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## ANNEX 2

of the Commission Implementing Decision on the Annual Action Programme 2016 in favour of the Republic of South Africa to be financed from the general budget of the Union

### Action Document for Enhancing Legislature Oversight Programme

<b>1. Title/basic act/ CRIS number</b>	Enhancing Legislature Oversight Programme. CRIS number: DCI-AFS/2016/039-291 financed under Development Cooperation Instrument			
<b>2. Zone benefiting from the action/location</b>	Southern Africa, Republic of South Africa The action shall be carried out at the following location: Republic of South Africa.			
<b>3. Programming document</b>	EU - South Africa Multi-annual Indicative Programme ( MIP) 2014-2020			
<b>4. Sector of concentration/ thematic area</b>	Sector 3: Building a developmental and capable state.	DEV. Aid: YES <sup>1</sup>		
<b>5. Amounts concerned</b>	Total estimated cost: EUR 10 000 000 Total amount of EU budget contribution EUR 10 000 000			
<b>6. Aid modality(ies) and implementation modality(ies)</b>	Project Modality Indirect management with the Republic of South Africa			
<b>7 a) DAC code(s)</b>	151 – Government and civil society, general; 15152 - Legislatures and political parties (100%)			
<b>b) Main Delivery Channel</b>	10000 Public Sector Institutions			
<b>8. Markers (from CRIS DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>

<sup>1</sup> Official Development Aid is administered with the promotion of the economic development and welfare of developing countries as its 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"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>
	Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>
<b>9. Global Public Goods and Challenges (GPGC) thematic flagships</b>	Not relevant			
<b>10. (Sustainable Development Goals (SDGs))</b>	Main SDG Goal: Goal 16 " <i>Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels</i> " Secondary SDG Goals: Goal 5 " <i>Achieve gender equality and empower all women and girls</i> " and Goal 17." <i>Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development</i> "			

**SUMMARY:**

The Enhancing Legislature Oversight Programme, with a budget of EUR 10 000 000, will support the further development of the South African Legislative Sector (SALS) pursuing its Sector Policy and Strategic Framework 2014-2019.

The action is fully embedded into the South African Constitution and in the vision of the National Development Plan - Vision 2030, which notes that "*parliamentary accountability is weak, with Parliament failing to fulfil its most basic oversight role*". By supporting the internationally innovative approach developed by SALS during previous EU funded programmes, the action will particularly focus on strengthening oversight as a main objective, as well as through enhancing public participation, strengthening capacities of Members of Parliament and Members of Provincial Legislatures and core staff, strengthening the sector, and enhancing the sharing of experiences at domestic and international level. Specific attention will be paid to the provincial level, and to the complementarity with other aspects of the sector on 'building a capable and developmental State' from MIP 2014-2020 and with the parliamentary dialogue between the South African Parliament and the European Parliament.

The programme relates to "Building a capable and developmental State" sector area of the EU-South Africa 2014-2020 MIP, particularly its Specific Objective 1: Systems of oversight strengthened (Result R1.1: Capacities and role of the legislative sector to scrutinise and oversee executive action are enhanced).

## 1. CONTEXT

### 1.1. Sector/Country/Regional context/Thematic area

South Africa is classified as an upper middle-income country with a gross national income (GNI) per capita of USD 6 800 (2014). Gross domestic product (GDP) growth rates have been relatively low (2-3%) over the last years and insufficient to reduce the unemployment rate, which currently stands at 24.9% (2014). More than half the population is below 25 years, and youth unemployment rate stands at 51.3% (2014). South Africa is among the most unequal countries in the world, with a Gini coefficient of 0.64 (2014).

South Africa ranks relatively high on international indices of democratic development: 37 on the Economist Intelligence Unit (EIU)'s Democracy Index (2015); 71 on Democracy Ranking (2015); and 26 on the Bertelsmann Stiftung Transformation Index (2016). On some indices, there has been a small decline in South Africa's rankings in recent years, attributed variously to the handling of a number of corruption scandals, the emergence of some serious social and labour unrest, and questions regarding the conditions for media independence.

South Africa is a democratic republic, with three spheres of government (national, provincial, and local), operating in a parliamentary system. At national level, executive powers are vested in the President, who is elected by the National Assembly. Legislative powers are vested in the two houses of Parliament: the National Assembly and the National Council of Provinces. At provincial level, executive powers are vested in the Provincial Premier, who is elected by the Provincial Legislatures. Legislative powers are vested in the Provincial Legislatures. Overall, the Constitution provides a clear leadership role to the Parliament, but at the same time an important role for the Provincial Legislatures, both in terms of legislation and, particularly, oversight.

The South African Legislative Sector (SALS) refers to a collaboration of the National Assembly, the National Council of Provinces and the 9 Provincial Legislatures. It consists of the Speaker's Forum<sup>2</sup>, the Secretaries' Association of the Legislatures of South Africa (SALSA)<sup>3</sup>, and the SALSA's Forums (to be determined by the SALSA). Legislative Sector Support (LSS) is located in the National Parliament and facilitates, coordinates, and manages SALS activities. The main objective of the sector collaboration is to strengthen the legislative arm of the State through cooperative government to ensure service delivery and accountability to the people of South Africa. In 2008, this collaboration led to the adoption of a collective sector approach and the subsequent entering into a Memorandum of Understanding (MoU) aimed at ensuring that there are common norms and standards governing the SALS.

The development of a legislative sector approach is an important South African innovation. Although parliaments at regional and national levels in other countries collaborate together on various initiatives, the planned and structured approach of the SALS is believed to be unique in the world. With an emphasis on sharing of best approaches based on coordinated capacity development, and the development of models for the exercise of parliamentary core functions such as oversight and public participation, SALS employs a shared learning approach that underlines the developmental approach integrated within a South African governance approach.

#### 1.1.1. Public Policy Assessment and EU Policy Framework

The policy space within which a new SALS project will be developed and implemented is defined by the following documents:

##### At national level

- The **Constitution of the Republic of South Africa**, which defines three "*spheres of government*" (national, provincial, and local) that are "*distinctive, interdependent and interrelated*" (section 40). It attributes to the National Assembly the powers to "*consider, pass, amend or reject any legislation*

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<sup>2</sup> The Speaker and Deputy Speaker of the National Assembly, the Chairperson and Deputy Chairperson of the National Council of Provinces, and the Speakers and Deputy Speakers of the nine Provincial Legislatures.

<sup>3</sup> The Secretary and Deputy Secretary to Parliament, the Secretary to the National Assembly, the Secretary to the National Council of Provinces, and the Secretaries of the Provincial Legislatures.

before the Assembly" and "initiate or prepare legislation, except money Bills", and to "ensure that all executive organs of state in the national sphere of government are accountable to it" (section 55). Similar powers are attributed to the Provincial Legislatures at provincial level (section 114). The National Council of Provinces has powers to "consider, pass, propose amendments to or reject" any legislation before the Council" and initiate or prepare legislation falling within the functional areas, where Parliament and the Provincial Legislatures have concurrent legislative powers (section 68 and Schedule 4). The South African Constitution also asserts the need for the realisation of a participatory democracy, which calls for the active involvement and participation of the citizenry as well as more defined interest groups. The Constitution makes similar provisions with regards to public participation in the National Assembly, the National Council of Provinces and the provincial legislatures in Sections 59, 72 and 118 respectively. It provides for facilitation of public involvement in the legislative and other processes of the legislatures and their committees. The respective Houses or committees must conduct their business in an open manner.

- **The National Development Plan (NDP) Vision 2030** drafted by the National Planning Commission (NPC) identifies six interlinked priorities: (1) uniting South Africans around a common programme; (2) citizens active in their own development; (3) faster and more inclusive economic growth; (4) building capabilities; and (5) a capable and development state; and (6) leadership and responsibility throughout society. Under priority (5), the NDP notes that "*parliamentary accountability is weak, with Parliament failing to fulfil its most basic oversight role*". Chapter 13 articulates mechanisms for South Africa's quest in developing a capable developmental state to foster sustainable socio-economic transformation within the parameters of a robust constitutional democracy. Such mechanisms include the need to strengthen the SA Legislative Sector processes to ensure effective oversight of government, law-making and public participation.
- The NDP underpins the **Medium-Term Strategic Framework (MTSF)**, which is "Government's strategic plan for the 2014-2019 electoral term" (page 4 According to the MTSF, the role of Parliament and the Provincial Legislatures is "*to monitor the overall impact on society*".

#### At sector level

- The **Memorandum of Understanding (MoU)** between the National Assembly, National Council of Provinces, and the nine Provincial Legislatures formally establishes the SALS with the purpose to establish "common norms and standards governing the sector" and "structures for the implementation of Sector Policy" and "to provide for the financial management of and accountability for donor funds, including, but not limited to, procurement and administration for the sector" (section 2). The MoU also establishes the Legislative Sector Support (LSS) (section 10).
- **The public participation framework for the Legislature sector (2013):** Since the SA Legislative Sector has an obligation to facilitate public participation and education, the Sector has developed a structured framework of participation that is aligned, transparent, accountable and which promotes fundamental democratic rights.
- The SALS itself is guided by the **Sector Policy and Strategic Framework**. The 2014-2019 Framework builds on the work done since the dawn of democracy through the identification of strategic goals and objectives, including apex priorities to strengthen the sector's collaborative approach.
- In 2011, the Legislative Sector launched a **Sector Oversight Model (SOM)** for the Legislative Sector, which provides guidelines for legislature oversight in terms of approach, operational tools and mechanisms. The purpose of this model is to set a standard for the practice and conduct of oversight in the South African Legislative Sector.
- **Financial Management of Parliament and Provincial Legislatures Act (FMPA):** Financial Management of Parliament Act of 2009 (and Amendment of 2014). The Act is an important milestone that asserts the doctrine of separation of powers and independence of the Legislative Sector. The Act provides, inter alia, for financial and accounting systems for Parliament and for norms and standards for provincial legislatures. The FMPA also provides in section 4, for the establishment of an Oversight Mechanism of Parliament, to maintain oversight of the financial management of the institution. FMPA

gives joint executive authority to the Speaker of Parliament and the Chairperson of the National Council of Provinces (NCOP).

### **1.1.2. Stakeholder analysis**

- The final beneficiaries of the Programme will be the women and men living in South Africa who will benefit from a reduction in poverty and improved service delivery, through enhanced oversight by the legislative sector on policies, programmes and budgets implemented by the departments.
- The target group of the programme will be the members of the South African Legislative Sector (SALS) i.e. National Parliament, the National Council of Provinces and nine Provincial Legislatures, both their elected members and officials
- Local Government, including the South African Local Government Association (SALGA), will also benefit from the programme through the improvement of the sector coordination and regulatory framework of the legislature, including the development of a framework for cooperation between SALS and with local government.
- Executive national departments such as National Treasury, the department of Planning, Monitoring & Evaluation, the Department of Public Service and Administration and the National School of Government, as well as Chapter 9 and 10 institutions such as the office of the Auditor General.
- Institutions of higher learning will be key stakeholders in the programme since the sector have developed various partnerships with higher learning institutions to develop an integrated capacity building programme, which was tailor-made to cover on-the-job requirements of Members as well as personal development needs of Members.
- Other Parliamentary bodies, including the European Parliament, Pan-African Parliament and the African, Caribbean and Pacific (ACP)-EU Joint Parliamentary Assembly, South African Development Community (SADC) Parliamentary Forum & Secretariat, Southern Africa Development Community Organisation of Public Accounts Committees (SADCOPAC), AfroPAC, Commonwealth Parliamentary Association (CPA) Africa region, Commonwealth Women Parliamentarians (CWP) Africa region, Society of Clerks-at-table (SoCATT) Africa region.
- Civil society organisations (CSOs), such as associations, Non-Governmental Organisations (NGOs), media, trade and labour associations, faith-based organisations, community-based organisations and citizen groups will benefit from the programme through increased access and participation in the parliamentary process and in particular the budget oversight.

### **1.1.3. Priority areas for support/problem analysis**

The NDP identifies “*a failure to implement policies and an absence of broad partnerships as the main reason for slow progress*”. This places the SALS at the centre of South Africa’s plan to eliminate poverty and reduce inequality by 2030.

The NDP highlights the extent to which the oversight role of SA Legislative Sector can effectively be fulfilled and contribute to the realization of an accountable and responsive state. At a national level, the NDP highlights the need to improve the use of Parliament as a platform for a public consideration of citizen’s issues and enhance law-making, including capacitating skills of officials with specialist skills in policy research and other priority areas to adequately support Members in carrying out their functions. The NDP further outlines the need for provincial legislatures to entrench accountability, such that provinces become effective and efficient in the delivery of services. Provincial legislatures should also distinguish themselves in the broader governance framework of the country, particularly in relation to clarifying their roles in ensuring the delivery of services in local government. At a local level, the NDP points out the need to provide clarity on the separation between the legislative and executive functions within the municipal councils. Such clarity would ensure that oversight mechanisms, and the delivery of services thereof, are enhanced.

In that context, particular attention will be given by the programme to provincial legislatures. Provincial legislatures need to be particularly robust in their oversight and accountability function to ensure provinces perform their core function in the delivery of basic services equitably, effectively and honestly.

The priorities areas identified are:

- ***Strengthening oversight***

The programme will be structured around strengthening oversight, particularly at provincial level. It should include training of legislators and staff; the provision of funds for technical expertise; support to exchanges, where legislators can share their experiences and be exposed to different ways of exercising oversight. It should also focus on budget monitoring and oversight in relation to Money Bills Amendment Procedure and Related Matters Act (2009). In 2011, SALS adopted a Sector Oversight Model (SOM). SALS reports suggest that SOM has not been effectively implemented in the majority of provincial legislatures. Lack of resources and lack of capacity are among the reasons that have been identified for implementation weakness. The programme will support the implementation and refinement of the SOM.

- ***Enhancing Public Participation***

Whilst the SALS had in place a sound legislative and policy framework for the advancement of public participation in legislative processes, there were a number of shortcomings in its systems, processes and practices. Evidence pointed out that failure to implement Public Participation (PP) systems as intended are also due partly to full commitment and insufficiently resourced and administered programmes, and that these two are mutually, and negatively, reinforcing. The programme will therefore address the strengthening of capacities and resources to support the implementation of the Public Participation framework and the standardization of norms and procedures.

This programme element will begin with taking forward the findings and recommendations of an assessment of the current PP framework implementation towards strengthening either the framework or the implementation of the framework, including a diagnostic of resource implications for enabling recommended improvements. An important aspect of the diagnostic will include the gathering of citizen and civil society perspectives. This will enable SALS to better understand public awareness of PP processes and opportunities, and to identify opportunities for strengthening processes and for better communicating information about PP processes. This information will form a basis for capacity development and process refinement in public participation in the SALS.

- ***Strengthening the sector and enhancing sharing of experiences***

SALS operates currently through a MoU between the different parliaments and legislatures. Current developments include work towards the formalisation of this approach through legislation, and the development of a Legislative Institute that would be built upon the existing structure of the Legislative Sector Support (LSS) mechanism based in the National Parliament, with a focus on sustainable long-term strengthening of the legislative sector. The Institute would ensure a sector-wide approach to capacity development and help assure consistent standards across all legislatures, as well as build the sector body of knowledge. The Legislative Institute would also continue to act as the current LSS in assuring continuous improvement in the core legislative business, in capacity development, and in building international links and knowledge sharing opportunities. Further, the current work undertaken by the SALS is not necessarily well-known beyond the national Parliament, and that knowledge of the work of the SALS is somewhat patchy even among some provincial legislature staff. The programme will support wider exchange and learning on the work of the Sector with the provincial legislatures, other government institutions, international stakeholders (including other legislatures) as well as relevant comparative expertise.

With regard to international parliamentary relations and support to international parliamentary development, the 2014-2019 Sector Strategic Framework identifies this area as a priority, as well as an opportunity to build sustainability into the sector developmental approach. Specifically, the programme will support the organisation of seminars on a specific theme of Legislative Sector work, with participants drawn from the legislative sector broadly but also from key civil society organisations (previously known as the Consultative Seminar). This would enable more sharing of knowledge about parliamentary development both within the broader South African democratic development community and, importantly, enabling a genuine exchange of practices between South Africa, Africa and Europe, and specifically between SALS and the European Parliament and European Union member state parliaments. The seminar will enable genuine mutual learning and interaction between institutions.

- *Support for capacity building of Members of Parliament (MPs) and Members of Provincial Legislatures (MPLs)*

Like many transitional and developing countries there is a wide variation of experiences among legislators, as well as important differences in terms of resources and capacities between the different legislatures. A considerable number of parliamentarians have relatively limited formal education and experience in areas related to governance. To effectively play their oversight roles, MPs and MPLs need to fully understand their role in the oversight process and be capacitated to do so. Formal education and specialised trainings taking into consideration needs, time and availability will be developed, building on the experience of the Legislative Sector Policy Support Programme (LSPSP), with an emphasis on consistent delivery of high quality, academically rigorous and validated programming.

- *Support to capacity building for the core staff*

Further development of specific skills within the administration of the legislative sector is called for. In particular, the research capacities of committee staff are centrally important in all effective parliaments. Many research staff to committees are highly competent and effective, although there is a wide range of capacities of research staff within the sector. Further, they need adequate support in the form of specialist policy and research staff to support parliamentary committees and brief parliamentarians. There have been some questions regarding the appropriate deontology for the independence of research staff within the legislative sector and it will be useful to support reflection around this question, including representatives from other parliaments.

There is a need to assess the overall human resource development and capacity enhancement strategy of the SALS, to identify capacity gaps, which may in particular be present in less well-resourced provincial legislatures. An assessment of the overall situation will permit the Sector to identify strategically important areas where targeted training can fill important skills gaps. The overall assessment will be shared with the Speakers' Forum and the constituent SALS institutions to assist in longer range Human Resource Development (HRD) planning.

## **1.2. Other areas of assessment**

N/A.

## 2. RISKS AND ASSUMPTIONS

Risks	Risk level (H/M/L)	Mitigating measures
Insufficient ownership and commitments by SALS on the assistance provided under this programme.	L	The programme will support components of the Sector Policy and Strategic Framework 2014-2019 approved by SALS in November 2015.
Low capacities and resources at the level of Provincial legislatures to adapt and implement the models and frameworks developed by the sector.	M	The programme intends to give particular attention to the provincial legislatures and build their capacities to ensure they are able to perform their oversight role.
Low commitment by the stakeholders of the Sector which will impact on the sustainability of SALS and durability of the activities undertaken under this programme	M	Regular SALSA, Speakers' Forum and Forum meetings will be organised to ensure commitment by all stakeholders. The programme will focus on the institutionalisation of Sector programmes and initiatives at the institutional level as recommended by the evaluation of the previous Sector Policy and Strategic Framework.
Limited impacts of the activities undertaken by the programme on the practice of the elected members.	M	The legislative institute concept which will be developed under this programme has potential to further institutionalise SALS activities.
<p><b>Assumptions</b></p> <p>The assumption is made that the support to the programme will remain high within SALS and that ongoing budgetary cuts will not significantly affect SALS ability to carry out its mandate and its activities. It is assumed that the strategic framework will remain largely unchanged after the 2016 local elections and the 2019 national elections, as well as will institutional capacity. The Sector Policy and Strategic Framework is based on the mandate of the Legislatures as determined by the Constitution, and are unlikely to change significantly. Rapidly changing socio-economic and political circumstances can impact upon the Sector's immediate focus. The Programme will be, however, designed with flexibility to accommodate changes while still enabling the overall objective of the programme to be achieved.</p>		

## 3. LESSONS LEARNT, COMPLEMENTARITY AND CROSS-CUTTING ISSUES

### 3.1. Lessons learnt

The European Union has supported democratic development in general and the South African legislative sector specifically since the end of the apartheid system. The support provided first to the South African parliament and then more widely to the emergent national legislative sector is long-term, significant in monetary value, and in line with international best practice in parliamentary development, which emphasizes the importance of longer-term approaches with an emphasis on capacity development.

The EU can add value to this area through the lessons learnt from the previous support programmes to the South African Legislatures, as well as through the implementation of funded grant projects in previous programmes (such as "Access to Justice and Promotion of Constitutional Rights" programme).

Some of the important lessons are:

- i. The ability of the Programme to meet institutional needs is important to ensure on going ownership of the Programme and political will and buy-in of primary stakeholders;
- ii. The importance of longer-term approaches and sustainability with an emphasis on capacity development;
- iii. The approach of building models for effective parliamentary action has been proven to be an innovative and forward-looking methodology employed by the SALS in the past. However, the implementation of these models has been hindered by the availability of human resources and resources in some provinces. Therefore the programme should be sensitive to the fact that the resources available for implementation differ substantially between the provincial legislatures, as do the political dynamics, and that it is important to provide flexibility in the model to meet differing needs and resources bases;
- iv. The importance to recognize the maturity of the legislative sector in South Africa and the priority of strengthening the sector as a whole and enabling the sharing of best practices across the sector;
- v. The importance to respect ownership and limit transactional costs, and facilitate flexibility and quick adaptation to provide for emerging priorities and changes in direction;
- vi. The relevance of targeting quality indicators in addition to quantitative ones and setting realistic and achievable targets bearing in mind the diversity of the eleven institutions;
- vii. The need for complementarity with the SA-European Parliament Inter-Parliamentary Dialogue;
- viii. The attention to the complementarity of the support to SALS and the engagement with CSOs.

### **3.2. Complementarity, synergy and donor coordination**

National responsibility for donor coordination and management is vested in the International Development Cooperation (IDC) Chief Directorate within the National Treasury (NT). It coordinates donor assistance with the objective of ensuring aid effectiveness within the framework of the Paris Declaration.

Donor coordination will be under the responsibility of SALS and the programme management team. Interventions from other donors are limited. The Belgian (Flemish) cooperation and the Swiss cooperation have supported the first phase of Association of European Parliamentarians with Africa (AWEPA)'s "South African Provincial Legislatures Programme" (SAPL) between 2012 and 2014 which was to contribute, through workshops and trainings with European parliamentarians, to a more democratic and transparent governance in the South African provinces, by providing support to the provincial parliamentarians in their legislative work, their role in controlling the executive and interacting with the public. The United Nations Development Programme (UNDP) is currently supporting a high level panel to assess the impacts of the key legislation passed by parliament. CLEAR (Centers for Learning on Evaluation and Results) – Anglophone Africa, funded by a World Bank Trust Fund, runs a parliamentary programme that offers capacity building opportunities of parliamentarians and officials to use monitoring and evaluation as part of oversight.

EU Donor coordination takes place through the monthly EU Development counsellor's meetings, and through a broader donor working group on governance chaired by Germany.

This programme will be complementary to other areas of action of the MIP 2014-2020 and especially Sector 3, which is related to "Building a capable and developmental State". It will be also complementary to the Inter-Parliamentary Meetings between the South African Parliament and the European Parliament, which are supported by provisions in the 1999 TDCA and the 2007 EU-SA Strategic Partnership<sup>4</sup>.

### **3.3. Cross-cutting issues**

#### **Gender equality and women's empowerment (GEWE)**

Gender equality is enshrined in the Constitution, which states that "[t]he Republic of South Africa is one, sovereign, democratic state founded on the following values: [...] (b) Non-racialism and non-sexism"

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<sup>4</sup> The partners, in line with their strong democratic values, recognize the importance of regular and institutionalised parliamentary interaction. It is essential to enhance understanding of each other's points of view on matters of mutual interest, and also to encourage greater understanding of each other's democratic systems and areas of responsibility. In this regard we will: encourage the formalisation of SA-EU Parliamentary bilateral relations; encourage regular exchanges of visits by parliamentary delegations; encourage greater interaction by subject-specific Parliamentary committees on both sides.

(section 1) and that "the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth" (section 9). Parliament has continued to play an important role in advancing gender equality and promoting women's empowerment. The SALS has adopted a Strategic Framework for Gender Mainstreaming in the Legislative Sector, which calls for a "sector-wide programme that is institutionalized with vigour and starts to permeate all facets of parliamentary life".

### **Inclusivity, rights of persons with disabilities and rights of vulnerable groups**

The South African Constitution protects persons with disabilities and other vulnerable groups and guarantees them substantive equality. Since the end of apartheid the legislatures have passed legislation to put the constitutional dispositions into practice, such as the Promotion of Equity and Prevention of Unfair Discrimination Act (2000), and have taken steps as a key institutional sector to give voice and consideration to the needs of persons with disabilities and vulnerable groups. In 2007, the SALS Strategic Framework dealing with Disability matters was adopted, which contains a wide range of actions and engagements to ensure both the participation of persons with disability in legislative work, as well as substantive cross-cutting policy focus. For example, the Public Participation Framework (2013) enabled the creation of "Sectoral Parliaments" including for Persons with Disabilities, and the Sector Oversight Model also underlines the importance of assuring inclusivity as both a transversal and specific aspect of oversight.

Special attention will be given, among others, to GEWE, inclusivity, as well as to environment and climate change and to HIV and AIDS, not only in terms of interactions of CSOs in SALS mechanism, but also in terms of CSOs' engagement in legislature's oversight and participation processes at national and provincial levels.

## **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 Goal 16 "*Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*", but also promotes progress towards Goal 5 "*Achieve gender equality and empower all women and girls*" and Goal 17. "*Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development*". This does not imply a commitment by the country benefiting from this programme.

The programme aims at contributing to the successful implementation of the EU-South Africa MIP 2014-2020, with particular focus on the Specific Objectives (SO) identified in the MIP (SO 1) for "Building a capable and developmental State" sector area, that is: '**Systems of oversight strengthened**, with notably the accompanying Result R1.1: *Capacities and role of the legislative sector to scrutinise and oversee executive action are enhanced*'; and SO 4 'An active citizenry (women and men) in policy design, implementation, and monitoring and evaluation is promoted' with notably Result 4.4: *'CSO-led initiatives to promote citizen engagement with the three spheres of government and the three branches (executive, legislative and justice) are implemented*'.

The **overall objective** is to strengthen democracy and good governance through effective execution of the core mandate of the Parliament and the Provincial Legislatures to legislate, exercise oversight and ensure public participation.

The **specific objectives/outcomes** of the programme are:

1. To strengthen the capacity of the legislative sector to exercise oversight.
2. To devise means and mechanisms to ensure public involvement in legislative processes.
3. To strengthen cooperation and cooperative governance in the legislative sector.
4. To improve knowledge, skills, systems and processes in the legislative sector

## **4.2. Main Activities**

The programme will support the following four SALS priority areas and activities:

### **Area 1: Strengthen the oversight functions of the legislative sector**

Within the framework of the intervention, particular support will be provided to initiatives such as:

- Assessment study of oversight implementation against provisions of the Constitution, the SALS Strategic Oversight model, and committees' use of specific oversight tools, such as the Budget Cycle model, Focused Intervention Studies, Annual Performance Plans, Budget Implementation Matrices, and the Budget Review and Recommendations Report process.
- Review of the engagement with stakeholders including the Parliamentary Budget Office, National Treasury, the Auditor General, and applicable Chapter 9 institutions.
- Development and implementation of a strategy for strengthening oversight within the framework of the Sector Oversight Model (SOM),
- Comprehensive roll-out of the SOM, review and possible amendment of rules and procedures
- Development of knowledge management and communication systems
- Ensure inclusivity of oversight approaches, including mainstreaming gender, persons with disabilities, and rights of vulnerable groups, and incorporating specific initiatives as necessary such as gender-sensitive budgeting.

### **Area 2: Enhance public involvement to deepen and entrench people-centred democracy in South Africa**

Within the framework of the intervention, particular support will be provided to initiatives such as:

- Support to the assessment of each institution's current processes and practices in relation to the implementation of the Public Participation (PP) Framework.
- Citizen engagement in study of perceptions and expectations regarding public participation in parliamentary work.
- Assist provincial legislatures to review and implement their PP model aligned with the implementation of the norms and standards outlined in the sector PP framework.
- Assist provincial legislatures to develop and / or enhance their PP strategy, plan and programme.
- Support to innovative public participation initiatives such as oversight initiatives, PP campaigns, tools for facilitating various PP initiatives such as hearings, drafting a stakeholder's engagement framework, and hosting public seminars on issues related to PP.

### **Area 3: Sector Coordination and Engagement**

Within the framework of the intervention, particular support will be provided to initiatives such as:

- Review of the SALS cooperative governance framework including policies, structures, mechanisms, systems and processes
- Evaluation of gender mainstreaming mechanism and implement changes where needed to ensure attainment of gender mainstreaming strategy objectives.
- Strengthening communication, coordination and knowledge management.
- Development of a framework for collaboration with Local Government.
- Hosting dialogue platforms of the Speakers' Forum with local and international stakeholders and counterparts, i.e. consultative seminar.
- Develop Legislative Institute.

### **Area 4: Capacitating the Sector (through the development of members' and officials' capacity and development strategies by the Parliamentary Institute).**

Development and implementation of capacity building programme for members including academic programmes, comprehensive induction programmes, and specialised programmes for committees.

- Establish Parliamentary Institute
- Develop specialised programmes for key office bearers.
- Development and implementation of capacity building programme for officials.

- Specific capacity development programming developed for SALS research staff, focusing on support to national and provincial legislature committees' oversight work.
- Specialised training will be implemented around issues of gender mainstreaming and Gender Equality and Women's Empowerment (GEWE), including Gender Responsive budgeting (see Programme 1).

### **4.3. Intervention Logic**

The focus on strengthened oversight responds to a priority of the National Development Plan Vision 2030, which identifies legislative oversight as a key weakness in South African governance and calls for strengthening of this area in order to facilitate South Africa meeting its national development objectives.

This programme will build on past achievements of three programmes, Parliamentary Support Programme (PSP), Legislature Support Programme (LSP) and Legislative Sector Policy Support Programme (LSPSP). The sector has demonstrated significant developments over the period since 1994, and this would not have been possible without the significant support of the EU. Multiple challenges remain though, and the proposed programme will go some length to address these. First, the focus on provincial legislatures is foreseen to be significant. These institutions remain weak in certain areas, but play a significant role in the democratic architecture of the country. Second, many processes and models have been developed at the sector level, during, and with, the intensive support of LSPSP. It is now time to consolidate these models, processes and approaches at both national and provincial level. Lastly, it remains critical to strengthen the capacity of both members and staff of the sector to perform their core duties, and to enable these institutions to competently exercise their duties, as legislative, public participation and oversight institutions.

## **5. IMPLEMENTATION**

### **5.1. Financing Agreement**

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of Regulation (EU, Euratom) No 966/2012.

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

The indicative operational implementation period of this action, during which the activities described in section 4.2 will be carried out and the corresponding contracts and agreements implemented, is **54** 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 technical amendments in the sense of point (i) of Article 2(3)(c) of Regulation (EU) No 236/2014.

### **5.3. For budget support only [Implementation of the budget support component]**

N/A.

### **5.4. Implementation Modalities**

#### **5.4.1. Indirect management with the partner country**

This action, with the objective of strengthening and supporting the South African legislative Sector, may be implemented in indirect management with the Republic of South Africa in accordance with Article 58(1)(c) of the Regulation (EU, Euratom) No 966/according to the following modalities.

The partner country will delegate the powers of contracting authority for the procurement and grant procedures to the Parliament of the Republic of South Africa. 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 ordinary operating costs, direct labour and contracts below EUR 300 000 for procurement and up to EUR 300 000 for grants.

The financial contribution covers, for an amount of EUR 3 200 000 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, the partner country 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, will be laid down in the financing agreement concluded with the partner country.

#### **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 9(2)(b) of Regulation (EU) No 236/2014, on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

#### **5.6. Indicative budget**

<b>Components</b>	<b>EU contribution (amount in EUR)</b>
<b>5.4.1. – Indirect management with South Africa</b> - composed of (indicative amounts):	<b>9 200 000</b>
<i>Result Area 1 - Strengthen the oversight functions of the legislative sector</i>	<i>2 000 000</i>
<i>Result Area 2 - Enhance public involvement to deepen and entrench people-centred democracy in South Africa</i>	<i>1 500 000</i>
<i>Result Area 3 - Sector and International Coordination and Engagement</i>	<i>1 000 000</i>
<i>Result Area 4 Capacitating the Sector (through the development of members' and officials' capacity and development strategies by the Parliamentary Institute)</i>	<i>1 500 000</i>
<i>Operating costs</i>	<i>3 200 000</i>
<b>5.9 – Evaluation, 5.10 - Audit</b>	<b>350 000</b>
<b>5.10. Communication and visibility</b>	<b>200 000</b>
<b>Contingencies</b>	<b>250 000</b>
<b>Totals</b>	<b>10 000 000</b>

### **5.7. Organisational set-up and responsibilities**

This project will be implemented under a Financing Agreement to be signed between the National Authorising Officer and the European Commission.

The Parliament of the Republic of South Africa will act as the contracting authority and appoint the Imprest Administrator and Imprest Accounting officer.

The Project Steering Committee (PSC) comprised of representatives from Parliament and Provincial Legislatures with representation by National Treasury and the EU Delegation will provide oversight and guidance on the strategic direction of the Project. The PSC will approve the project's activity planning and review progress of the project's implementation.

The programme will be managed through the existing sector programme management located in Parliament of the Republic of South Africa (RSA). Additional staff appointments within the RSA Parliament and Provincial Legislatures will be necessary to ensure that implementation of the project particularly at the nine provincial legislatures. Reports will be provided to the PSC on a regular basis.

The programme will be managed and implemented at central level through its sector programme management mechanism (Legislative Sector Support) whilst institutional level implementation will be executed by Parliament and Provincial Legislatures.

At the strategic/political level, the Speaker of Parliament and the Chair of the National Council of Provinces, and Provincial Legislatures Speakers will meet annually with the Head of the EU Delegation.

Additional engagements which may take place are the Inter-Parliamentary Meeting (IPM) between the European Parliament and the South African Parliament, and SALS consultative seminars, including engagement with civil society.

### **5.8. Performance monitoring and reporting**

A comprehensive monitoring and evaluation strategic framework for the present programme has been developed and incorporates all aspects of the Sector Strategic Framework in order to ensure that it is consistently monitored and evaluated as required. The Guidelines on Sector Standards for legislative institutional performance monitoring and evaluation provide a common standard for all legislative bodies in the Sector.

The Legislatures implement monitoring and evaluation activities as per the legal and Treasury requirements. Monthly financial and quarterly performance reports are produced as required and culminate in an annual report per institution submitted to the Auditor General of South Africa (AGSA). Annual financial statements are prepared and annual independent audits conducted.

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. 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.

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).

### **5.9. Evaluation**

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

A mid-term evaluation will be carried out for learning purposes, in particular with respect to the strengthening of oversight and public participation in national and, particularly, provincial legislatures.

A final evaluation will be carried out at the beginning of the closure phase focusing on the consolidation of achievements within the programme, in particular oversight, public participation, sector coordination and

capacity building of Members and staff.

The Commission shall inform the implementing partner at least 1 month 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, respectively, 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, one contract for audit services shall be concluded in the third trimester 2017.

#### **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.

The contracts for communication and visibility will be contracted under indirect management.

## **6. PRE-CONDITIONS**

N/A.

**APPENDIX - LOGFRAME MATRIX (FOR PROGRAMME 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, no amendment being required to the financing decision. When it is not possible to determine the outputs of an action at formulation stage, intermediary outcomes should be presented and the outputs defined during inception of the overall programme and its components. The indicative logframe matrix will evolve during the lifetime of the action: new lines will be added for including the activities as well as new columns for intermediary targets (milestones) for the output and outcome indicators whenever it is relevant for monitoring and reporting purposes. Note also that indicators should be disaggregated by sex whenever relevant.

	<b>Results Chain / Intervention logic</b>	<b>Indicators</b>	<b>Baselines (incl reference year)</b>	<b>Targets (incl reference year)</b>	<b>Sources &amp; means of verification</b>	<b>Assumptions</b>
<b>Overall objective</b>	1. To strengthen democracy and good governance through effective execution of the core mandate of Parliament and the Provincial Legislatures to legislate, exercise oversight and ensure public participation.	1. Improved oversight executed by national and provincial legislatures and increased public participation..	1. ‘Parliamentary accountability is weak, with Parliament failing to fulfil its most basic oversight role.’ (NDP 2030, p. 55)	1. Oversight is rigorously exercised to strengthened to enable a capable developmental state	1. Parliamentary reports on oversight and public participation.	
<b>Specific objective(s):</b>  <b>Outcome 1</b>	1.1 Strengthened capacity of the legislative sector to exercise oversight	1.1 Improved implementation of oversight across the legislative sector through application of model and strategies	1.1 Sector oversight model and strategies adopted by all ten legislatures (2016)	1.1 Oversight framework implemented and evaluated across all ten legislatures (by 2020)	1.1 Completion of oversight implementation tasks as per SALS 2014 – 2019 Strategic Plan; 1.2 Verification through evaluation against baseline review	Minimum resources and political will available for implementation across all ten legislatures

	<b>Results Chain / Intervention logic</b>	<b>Indicators</b>	<b>Baselines (incl reference year)</b>	<b>Targets (incl reference year)</b>	<b>Sources &amp; means of verification</b>	<b>Assumptions</b>
<b>Specific objective(s):</b>  <b>Outcome 2</b>	2.1. Means and mechanisms designed to ensure public involvement in legislative processes	2.1 Legislatures develop and implement their own public participation strategies aligned to the sector framework	2.1 SALS-wide public participation sector framework adopted (June 2013)	2.1 All 10 legislatures implement their Public participation frameworks and strategies by 2019.	2.1 Availability of public participation framework, strategies and record-keeping of implementation across the 10 legislatures	Minimum resources and political will available for implementation across all ten legislatures; engagement of parliamentary interlocutors (government, civil society)
<b>Specific objective(s):</b>  <b>Outcome 3</b>	3.1 Strengthened cooperation and cooperative governance in the legislative sector.	3.1 Adoption of enhanced sector governance framework  3.2 Sector governance forum held to establish engagement at local, national & international levels	3.1 Signed SALS MoU for sector cooperation (2010)  3.2 Existing international relations and engagement framework 2016	3.1 Adoption and implementation of new framework by 2019  3.2 Forum held by 2018 & sector international relations framework adopted.	3.1 New Sector governance framework.  3.2 Sector international relations strategic framework	Resources and political will available for implementation across all ten legislatures; engagement of parliamentary interlocutors (government, civil society)
<b>Specific objective(s):</b>  <b>Outcome 4</b>	4.1 Improved knowledge, skills, systems and processes in the legislative sector	4.1 Members and officials Capacity Development Strategy developed and implemented 4.2 Development and establishment of Parliamentary Institute	4.1 Existing programme with SA university - short term programmes for members and officials (since 2010) 4.2 Sector commitment to develop PI (2016)	4.1 New programme adopted (2019)  4.2 Establishment and fully functional PI (2020)	4.1 Adopted programme  4.2 Established Parliamentary Institute	Resources and political will available for strategy development and implementation