall be concluded under a framework contract in 2019 and 2021.

5.10 Audit

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

Indicatively, two contracts for audit services shall be concluded under a framework contract in 2017 (expenditure verification of Programme Estimate for the entire duration of the Programme) and 2021.

5.11 Communication and visibility

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

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation and supported with the budget indicated in section 5.6 above.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country, contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

6 PRE-CONDITIONS

Not applicable.

APPENDIX - INDICATIVE LOGFRAME MATRIX (FOR PROJECT MODALITY)

The activities, the expected outputs and all the indicators, targets and baselines included in the logframe matrix are indicative and may be updated during the implementation of the action without an amendment to the financing decision. The indicative logframe matrix will evolve during the lifetime of the action: new lines will be added for listing the activities as well as new columns for intermediary targets (milestones) when it is relevant and for reporting purpose on the achievement of results as measured by indicators. Indicators will be sex disaggregated whenever relevant.

| | Intervention logic | Indicators | Baselines (inc reference year) | Targets (incl. reference year) | Sources and means of verification | Assumptions |
|------------------------------------|---|---|---|--|--|---|
| Overall objective: Impact | To support rule of law through justice sector reforms and increased equal access to justice for all. | OO I1: Ibrahim Index of African Governance score OO I2: Status of access to justice by women and vulnerable people | OOI1B: 41.0/100 OOI2B: Limited access to justice and inadequate access to government legal aid services.(<i>UN Country analysis for Zimbabwe 2014</i>) | OOI1 T: 44.0 (2019) OOI1T: Improved capacity (number, geographical reach and quality of legal aid provided) of state and non-state legal aid and enhanced access to justice by women and vulnerable people (2019) | OOI1S: Transparency International reports, Worldwide Governance Indicators OOI2S: Stakeholders reports, Evaluation reports, Government policy papers, | |
| Specific objective 1 Outcome(s) | SO1: To increase the independence, competence, integrity and professionalism of the judiciary. | SO1 I1: Case backlog in Magistrates courts.* (NIP R2.2 I1) SO1 I2: Public perception on efficiency and effectiveness of the courts | SO1I1B: Backlog as at May 2016 is at 3216 cases. (2015) SO1 I2B: 66% perceived courts as fair, 68% satisfied with court staff ability to provide information (DANIDA Survey2014) | SO1I1T: 3000 cases by 2019 SO1I2T: 76% perceive courts as fair, 78% satisfied with court staff ability to provide information. (2019) | SO1 I1S: JSC reports, Evaluation Reports SO1 I2S: Survey Findings, Evaluation reports, | <p>The Government of Zimbabwe remains committed to the implementation of reforms in the framework of the Constitution, as much as inter-institutions dialogue and coordination.</p> <p>The reengagement process between the EU and the Government of Zimbabwe will progress positively resulting in regular political dialogue.</p> |

| | | | | | | |
|-----------------------------------|---|--|--|--|---|--|
| Specific objective 2 (Outcome) | SO2: To enhance efficiency, transparency, integrity and accountability in the justice delivery systems | SO2 I1: Technical competencies of lawyers, police, prosecutors and prison officers in selected areas such as Trafficking in persons, gender equality, Constitution, cyber-crime, electoral litigation | SO2 I2B: Limited training of justice actors in emerging developments or specialised areas (<i>EU Programme Formulation report 2016</i>) | SO2 I2 T: Increased competencies of lawyers, police, prosecutors and prison officials in emerging developments/specialised areas.(2019) | SO2 I2S: Court records /Decisions, Reports from Civil Society, NPA, LSZ,ZRP,ZPCS reports, media reports, Evaluation reports, | |
| | | SO2 I2: Percentage of resolutions made during Sector coordination meetings that are implemented. | SO2 I2B: Limited implementation of recommendations from SJIs coordination meetings. | SO2 I2T: At least 40% of resolutions implemented. (2019) | SO2 I2S: SJIs and CSO reports, Media Reports, Evaluation/Monitoring Reports | |
| | | SO2 I3: Number of accused persons in remand prisons(disaggregated by sex and age)* (NIP R2.3 I2) | SO2 I3B: 2854 prisoners on remand | SO2 I3T: 2500 prisoners (2019) | SO2 I3S: Prisons statistical reports, media and stakeholder reports | |
| | | SO2 I4: Public corruption perception (disaggregated by sex) of the State Justice Institutions (SJIs) | SO2 I4B: Baseline Survey to be carried out in the first year of the programme | SO2 I4T: Targets to be set after survey | SO2 I4S: Corruption Perception Survey Findings, media and stakeholder reports | |
| | | SO2 I5: Practitioners and court users (disaggregated by sex) perception of the SJIs' efficiency and effectiveness | SO2 I5B: Survey to be carried out in the first year of the programme | SO2 I5T: Targets to be set after survey | SO2 I5S: Survey Findings, SJIs peer review reports, CSO reports | |

| | | | | | | |
|-----------------------------------|--|---|---|---|---|--|
| Specific objective 3 (Outcome) | SO3: To enhance the capacity of all people, especially woman and vulnerable groups, to exercise their rights and access to justice. | SO3 I1: Number of individuals directly benefiting from Justice, Rule of Law and Security Sector Reform programmes funded by EU ** (EU RF L2 # 3) GAP | SO3 I1B: 18 230 Female 11 300, Male 6930 in 2015 | SO3 I1T: 27 000 , Female 17000, Male 10000 (2019) | SO3 I1S: Survey findings, CSO reports | |
| | | SO3 I2: Number of people directly benefiting from legal aid programmes supported by the EU (sex disaggregated)** (EU RF L2 # 4) * (NIP R2.2 I2) GAP | SO3 I2B: 8486, Male 2867 F 5619..... (2015) | SO3 I2T: To increase to 12486, Male 4867, Female 7619 (2019) | SO3 I2S: Court records, Reports from Civil Society and Legal Aid Directorate | |
| | | SO3 I3: % of referred cases of gender and sexual based violence against women and children that are investigated and sentenced. | SO3 I3B: Baseline to be established in Year 1 | SO3 I3T: Target to be set after baseline (2019) | SO3 I3S: CSO and SJI s reports | |
| | | SO3 I4: ZHRC's compliance with Paris Principles | SO3I4B: ZHRC acquired the A status in May 2016. | SO3 I4T: To maintain the A status | SO3 I4S: ZHRC Reports, UNDP reports | |

| | | | | | | |
|----------------|--|---|--|--|---|--|
| Outputs | <p>Output 1.1 Enhanced functioning of the formal courts through improved management competencies and technical capacities of the JSC in line with the institutional strategic plan.</p> | <p>R1.1 I1: Percentage of judgements deemed to be of good quality</p> | <p>R1.1 I1B: 50% in 2015</p> | <p>R1 I1T: 65% by 2019</p> | <p>R1 I1S :SJI s Reports . Evaluation Findings</p> | <p>Stakeholders involved in the action demonstrate commitment and willingness to fully implement the programme and also apply the skills and knowledge gained.</p> |
| | <p>Output 1.2 Efficient, effective, gender sensitive and human rights oriented justice delivery in traditional courts.</p> | <p>R1.2 I1: Number of gender sensitive and human rights oriented judgements delivered by Chiefs.</p> | <p>R1.2 I1B: To be established during inception</p> | <p>R1.2 I1T: To be established during inception</p> | <p>R1.2 I1S: Court Monitoring Reports, Project Reports</p> | <p>Willingness by state justice institutions, civil society and traditional leaders to fully implement recommendations</p> |
| | <p>Output 2.1 Capacities of the MoJLPA are reinforced in policy, research and coordination of the justice sector.</p> | <p>R2.1 I1: Number of coordination meetings held.</p> | <p>R2.1 I1B: Four meetings held in 2015</p> | <p>R2.1 I1T:To increase to 6 meetings per year (2019)</p> | <p>R2.1. I1 S: MoJLPA reports, CSO Reports</p> | |

| | | | | | | |
|---------|--|---|---|--|--|--|
| Outputs | <p>Output 2.2: Strengthened institutional capacities particularly internal systems and human resource management for key justice institutions being the NPA, ZPCS and ZRP in line with the institutional strategic plans.</p> | <p>R2.2 I1: Status of Case establishment and case set down process</p> | <p>R2.2 I1B: Case set-down and case establishment process is fraught with delays and lack of coordination inefficiencies</p> | <p>R2.2 I1T Case set down and case establishment processes enhanced (2019)</p> | <p>R2.2 I1S: SJIs reports, CSO Reports. Evaluation report</p> | |
| | <p>Output 2.3 Improved public corruption perception of justice institutions through enhanced internal accountability mechanisms and a robust anti-corruption campaign by the JSC, LSZ, ZRP, ZPCS and NPA.</p> | <p>R2.2 I2: Status of sex –age disaggregated data analysis and sharing amongst SJI</p> | <p>R2.2 I2B:Limited sharing of data due to outdated data collection and analysis methods</p> | <p>R2.2 I2T: Increased sharing of data following installation of case management systems (2019)</p> | <p>R2.2 I2S: SJIs reports, CSO reports.</p> | |
| | <p>Output 3.1 Capacities of the Legal Aid Directorate is reinforced and effective coordination and synergies with other legal aid providers is in place</p> | <p>R2.3 I2: Number of corruption cases prosecuted</p> | <p>R2.3 I2B: To be established after set up of specialised courts in 2016</p> | <p>R2.3 I2T: Target to be set after baseline</p> | <p>R2.3 I2S: SJIs data bases</p> | |
| | | <p>R3.1 I2: State of Case management by LAD.</p> | <p>R3.1 I2B: No automated Case Management System in place</p> | <p>R3.1 I2T: Automated case management system installed and utilised.</p> | <p>R3.1 I2S: Evaluation Report, LAD reports</p> | |

| | | | | | | |
|----------------|---|--|---|---|--|--|
| Outputs | <p>Output 3.2 Enhanced promotion, protection and enforcement of human rights and administrative justice in Zimbabwe through improved capacities of the Zimbabwe Human Rights Commission.</p> | <p>R3.2 I2: Status of Human rights reporting by the ZHRC</p> | <p>R3.2 I2B: One report published in 2015</p> | <p>R3.2 I2T: Two reports on human rights accessible to the population and recognised by specialised human rights institutions (2019)</p> | <p>R3.2 I2S: ZHRC Reports, Evaluation and CSO reports</p> | |
| | <p>Output 3.3 Strengthened networks and capacities of paralegals and lawyers to provide legal services, education and awareness to vulnerable groups in particular survivors of gender based violence and people in places of detention.</p> | <p>R3.3 I2: Number of accused in places of detention receiving free legal assistance.</p> | <p>R3.3 I2B: Baseline to be established at inception</p> | <p>R3.3 I2T: To be set after baseline</p> | <p>R3.3 I2S: ZPCS Reports, CSO reports</p> | |