



**EN**

**THIS ACTION IS FUNDED BY THE EUROPEAN UNION**

**ANNEX II**

to the Commission Implementing Decision on the financing of the annual action plan in favour of Colombia for 2023

**Action Document for “Support the functioning and efficiency of the Special Jurisdiction for Peace”**

**ANNUAL PLAN**

This document constitutes the annual work programme within the meaning of Article 110(2) of the Financial Regulation, within the meaning of Article 23 of the NDICI-Global Europe Regulation.

## 1 SYNOPSIS

### 1.1 Action Summary Table

<b>1. Title CRIS/OPSYS business reference Basic Act</b>	Support the functioning and efficiency of the Special Jurisdiction for Peace CRIS number: NDICI LA/2021/043-803 – OPSYS : ACT-61634 Financed under the Neighbourhood, Development and International Cooperation Instrument ( <u>NDICI-Global Europe</u> )/ Overseas Association Decision/European Instrument for International Nuclear Safety Cooperation Regulation
<b>2. Team Europe Initiative</b>	Yes Team Europe Initiative (TEI) Peace, Colombia
<b>3. Zone benefiting from the Action</b>	The Action shall be carried out in Colombia
<b>4. Programming document</b>	Colombia Multiannual Indicative Programme for 2021-2027
<b>5. Link with relevant MIP(s) objectives / expected results</b>	The Action will contribute to the following 2021-2027 MIP objective: Priority area 1 (Peace): Specific Objective 1: contribute to a stable and sustainable peace in the territories, with a particular emphasis on the implementation of chapter 1 (Comprehensive Rural Reform), chapter 3.2.2 (Economic and Social Reincorporation of FARC-EP) and chapter 5 (Agreement on the victims of the conflict) of the peace agreement.
<b>PRIORITY AREAS AND SECTOR INFORMATION</b>	
<b>6. Priority Area(s), sectors</b>	151 – Government and Civil Society general, including PFM and DRM, decentralisation, anti-corruption, Ombudsperson, Immigration, Human Rights, Ending violence against women and girls. 152 – Conflict Peace and Security, including peace building, conflict prevention, reintegration of ex-combatants, removal of landmines.
<b>7. Sustainable Development Goals (SDGs)</b>	Main SDG (1 only): 16, Peace, Justice and Strong Institutions

	Other significant SDGs (up to 9) and where appropriate, targets: 5 Gender Equality; 5c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels			
<b>8 a) DAC code(s)</b>	15130 Legal and judicial development – 50% 15220 Civilian peace-building, conflict prevention and resolution – 50%			
<b>8 b) Main Delivery Channel</b>	Third Country Government (Delegated co-operation) – 13000			
<b>9. Targets</b>	<input type="checkbox"/> Migration <input type="checkbox"/> Climate <input type="checkbox"/> Social inclusion and Human Development <input checked="" type="checkbox"/> Gender <input type="checkbox"/> Biodiversity <input type="checkbox"/> Education <input checked="" type="checkbox"/> Human Rights, Democracy and Governance			
<b>10. Markers (from DAC form)</b>	<b>General policy objective @</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Aid to environment @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and women's and girl's empowerment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Trade development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, maternal, new-born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Disaster Risk Reduction @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Inclusion of persons with Disabilities @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Nutrition @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Biological diversity @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>11. Internal markers and Tags</b>	<b>Policy objectives</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Digitalisation @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	digital connectivity digital governance digital entrepreneurship digital skills/literacy	YES <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	

	digital services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Connectivity @	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	digital connectivity	YES	NO	
	energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	health	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	education and research	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Migration @ (methodology for tagging under development)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reduction of Inequalities @ (methodology for marker and tagging under development)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Covid-19	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>BUDGET INFORMATION</b>				
<b>12. Amounts concerned</b>	Budget line (article, item): BGUE-B2023-14.020140-C1-INTPA  Total estimated cost: <b>EUR 2 million.</b>  France, Germany, the Netherlands, Norway, Spain and Sweden all participate in the TEI Peace Colombia and also provide support to the Special Jurisdiction for Peace (JEP). Active agreements under implementation supporting the JEP directly or indirectly amount to approximately EUR 11 million.			
<b>MANAGEMENT AND IMPLEMENTATION</b>				
<b>13. Type of financing</b>	<b>Indirect management</b> with the entity(ies) to be selected in accordance with the criteria set out in section 4.3.1			

## 1.2 Summary of the Action

The peace agreement signed in 2016 between the Colombian government and the FARC guerrilla (“Revolutionary Armed Forces of Colombia”) put an end to more than 50 years of armed conflict in the country. It also recognised the role of the EU and formally associated the EU and its Member States to the implementation process of the agreement. The Team Europe Initiative on Peace is based on four pillars of which one relates to victims and survivors of the armed conflict and directly aligned with the “Comprehensive System for Truth, Justice, Reparations and Non-Recurrence” (in short, the transitional justice system), which was created following the signature of the peace agreement.

One of the entities of the transitional justice system, which will be supported through this Action, is the Special Jurisdiction for Peace (the JEP for its acronym in Spanish), which investigates and develops sentences for serious human rights violations. The transitional justice system is unique, since its end is primarily restorative and it seeks to bring justice through victim reparation and reconciliation. A well-functioning JEP is arguably the foremost guarantor for a sustainable peace built on reconciliation.

However, the peace agreement was questioned by many and the transitional justice system has been under attack from political opponents since its foundation and has not received adequate funding. Thus, progress has been slow. Moreover, passing of the first sentences will likely lead to criticism since knowledge of the restorative sanctions system is limited and more traditional punishments are likely to be expected. The JEP might lose credibility if it fails to communicate and defend the verdicts being passed. The JEP recognises that the current year (2023) will

be the most crucial in its existence and has developed a set of broad priorities which are partly being addressed by the EU, Member States and other actors such as the UN and USAID.

The Overall Objective of this Action is to contribute to the comprehensive implementation of the peace agreement and the Specific Objectives are threefold: i) increasing the capacity of the three Chambers responsible for collecting and analysing information of crimes committed, ii) increasing the capacity of the Peace Tribunal responsible for passing verdicts and iii) improving JEP's communication with victims and the general public on the restorative sanctions system. The Chambers are responsible for collecting, analysing and corroborating information about possible crimes committed during the armed conflict. They verify the degree of responsibility of potential perpetrators and apply criteria of prioritisation and selection for the creation and investigation of macro cases.<sup>1</sup>

This information is then turned over to the Peace Tribunal with the task to formulate proper sentences, ensuring reparation and reconciliation. At each stage of the procedure, decisions and measures must be taken to investigate and repair criminal acts and to guarantee adequate compensation to the victims and survivors. Communication by the JEP will play a key role in informing the community of the verdicts as part of restorative justice and thus raise credibility of the organisation and the entire transitional justice system.

For the first couple of years of JEP's existence, gender issues (especially gender based violence (GBV)) was considered as a transversal issue in all cases of crime and misconduct handled by the JEP. This posture towards the issue received a lot of criticism by mainly civil society groups. However, JEP recently decided that given the repeated and systematic patterns of GBV during the conflict, it should be considered as a crime in its own and analysed as such in a macro case focusing solely on this, a proceeding which will soon be introduced and become operational.

Through the Action, support will be given to the JEP in both initiating the new macro case on GBV and ensuring that gender issues are still taken into account in other cases. This is in line with the sectorial analysis of the EU Delegation in Colombia on peace and human rights, where addressing GBV is one of three main recommendations, as well as with the Gender Action Plan III, which also aims at ensuring freedom from all forms of gender-based violence.<sup>2</sup>

The transitional justice system and the JEP receive support through different modalities from several of the EU and its Member States. In order to strengthen the impact in a Team Europe approach regarding the outcomes of the transitional justice system, the Action will entail a coordinating function carried out by the implementing agency together with the EU Delegation.

## 2 RATIONALE

### 2.1 Context

EU relations with Colombia are close, with frequent communication and regular interaction. Relations gained a higher profile with the signature of the *Memorandum of Understanding on an Agenda of enhanced political and sectoral dialogue and cooperation for the next decade* in September 2021 and the *Joint Declaration for a Dialogue on Environment, Climate Action and Sustainable Development*, signed in February 2022. Both documents, as well as the high level political dialogue and the dialogue on human rights held in February 2022, highlighted the common commitment to strengthen cooperation in a large number of areas.

Peace and stability in Colombia are key for the country and for the region; they are at the heart of EU and Member States' development cooperation and necessary for the implementation and sustainability of any other development action. Rule of law and democracy is a fundamental shared value and pillar in EU-Colombia relations and runs through all engagements with the country in political dialogue, exchange of best practices and development cooperation activities. Strengthening democracy and its institutions, promoting civil society participation as-well-as fighting corruption, are all contributing to achieving the human rights priorities of the European Union in Colombia.

<sup>1</sup> A macro case is a collective legal case which is opened when repeated patterns of misconduct have occurred.

<sup>2</sup> EU Gender Action Plan III - an ambitious agenda for gender equality and women's empowerment in EU external action [https://international-partnerships.ec.europa.eu/system/files/2021-01/join-2020-17-final\\_en.pdf](https://international-partnerships.ec.europa.eu/system/files/2021-01/join-2020-17-final_en.pdf)

There is strong coordination between the 16 EU Member States present in the country as well as alignment of priorities. The selected Team Europe Initiatives (TEI) reflect such common priorities, i.e. TEIs on Peace and Environment, and are aligned with the EU Multi-Annual Indicative Programme (MIP) 2021-2027.

The peace agreement signed in 2016 between the Colombian government and the FARC put an end to more than 50 years of armed conflict in the country. It also recognised the role of the EU and formally associated the European Union and Member States to the implementation process. The EU is active at several levels, including through its Special Envoy and its Trust Fund for peace in Colombia, which gathers contributions of 21 Member States.

The TEI Peace is based on four pillars (coinciding with pillars of the peace agreement where the EU and its Member States are actively working): i) Comprehensive Rural Reform; ii) Political Participation: A democratic opportunity to build peace; iii) Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying down of Arms; and iv) Victims.

The transitional justice system is an integral part of the peace agreement with the task to guarantee the rights of victims and survivors to truth, justice, reparation and non-repetition of the crimes committed during the armed conflict. The system consists of three bodies: i) the Truth Commission, which aims to shed light on the violations committed, ensuring that all voices are heard; ii) the Unit for the Search for Persons Presumed Disappeared and – in the case of death – recovery, identification and dignified delivery of the remains, and; iii) the Special Jurisdiction for Peace (the JEP), which investigates and develops sentences for serious human rights violations. This Action will support the JEP.

The JEP is unique, since its end is primarily restorative. In other words, it does not seek to make justice through traditional punishment but through victim reparation and reconciliation. This trait makes the transitional justice system highly innovative and it has the potential to serve as guidance for other peace processes around the world facing the complexity of creating functioning restorative justice solutions. A well-functioning JEP is the foremost guarantor for a sustainable peace built on reconciliation, especially between victims and perpetrators but also between different actors in general of the Colombian society. However, this unconventional model has been under attack from political opponents since its foundation. Additionally, passing of the first sentences will likely lead to strong criticism from different groups. In general, the public does not know or understand the restorative sanctions system and harsher, more traditional, punishments are likely to be expected. In order to maintain its credibility, the JEP will need to be able to communicate and defend the verdicts being passed in a convincing and timely manner.

The relationship between the previous government led by President Iván Duque (2018-2022) and the JEP was not without problems. Duque ran his presidential campaign on a platform to terminate the peace agreement, but did not succeed, partly thanks to pressure from the international community. However, the entire transitional justice system received limited support both politically and financially during his mandate. Additionally, there was little consensus between the government and the JEP on how to interpret reparatory and reconciliatory measures, which arguably has undermined the JEP's credibility among the general public.

The newly elected government, led by President Gustavo Petro, has signalled that it will be much more ambitious regarding peace in Colombia. Petro has stated that he sees the peace agreement with the ex-FARC as only one of several necessary steps to ensure complete peace in Colombia and has launched the concept of “Paz Total” (Total Peace). The concept has not yet been concretised, but initial discussions with ELN (a guerrilla group operative since the 1960s) have begun and negotiations with other illegal groups in the country are likely to be initiated during Petro's term. The new National Development Plan (NDP) 2022-2026, which will be finalised at the beginning of 2023, will indicate more in detail if and how the JEP will be affected by the policies of the new government.

This Action will partly build on the support provided to the JEP through the Foreign Policy Instrument (FPI), which ran for 18 months between July 2020 and January 2022. The previous support amounted to EUR 3.5 million and the point of departure for the Action was the relatively low trust in and understanding of the transitional justice system among the general public. The overall objective was to contribute to increased credibility and legitimacy of the JEP and the Action consisted of three components: i) strengthening the capacities of the Chambers ii) strengthening the capacity of the JEP to grant sanctions and to monitor their compliance and iii) strengthening the communication strategy to provide accurate and timely information. Thanks to the FPI support, the JEP's capacity to manage cases increased through upgrading the process of registering victims and survivors and ensuring their participation at every stage of the proceedings. At the end of 2019, 58% of the general population had a favourable

perception of the JEP and its work. By late 2021 this figure had risen to 72%. Although considered a successful Action, the second component did not develop as well as expected, mainly because the entire process of the JEP has been slower than anticipated and no verdicts have yet been passed.

The JEP recognises that the current year (2023) will be the most crucial in its existence and has developed a set of broad priorities. These are partly being addressed by the EU and its Member States in a Team spirit, but through a donor mapping exercise undertaken in April 2022 it became clear that the work is relatively scattered and coordination has been limited so far. France, Germany, the Netherlands, Norway, Spain and Sweden all provide bilateral support to the JEP's work. Additionally, Norway, Germany, Sweden, Ireland, Spain, Finland and Portugal all participate in the UN Multi Partner Trust Fund (MPTF).<sup>3</sup> An approximate amount of EUR 11 million of support by EU Member States is given through mainly two types of modalities:

- i) Technical assistance, with the aim to increase the capacity of the JEP to expedite cases and to translate them into comprehensive restorative sanctions that contribute to the peace process in Colombia.
- ii) Support to civil society organisations working with victims and survivors who participate in the transitional justice system.

This Action provides an opportunity to better coordinate the work by the EU and its Member States following a Team Europe approach. The implementing partner will, together with the EU Delegation, be responsible for informing other members of Team Europe Initiatives about potential synergies and to avoid duplication of efforts. Stronger coordination and information sharing will also lead to more coherent political dialogue and strengthening the JEP in its capacities. Additionally, synergies are expected to be created with activities undertaken by USAID who recently started planning support to the JEP. Being able to coordinate between the EU and its Member States following a Team Europe approach and the US will provide good opportunities to strengthen all parts of the transitional justice system, considering both actors' strong ties with Colombia.

## 2.2 Problem Analysis

The transitional justice system is an integral part of the peace agreement and – considering the extreme amount of people (arguably several millions) having been negatively affected during the armed conflict – it is key to establishing a sustainable peace where rights of the victims and survivors are granted and perpetrators being sentenced in a reconciliatory manner. The JEP's work has not moved as quickly as predicted and so far no verdicts have been passed. Consequently, the restorative sanctions system has not yet been developed to a great extent and the expectations from victims and survivors and the general public are not always in line with what the JEP can or will deliver, which may lead to negative reactions once the first verdicts are being passed.

There are different reasons for the slow development of the JEP's work. First, the magnitude of the task is significant and the capacity low due to limited financial support. Second, the restorative sanctions system is unique for Colombia and has no precedent, and therefore limited possibilities exist to capitalise on previous work from other post-conflict judicial systems. Third, the JEP is a horizontal organisation where different units and departments develop their own *modus operandi*; limited coordination has resulted in inefficient and sometimes duplicated efforts. The low level of engagement from the previous government has exacerbated this development.

In short, the JEP's work consists of receiving, contrasting and collating information on potential crimes committed during the conflict presented by several different actors, individually as well as collectively (work of the Chambers) and subsequently reviewing the work of the Chambers and passing verdicts (work of the Tribunal). To ensure that collection of information by the Chambers is comprehensive and impartial, a system following several different steps is established. First, a general analysis is made to understand whether repeated patterns of misconduct have occurred. If so, a so called "macro case" is opened and presumed victims and survivors are invited to give their testimonies of all events that have taken place. This information is analysed before alleged perpetrators are invited to provide information to complement the picture. The victims and survivors then have the possibility to corroborate the new records and provide additional information.

So far, ten macro cases have been opened (of which three in 2022) and another one focused on GBV is expected to be opened soon. For a victim to directly benefit from the restorative sanctions system, it is not enough (or necessary) to give a testimony, but he or she must go through a process of accreditation.

<sup>3</sup> See Annex Mapping of Team Europe support to JEP.

It is assessed that only 7% of the total amount of victims and survivors have been accredited so far, indicating the gargantuan task the JEP is faced with to communicate the procedure of accreditation, its consequences and to gain the trust of victims and survivors to undergo yet another formality. Further highlighting the magnitude of the work is the JEP's estimate that for one of the newly opened macro cases (no 09 "Crimes committed against ethnic groups") there are 1.3 million victims and survivors.

Progress in a couple of macro cases (especially no 01 "Hostage-taking by the FARC" and no 03 "Murders and forced disappearances by public forces") is satisfactory but still insufficient as final decisions have not been made, and in the others progress has been minimal. In addition, the recent opening of new macro cases this year (no 08 "Crimes committed by public forces", no 09 "Crimes committed against ethnic groups" and no10 "Crimes committed by the FARC") will create more risks of delays, especially due to their characteristic of being national and not regional. Since these processes are based on a restorative logic, it is necessary that all procedures be adapted to it. Therefore, the three Chambers must establish mechanisms for the collection and analysis of information that will ensure the participation and consideration of reparation proposals coming from the victims and survivors themselves and the perpetrators, especially in cases of gender-based violence. In addition, it must be guaranteed that during the development of hearings and other legal measures, adequate psychosocial support is provided to victims and survivors and participants of the hearing. This makes it necessary for officials to have specific tools, methodologies and skills to provide this type of specialised attention.

Once the Chambers have collected and analysed the information, a resolution is passed to the Tribunal (one macro case can consist of several resolutions) who has the task of verifying the work of the Chambers (and if necessary, complementing it) and then passing verdicts in line with the idea of restoration and reconciliation.

In 2023 the Peace Tribunal will receive an increased number of macro cases analysed by the Chambers, taking final decisions and issuing sanctions (so called TOARs) as measures of reparation and compensation for the victims and survivors. For this purpose, it is necessary to strengthen capacities of the restorative approach and generate coordination mechanisms with other state entities and government authorities in territories to execute and follow up on the restorative decisions.

The JEP has indicated that support is needed to initiate the three newly opened macro cases and the one to be opened soon on GBV. Moreover, the JEP has highlighted the backlog of cases in the Chamber for Amnesty and Pardon ("Sala de Amnistía o Indulto"). Expediting these sentences would have a considerable impact on the lives of the many persons who have gone through the judicial process but are unlikely to having committed punishable crimes.

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

The key stakeholder of the Action is the JEP. More specifically, i) the three Chambers – responsible for collecting and analysing all information connected to the macro cases, ii) the Tribunal – responsible for formulating and passing restorative sanctions of perpetrators and iii) the Secretariat – responsible for (among other issues) communication and analysis, will be the main recipients of support. The JEP is a completely autonomous entity and does not answer to any ministry or governmental agency.

The final beneficiaries of the Action are the victims and survivors of the conflict with a specific focus on victims and survivors of GBV.

### 3 DESCRIPTION OF THE ACTION

#### 3.1 Objectives and Expected Outputs

The Overall Objective (Impact) of this Action is to contribute to sustaining peace in Colombia.

The Specific Objectives (Outcomes) of this Action are to

- 1 Improve the system of gender sensitive restorative sanctions that favours reconciliation and the satisfaction of victims and survivors.
- 2 Maintain the legitimacy of and trust in the JEP among the general public.

The Outputs to be delivered by this Action contributing to the corresponding Specific Objectives (Outcomes) are:

Contributing to Outcome 1 (or Specific Objective 1):

- 1.1 Increased capacity of the three Chambers (Salas de Justicia) regarding information processing, context analysis and identification of macro-criminality patterns.
- 1.2 Increased capacity of the Peace Tribunal (Tribunal para la Paz) regarding analysis, revision and evaluation of decisions presented in the court.

Contributing to Outcome 2 (or Specific Objective 2):

- 2.1 Improved mechanisms for communication with victims and survivors and the general public on the restorative sanctions system in the Special Jurisdiction for Peace (JEP acronym in Spanish).

A pillar of the TEI Peace is directly aligned with one of the pillars of the peace agreement, “victims”. The expected result under the TEI pillar is “the implementation of the Comprehensive System of Truth, Justice, Reparation and Non-Recurrence as well as the Law on Victims and Land Restitution is promoted”. Thus, this Action contributes fully to the TEI objectives.

### 3.2 Indicative Activities

Activities relating to Output 1.1

- Provide technical assistance to gather and process information of the ongoing macro cases and to advise on the opening of the new macro case on GBV.
- Provide technical assistance to increase the capacity of the GRAI (the Information Analysis Group). The GRAI performs context analysis, identifies and characterises patterns of criminal behaviour and manages information, to contribute to the decision-making of the JEP in general).
- Provide technical assistance to improve the capacities of the JEP to apply restorative and reparation measures that satisfy the truth seeking of the victims and survivors.
- Provide technical assistance to organise hearings with victims and survivors and perpetrators that are sensitive to territorial, ethnical and gender dimensions incorporating adequate psychosocial support to victims and survivors and those participating in the trial.
- Coordinate, advise and follow up on the joint Action in support to the JEP and establish information and communication mechanisms that strengthen and coordinate actions of the EU and its Member States following a Team Europe approach.

Activities relating to Output 1.2

- Provide technical assistance to the judiciary to analyse and evaluate the resolutions which will be passed from the Chambers to the Tribunal.
- Coordinate, advise and follow up on the joint Action in support to the JEP and establish information and communication mechanisms that strengthen and coordinate actions of the EU and its Member States following a Team Europe approach.

Activities relating to Output 2.1

- Measure the credibility of the JEP among the public using the same methodology as in two studies undertaken in the previous project supported by the FPI.
- Support the implementation and potential update of the communication strategy, maintaining a strong territorial, ethnical and gender approach.

### 3.3 Mainstreaming

#### **Environmental Protection & Climate Change**

**Outcomes of the SEA screening** (relevant for budget support and strategic-level interventions)

The Strategic Environmental Assessment (SEA) screening concluded that no further action was required (in accordance with the guidelines on integrating the environment and climate change into EU international cooperation and development, pages 56-57).



**Outcomes of the EIA (Environmental Impact Assessment) screening** (relevant for projects and/or specific interventions within a project)

The EIA (Environment Impact Assessment) screening classified the Action as Category C (no need for further assessment) in accordance with the guidelines on integrating the environment and climate change into EU international cooperation and development, pages 57-61.

**Outcome of the CRA (Climate Risk Assessment) screening** (relevant for projects and/or specific interventions within a project)

The Climate Risk Assessment (CRA) screening concluded that this Action is no or low risk (no need for further assessment) in accordance with the guidelines on integrating the environment and climate change into EU international cooperation and development, pages 63-64.

### **Gender equality and empowerment of women and girls**

As per the OECD Gender DAC codes identified in section 1.1, this Action is labelled as G1. This implies that gender equality is a significant objective. The JEP has decided to open a macro case on GBV instead of treating gender solely as a transversal issue in all macro cases. The Action will support the Chambers in this work ensuring that gender remains a prioritised topic for the transitional justice system.

### **Human Rights**

One of the objectives of the transitional justice system is to guarantee justice in cases of serious human rights violations and breaches of international humanitarian law. The JEP is the highest judicial body processing individual and collective responsibility of perpetrators during the armed conflict, investigating and developing sentences for serious human rights violations. This makes the JEP one of the most important actors implementing the peace agreement and respecting the declaration of human rights.

### **Disability**

As per OECD Disability DAC codes identified in section 1.1, this Action is labelled as D0. This implies that the Action is not considered relevant for inclusion of persons with disabilities.

### **Democracy**

The peace agreement, and therefore the entire transitional justice system, is incorporated into the Colombian Constitution. As such, it is a fundamental part of formal Colombian democracy. The JEP is one of the primary judicial bodies of the country, safeguarding the rule of law on which all democracies are based.

### **Conflict sensitivity, peace and resilience**

One of the objectives of the transitional justice system is to contribute to the promotion of peaceful coexistence, reconciliation and non-repetition. Through its reconciliatory approach and a system of restorative and reparative sanctions, the JEP plays a key role in establishing a resilient and sustainable peace. Having said this, the JEP is highly contentious and the first sentences to be passed might cause controversy. The Action aims to improve understanding of the concept of transitional justice and the work carried out by the JEP to increase its legitimacy.

### **Disaster Risk Reduction**

The Action is not considered relevant regarding disaster risk reduction.

### **Other considerations if relevant**

No other considerations.

## **3.4 Risks and Lessons Learnt**

<b>Category</b>	<b>Risks</b>	<b>Likelihood (High/ Medium/ Low)</b>	<b>Impact (High/ Medium/ Low)</b>	<b>Mitigating measures</b>
1-external environment.	Risk 1: Limited political and	Medium	High	The EU and several Member States have supported the transitional justice system

	financial support for the JEP leading to delays in the process and decreased credibility.			since its inception. This support will continue through political dialogue and financing; as part of the TEI peace the support to the JEP will be a topic for discussion for several Member States with the new government.
2-planning, processes and systems.	Risk 2: Limited sustainability, since the Action is based on technical assistance/support from external consultants.	Medium	Medium	Ensuring that the implementing partner has a solid understanding of the JEP and an already established working relation will be necessary. Moreover, the Action should result in products that support structuring procedures and activities within the JEP.
3-people and the organisation.	Risk 3: Inadequate coordination between donors leading to inefficiency and duplicating efforts.	Low	Medium	Support to the transitional justice system is defined as an activity in the TEI peace. As such, coordination between member states and like-minded donors is prioritised. Additionally, coordinating measures with other donors such as USAID have been foreseen.

#### **Lessons Learnt:**

The previous action funded through FPI was evaluated externally and the most important lessons learnt were:

- A high level of flexibility should be ensured during the course of the Action. The transitional justice system is work in progress and it is difficult to foresee what priorities need to be made during the course of the Action.
- Understanding and adapting to the JEP's internal organisation was crucial for the success of the previous Action. In practice, this involved networking and using informal channels of communication to ensure adequate flow of information and involvement of different stakeholders to create synergies between units and sustainable results. This also meant involving decision makers (especially magistrates in charge of work on different macro cases) in the formulation of work plans and ToRs for consultants to ensure usefulness of the products.

### 3.5 The Intervention Logic

The underlying intervention logic for the Action is that only if the transitional justice system is efficient and has high credibility among victims and survivors and the general public, then it can be a cornerstone for sustainable peace and a stronger Colombian democracy, since a transitional justice system that does not deliver as expected by the public, will have detrimental effects for a resilient peace in the country where victims and survivors will not experience redemption and reconciliation. For the JEP to be efficient, both the Chambers and the tribunal need increased capacity, especially considering that three new macro cases have already been opened in 2022 and another one will be opened shortly.

Moreover, the verdicts to be passed need to be duly communicated and in line with expectations of victims and survivors and the general public. For this to become a reality, the JEP needs to continue working on its strategic communication, which was supported by the previous Action funded by the FPI. If this communication fails, there is a risk that the JEP – even if improving efficiency – will lose credibility, which will hamper its possibilities to function properly and contribute to a sustainable peace.

The activities will focus on addressing bottlenecks within the JEP to gain maximum effect of the Action. This will require strong coordination with the different units of the JEP and other donors, including key actors in formulation of activities – not only for the formulation of the project but also during the course of the Action. Additionally, because of the nature of the innovative and unique transitional justice system, the JEP is working in uncharted territories, which requires a high degree of flexibility during the implementation phase to accommodate to unforeseen needs.

Considering outcome 1, if dialogue between the parties (chambers-victims and survivors-perpetrators) with regard to the restorative measures and sanctions is fostered by the chambers and the tribunal of the JEP, then the practice of transitional justice can satisfy the rights of those affected, be less burdened with conflicts and disappointments, and be more sensitive to the gender perspective thanks to the co-construction process of peace.

In outcome 2, if the communication strategy of the JEP with victims and survivors and the general public is implemented according to plan, then it can provide the basis for the legitimacy and trust in the JEP and the restorative sanctions system because timely communications provides a necessary foundation for understanding between parties.

### 3.6 Logical Framework Matrix

This indicative logframe constitutes the basis for the monitoring, reporting and evaluation of the intervention.

On the basis of this logframe matrix, a more detailed logframe (or several) may be developed at contracting stage. In case baselines and targets are not available for the Action, they should be informed for each indicator at signature of the contract(s) linked to this AD, or in the first progress report at the latest. New columns may be added to set intermediary targets (milestones) for the Output and Outcome indicators whenever it is relevant.

- At inception, the first progress report should include the complete logframe (e.g. including baselines/targets).
- Progress reports should provide an updated logframe with current values for each indicator.
- The final report should enclose the logframe with baseline and final values for each indicator.

The indicative logical framework matrix may evolve during the lifetime of the Action depending on the different implementation modalities of this Action.

The activities, the expected Outputs and related indicators, targets and baselines included in the logframe matrix may be updated during the implementation of the Action, no amendment being required to the Financing Decision.

PROJECT MODALITY (3 levels of results / indicators / Source of Data / Assumptions - no activities)

Results	Results chain (@): Main expected results (maximum 10)	Indicators (@): (at least one indicator per expected result)	Baselines (values and years)	Targets (values and years)	Sources of data	Assumptions
<b>Impact</b>	Contribute to sustaining peace in Colombia.	1) Percentage of provisions in the peace agreement deemed as completed.	1) 30% 2022	1) 34% in 2023, 38% in 2024, 42% in 2025	1) Reports from Kroc Institute.	<i>Not applicable</i>
<b>Outcome 1</b>	1) Improve the system of gender sensitive restorative sanctions that favours reconciliation and the satisfaction of victims and survivors.	1.1) Percentage of provisions under point 5 in the peace agreement deemed as completed. 1.2) Percentage of gender approach stipulations in the peace agreement deemed as completed.	1.1) 27% 2022 1.2) 12% 2022	1.1) 29% in 2023, 31% in 2024, 33% in 2025. 1.2) 13% in 2023, 14% in 2024, 15% in 2025.	1.1) Reports from Kroc Institute. 1.2) Reports from Kroc Institute.	The Kroc Institute releases trimestral reports of the advances of the peace agreement, using the same methodology every year.
<b>Outcome 2</b>	2) Maintain the legitimacy of and trust in the JEP among the general public.	2.1) Percentage of the public having a favourable perception of the JEP.	2.1) 72%	2.1) 72%	2.1) Attitude survey undertaken as part of the Action.	Same methodology for the survey as in the previous Action to be used. The first sentences issued by the Peace Tribunal will probably have a negative effect on the JEP's credibility since the public is likely to expect more traditional punishments.
<b>Output 1 relating to Outcome 1</b>	1.1) Increased capacity of the three Chambers (Salas de Justicia) regarding information processing, context analysis and identification of macro-criminality patterns.	1.1.1) Number of proposals of decisions regarding the legal status of ex-combatants, restorative initiatives and sanctions, taking into account differential approaches, and development and consolidation of technical legal tools and mechanisms that enhance and increase dialogue processes between victims and survivors and ex-combatants. 1.1.2) Status of use of institutional strategy by JEP that ensures the implementation of a restorative and gender approach in the decisions of the chambers.	1.1.1) 0 of 11'306 orders and resolutions (incl. TOARs) issued until 18th November 2022 (as until now no analysis has been made whether the orders and resolutions take into account a restorative and gender approach). 1.1.2) No institutional strategy for the systematic implementation of a restorative and gender approach in the decisions of the chambers	1.1.1) 1130 orders and resolutions in 2023, 2261 orders and resolutions in 2024, 3392 orders and resolutions in 2025. 1.1.2) The institutional strategy in the JEP to systematically implement restorative and gender approaches in the decisions of the chambers is evaluated and adjusted annually	1.1.1) Reports from the Office of international cooperation. 1.1.2) Strategy and policy documents from the JEP.	The JEP will not open new macro cases and will continue to process open cases with the same institutional capacities and resources it has by December 2022

<b>Output 2 relating to Outcome 1</b>	1.2) Increased capacity of the Peace Tribunal (Tribunal para la Paz) regarding analysis, revision and evaluation of decisions presented in the court.	1.2.1) Percentage of tribunal proposals of decisions taking into account a restorative and gender approach.	1.2.1) 0% of 1'251 decisions issued by the Peace Tribunal until 18 <sup>th</sup> November 2022 (as until now no analysis has been made whether the decisions take into account a restorative and gender approach)	1.2.1) 80% of the annual decisions issued by the Peace Tribunal	1.2.1) Reports from the Office of international cooperation.	The JEP will not open new macro cases and will continue to process open cases with the same institutional capacities and resources it has by December 2022.
<b>Output 1 relating to Outcome 2</b>	2.1) Improved mechanisms for communication with victims and survivors and the general public on the restorative sanctions system in the Special Jurisdiction for Peace (JEP acronym in Spanish)..	2.1.1) Number of updates of the JEP's communication strategy with a focus on communication with victims and survivors and the general public regarding the application of the restorative sanctions system.	2.1.1) The JEP's current communication strategy lacks a focus on communication with victims and survivors and the general public regarding the application of the restorative sanctions system	2.1.1) Yearly updates of the communication strategy.	2.1.1) Report from the Office of communication.	The first sentences issued by the Peace Tribunal will probably have a negative effect on the JEP's credibility since the public is likely to expect more traditional punishments.

## 4 IMPLEMENTATION ARRANGEMENTS

### 4.1 Financing Agreement

In order to implement this Action it is not envisaged to conclude a Financing Agreement with the partner country.

### 4.2 Indicative Implementation Period

The indicative operational implementation period of this Action, during which the activities described in section 3 will be carried out and the corresponding contracts and agreements implemented, is 48 months from the date of adoption by the Commission of this Financing Decision.

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

### 4.3 Implementation Modalities

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

#### 4.3.1 Indirect Management with an entrusted entity

This Action may be implemented in indirect management with an entity, which will be selected by the Commission's services using the following criteria: presence in the partner country, knowledge of the armed conflict and the transitional justice system, existing relationship with the JEP, expertise on victims and survivors' judicial representation, knowledge about access to justice and victims and survivors' rights, proven human resource capacity, knowledge of managing delegated funds, potential for coordination and creating synergies within Team Europe+. The implementation by this entity entails the entire Action as described in this action document.

#### 4.3.2 Changes from indirect to direct management mode (and vice versa) due to exceptional circumstances (one alternative second option)

If negotiations with the envisaged entity fail and no other entity under the same modality can be identified, the implementation modality will switch to a direct management grant using a call for proposals procedure, targeting organisations such as Civil Rights Advocacy Organisations and Peace and Human Rights Organisations. The grant beneficiary will be chosen using the same criteria as described under 4.3.1.

### 4.4. Scope of geographical eligibility for procurement and grants

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

The Commission's authorising officer responsible may extend the geographical eligibility on the basis of urgency or of unavailability of services in the markets of the countries or territories concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of this Action impossible or exceedingly difficult (Article 28(10) NDICI-Global Europe Regulation).

## 4.5 Indicative Budget

Indicative Budget components	EU contribution (amount in EUR)
<b>Implementation modalities</b> – cf. section 4.3	
Indirect management with an entrusted entity - cf. section 4.3.1.	2 000 000
<b>Totals</b>	2 000 000

## 4.6 Organisational Set-up and Responsibilities

The implementing entity will be responsible for day to day operations of the Action. Considering the wide array of support to the JEP from different donors, strong coordination will be a key trait of this Action. A steering committee, including representatives of the implementing entity, the unit of international cooperation of the JEP and the EU delegation shall convene once every six months to receive an update of the implementation of the activities and decide on actions of strategic nature if necessary. Member States and like-minded donors who support the JEP will also form part of the steering committee and other Member States who have an interest in the Action but no direct support to the JEP will be invited to take part as observers. Additionally, when convened, the technical committee of TEI peace will be informed about the progress of the Action to ensure proper coordination with Member States and like-minded donors.

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

# 5 PERFORMANCE MEASUREMENT

## 5.1 Monitoring and Reporting

The day-to-day technical and financial monitoring of the implementation of this Action will be a continuous process, and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the Action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the Action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (Outputs and direct Outcomes) as measured by corresponding indicators, using as reference the logframe matrix (for project modality) and the partner's strategy, policy or reform action plan list (for budget support).

The 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).

Roles and responsibilities for data collection, analysis and monitoring:

For results on impact and outcome levels, reports from the Kroc institute will be used. It is envisaged that they will also be used to monitor some advances of the TEI Peace (see annex). Baselines will be the results presented in the latest report.

Most other indicators will be collected through follow up by the JEP and the implementing partner during the course of the Action. When not already available, baselines will be collected at the beginning of the Action. To measure the JEP's credibility it is suggested to undertake surveys using the same methodology as in the previous Action supported by FPI. The baseline for this specific activity will be the results from the latest survey from late 2021.



## 5.2 Evaluation

Having regard to the nature of the Action, an evaluation will not be carried out for this Action or its components.

The Commission may, during implementation, decide to undertake an evaluation for duly justified reasons either on its own decision or on the initiative of the partner. If so, the evaluation reports may be shared with the partners and other key stakeholders following the best practice of evaluation dissemination. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, apply the necessary adjustments.

## 5.3 Audit and Verifications

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

# 6 STRATEGIC COMMUNICATION AND PUBLIC DIPLOMACY

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

In line with the 2022 “[Communicating and Raising EU Visibility: Guidance for External Actions](#)”, it will remain a contractual obligation for all entities implementing EU-funded external actions to inform the relevant audiences of the Union’s support for their work by displaying the EU emblem and a short funding statement as appropriate on all communication materials related to the actions concerned. This obligation will continue to apply equally, regardless of whether the actions concerned are implemented by the Commission, partner countries, service providers, grant beneficiaries or entrusted or delegated entities such as UN agencies, international financial institutions and agencies of EU member states.

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

## Appendix 1 REPORTING IN OPSYS

A Primary Intervention (project/programme) is a coherent set of activities and results structured in a logical framework aiming at delivering development change or progress. Identifying the level of the primary intervention will allow for:

Articulating Actions or Contracts according to an expected chain of results and therefore allowing them to ensure efficient monitoring and reporting of performance;

Differentiating these Actions or Contracts from those that do not produce direct reportable development results, defined as support entities (i.e. audits, evaluations);

Having a complete and exhaustive mapping of all results-bearing Actions and Contracts.

Primary Interventions are identified during the design of each action by the responsible service (Delegation or Headquarters operational Unit).

The level of the Primary Intervention chosen can be modified (directly in OPSYS) and the modification does not constitute an amendment of the action document.

Action level		
<input checked="" type="checkbox"/>	Single action	Present Action: all contracts in the present Action