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

**ANNEX**

of the Commission Decision on the financing of an individual measure in favour of the Kingdom of Lesotho

**Action Document for the Support for the Reform and Strengthening of Governance in Lesotho Programme**

<b>1. Title/basic act/ CRIS number</b>	Support for the Reform and Strengthening of Governance in Lesotho Programme. CRIS number: LS/FED/041-024 financed under the 11 <sup>th</sup> European Development Fund (EDF)	
<b>2. Zone benefiting from the action/location</b>	Kingdom of Lesotho The action shall be carried out at the following location: all 10 districts	
<b>3. Programming document</b>	National Indicative Programme (NIP) 2014-2020 for Lesotho	
<b>4. Sustainable Development Goals (SDGs)</b>	SDG 16: Peace, Justice and Strong Institutions SDG 5: Gender Equality SDG 10: Reduced Inequalities	
<b>5. Sector of intervention/ thematic area</b>	Rule of Law and Good governance	DEV. Assistance: YES <sup>1</sup>
<b>6. Amounts concerned</b>	Total estimated cost: EUR 8 500 000 Total amount of EDF contribution EUR 8 500 000	
<b>7. Aid modality and implementation modalities</b>	Project Modality <b>Indirect management</b> with United Nations Development Programme (UNDP) <b>Indirect management</b> with the Kingdom of Lesotho	
<b>8 a) DAC codes</b>	15110 - Public sector policy and administrative management 15130 - Legal and Judicial Development 15150 -Democratic participation and civil society	

<sup>1</sup> Official Development Assistance is administered with the promotion of the economic development and welfare of developing countries as its main objective.

	15152 - Legislatures and Political Parties 15160 - Human Rights			
<b>b) Main Delivery Channel</b>	4100 – UN Agency, fund of Commission (UN) 1000 – Public Sector Institutions			
<b>9. Markers (from CRIS 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"/>	x
	Aid to environment	x	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and Women's and Girl's Empowerment	<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"/>
	Disaster Risk Reduction	x	<input type="checkbox"/>	<input type="checkbox"/>
	Inclusion of persons with disabilities	<input type="checkbox"/>	x	<input type="checkbox"/>
	Nutrition	x	<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	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>10. Internal markers</b>	<b>Policy objectives</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Digitalisation	x		
	Migration	x		
<b>11. Global Public Goods and Challenges (GPGC) thematic flagships</b>	N/A			

#### SUMMARY

Lesotho has embarked on the implementation of a National Dialogue and Reform Agenda to ensure political and security stability to Basotho after several years of political instability. The roadmap for reforms, adopted with the support of the Southern African Development Community (SADC), prioritised the completion of constitutional and institutional reforms to guarantee fulfilment of citizens' rights and efficient service delivery. The Lesotho multi-stakeholder national dialogue held from 25 to 27 November 2019 marked the end of a broad-based national consultation on seven thematic reform areas: the conclusions of the consultation will be implemented by the National Reforms Authority. Despite these recent commitments, justice and oversight institutions operate with limited powers, human/financial resources and technical capacities. This seriously affects their performance, resulting in poor service delivery that deprives people of access to justice and accountable mechanisms able to address their claims and respond to their needs.

The overall objective of the programme is to foster rule of law, good governance, human rights and gender equality in Lesotho. The specific objectives are: 1) Improved governance and performance of justice and public service sector institutions 2) Increased efficiency and quality of justice service delivery, 3) Improved access to justice for all, in particular for women, children and groups living in vulnerable situations and 4) Increased accountability, transparency, integrity and credibility of justice and governance institutions.

Building on the lessons learned from the former EU funded “Strengthening Lesotho Justice Project” (SLJP), the action intends to support the supply and demand side of the justice and governance sectors, through the strengthening of the country’s institutional and legal framework. Thus, the action will help to guarantee respect for human rights, gender equality, and the rule of law. The action will reinforce the capacity of justice sector actors to ensure improved service delivery, increasing the provision of legal assistance for people living in poverty and persons in vulnerable situations and empowering them to seek solutions or remedial actions through the support of the operational and oversight functions of independent institutions.

## **1 CONTEXT ANALYSIS**

### **1.1 Context Description**

The Kingdom of Lesotho is a small, mountainous and landlocked state surrounded by South Africa, with a population of about 2 million inhabitants (48.9 % male – 51.1 % female), 65 % of whom reside in rural areas and with 37.8 % below the age of 15 years old<sup>2</sup>. Lesotho ranks as a lower middle-income country, positioned 159 out of 189 countries and territories in the 2017 Human Development Index (HDI). The country has a narrow resource base and mainly exports textiles, water and diamonds respectively to South Africa, Belgium and the United States. The government revenues highly depend on transfers from the Southern Africa Customs Union (SACU), which have decreased by 15 % since 2012. The economic growth averaged 1.4 % in the last three years and is estimated at 2.6 % in 2019, driven by two major Water Development Projects. The economic situation is marked by an unemployment rate of 33 % (higher among females and youth), high income inequality and poverty rates, with 57.1 % of the population living below the national poverty line and 34 % below the food poverty line of \$10.30 per adult per month<sup>3</sup>. The agriculture sector, employing 80 % of the population, has been critically affected by low productivity and climatic changes. Throughout 2019 an ongoing drought, severely affected food security of an estimated 30 % of the overall population. The government of Lesotho declared a drought state of emergency calling upon support from international donors in October 2019. Lesotho has the second highest HIV prevalence in the world with 25.6 % adults living with HIV/AIDS (30,4 % for women, 20,

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<sup>2</sup> Bureau of Statistics, census of 2016, <http://www.bos.gov.ls/2016%20Summary%20Key%20Findings.pdf>.

<sup>3</sup> United Nations, Common Country Analysis 2017.

8 % for men), which results in the third main cause of mortality for children aged 6-13 years (8 %) and a very low life expectancy<sup>4</sup>.

Economic development and social progress have been disrupted by cyclic political instability since the independence in 1966 and most recently since 2012. It marked the shift to a multi-party government system and the establishment of a first coalition government. Following an alleged coup d'État attempted in 2014 against the then Prime Minister (PM), Dr. Thomas Thabane, the Southern African Development Community (SADC) facilitated a mediation and established an observation mission in the country (SOMILES). The latter recommended some urgent institutional reforms. The organisation of elections in February 2015 led to the formation of a second coalition government. The Coalition Agreement for Stability and Reform, signed in April 2015, outlined objectives of restoring national peace and political stability, deepening democracy and respect for human rights, gender equality, transparency and good governance, and placing a greater focus on public consultation and citizen participation. However, this agreement failed to apply following the military mutiny of June 2015. A SADC inquiry commission called again for comprehensive security and governance sector reforms.

Following a motion of no confidence against the PM, new elections were held in June 2017 and a four-party coalition was formed, headed by PM Thabane. Based on a new Coalition Agreement for National Unity, Reconciliation, Peace and Security, signed in August 2017, Lesotho adopted a 'Roadmap'<sup>5</sup> to guide the reform process. This document identified different priority areas, including a possible constitutional review process to address, *inter alia*, the independence of the judiciary and national institutions. The Roadmap also envisaged a 'National Dialogue' to promote a broad national consensus. On 14 May 2018, the government embarked on the National Reforms Agenda revisiting seven key areas: the constitution, justice sector, security sector, public service, parliamentary, economy and media. The First Multi-Stakeholder National Dialogue, held in November 2018, initiated an inclusive and participatory process, gathering opinions of citizens, non-government entities and public institutions, through nation-wide in-district consultations, diaspora consultations throughout South Africa, special interest groups' platforms and written submissions. The National Dialogue Planning Committee (NDPC) compiled the outcomes of these consultations in seven thematic areas reports, which were adopted at the second Plenary held on 25-27 November 2019, with some minor disagreements<sup>6</sup>. The National Reforms Authority (NRA), established on 8 November 2019, has the mandate to manage, coordinate and oversee the implementation process of the reforms endorsed during the Second Plenary.

According to the Ibrahim Index of African Governance 2018 and Report<sup>7</sup>, Lesotho has not shown major changes in its classification over the past decade and is currently ranked 16<sup>th</sup> out of 54 African countries: 11<sup>th</sup> for safety and rule of law; 22<sup>nd</sup> for rights and one of the largest declines for the indicator on Independence and Transparency of the Judicial Process (-25

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<sup>4</sup> See World Bank: <https://www.worldbank.org/en/country/lesotho/overview>, African Development Bank – Country Strategy Paper 2020-2024 and Unicef, Country Office Annual Report 2018.

<sup>5</sup> The Lesotho We Want: Dialogue and Reforms for National Transformation, Vision, overview and Roadmap, November 2017.

<sup>6</sup> <https://www.gov.ls/reforms-forum-achieves-goal/> November 27, 2019.

<sup>7</sup> Mo Ibrahim Foundation African Governance Report (nd). Agendas 2063 and 2030: is Africa on track.

between 2014 and 2017). Lesotho's ranking on the Corruption Perceptions Index dropped from 55 in 2014 to 85 in 2019 out of 180 countries, after several high-profile corruption scandals<sup>8</sup>. The country's position in the World Economic Forum's Gender Gap Index has dropped from 43 in 2006 to 81 out of 149 in 2018<sup>9</sup>. Despite a very good ranking for 'educational attainment' and 'health and survival', the country has experienced one of the largest deteriorations on the gender indicators linked to women's political participation and economic empowerment. The rate of women's representation in local government has declined since the first local elections in 2005 (based on the 30 % quota provided in the Local Government Act of 2004) and went from 58 % to 40 % after the 2017 local elections. There has also been a drop from 25 % to 23 % of women's representation in Parliament and from 29 % to 9 % of women in Cabinet<sup>10</sup>.

Lesotho signed and ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other regional conventions. The Gender and Development Policy was promulgated into an Act in 2018 and focuses on political, economic and social empowerment of women. Despite the legislative and administrative measures undertaken to promote gender equality and to protect women in the fields of legal capacity, education, sexual reproductive health, land rights and access to finance, women remain prejudiced under traditional practices, especially in rural areas. They are in general disadvantaged with regard to their personal rights; inheritance and succession rights; lack of control over decision-making processes and lack access to income. Women remain more likely to face poverty, unemployment and gender-based violence<sup>11</sup>.

## 1.2 Policy Framework (Global, EU)

This action is aligned with: the Cotonou Agreement, the main basis for bilateral cooperation between the EU and Lesotho; the Communication 'Increasing the impact of EU Development Policy: an Agenda for Change'<sup>12</sup> (2011) which identifies the rule of law, human rights and key elements of good governance as one of the priority areas for EU development assistance and the the new European Consensus on Development 'our world, our dignity, our future'<sup>13</sup> which provides the framework for the EU's implementation of the United Nations 2030 Agenda for Sustainable Development and the Sustainable Development Goals, including the underlying principles of the rights-based approach and gender equality being integrated in all development co-operation.

The intervention also reflects the EU *Action Plan on Human Rights and Democracy* (2015-2019)<sup>14</sup> which highlights the need to support the capacities of parliamentary institutions, justice systems and public institutions. It also seeks to contribute to the Document 'Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through

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<sup>8</sup> <https://www.transparency.org/country/LSO> and Afrobarometer (June 2019). "Declining trust – Basotho perceptions of corruption and performance drive drop in popular trust". Policy paper No 57.

<sup>9</sup> [http://www3.weforum.org/docs/WEF\\_GGGR\\_2018.pdf](http://www3.weforum.org/docs/WEF_GGGR_2018.pdf).

<sup>10</sup> <https://genderlinks.org.za/what-we-do/governance/advocacy/lesotho-gender-and-elections/>.

<sup>11</sup> UN Lesotho Country Analysis, working Document, final draft, September 2017.

<sup>12</sup> COM(2011) 637 final of 13.10.2011.

<sup>13</sup> OJ C 210 of 30.6.2017.

<sup>14</sup> [https://eeas.europa.eu/sites/eeas/files/eu\\_action\\_plan\\_on\\_human\\_rights\\_and\\_democracy\\_en\\_2.pdf](https://eeas.europa.eu/sites/eeas/files/eu_action_plan_on_human_rights_and_democracy_en_2.pdf).

EU External Relations 2016-2020<sup>15</sup>, namely objective 7: ‘Girls and women free from all forms of violence against them (VAWG) both in the public and in the private sphere’, as well as objectives 17 to 19 under the thematic priority of ‘Political and civil rights - Voice and Participation’ in relation to equal rights and ability for women to participate in policy-making and governance processes at all levels, the promotion of gender equality, empowerment of women’s and girls’ rights and the fight against discriminatory social norms and gender stereotypes.

Governance is one of the three focal areas for EU support to Lesotho under the National Indicative Programme (NIP) 2014-2020.<sup>16</sup> The overall objective for support to governance in the NIP is to achieve *a more efficient and cost-effective provision of public goods and services* and, specifically in relation to the justice and governance sector, to improve the performance of the justice sector to deliver fair and timely justice and fight against corruption and to enhance the performance of the agencies mandated with critical oversight functions. The action aims to contribute to the achievement of the SDGs to which it is closely aligned, specifically: SDG 16, to build peace, justice and strong institutions; SDG 5, to promote gender equality and the empowerment of women and girls; and SDG 10, to reduce inequality.

### **1.3 Public Policy Analysis of the partner country/region**

The *1993 Constitution of Lesotho* institutes a democratic monarchy and sets out a separation of powers between the three branches of government: the Executive with the King as head of State and the Prime-Minister as head of government; the Legislature with a mixed parliamentary system and a bi-cameral Parliament composed of a National Assembly and Senate; and the Judiciary, with the High Court as the highest jurisdiction. The country’s dual legal system is made up of the Common Law and the Customary Law. The Constitution guarantees fundamental human rights and freedoms for individuals through a Bill of Rights, including the right to a fair trial, the right to equality before the law and the equal protection of the law. Although providing for the right of legal representation, the Constitution does not stipulate the right to provision of free legal aid for indigent people.

Lesotho is a member of the United Nations, the African Union, the Commonwealth of Nations, and SADC. The country signed and ratified all core UN human rights treaties and all African Union human rights instruments, except the Optional Protocol to the Convention against Torture and the Optional Protocol to the ICCPR. International human rights provisions are not fully enforceable due to the absence of constitutional recognition of the supremacy of international treaties over domestic law and the fact that the majority of human rights instruments have not been incorporated in national law. A National Human Rights Commission (NHRC) was introduced by the sixth amendment to the constitution in 2011 and the Human Rights Commission Act enacted in 2016. However, it failed to comply with the Paris Principles. Following several public awareness campaigns and advocacy activities with key actors, and the lodging of a constitutional case challenging the validity of the Act<sup>17</sup>, the

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<sup>15</sup> SWD(2015)182 final of 21.9.2015.

<sup>16</sup> The two other focal areas are water and energy.

<sup>17</sup> Under a project implemented by the Transformation Resource Center financed by EIDHR from 1<sup>st</sup> February 2016 to 30<sup>th</sup> December 2018: ‘Advocacy for the establishment and governance of a fully functional human rights commission’.

current Ministry of Law, Constitutional Affairs and Human Rights amended the Act as required. Recently approved by the Cabinet, the bill is expected to be passed by the Parliament .

The *Lesotho National Vision 2000-2020*<sup>18</sup>, which represents the long-term national economic, political and human development strategy, identifies good governance as a key area to be addressed in line with the principles of respect of human rights, the rule of law, political transparency and participation, a devoted and efficient public service, justice for all, an efficient chieftainship as well as media freedom and gender sensitivity. The *National Strategic Development Plan II (NSDP II) 2018/19-2022/2023* identifies strengthening governance and accountability structures as its fourth key priority area reinforcing the importance of governance, rule of law, and credible leadership to provide a conducive environment for private investment and inclusive growth. Some of the main outcomes include: effective oversight institutions for accountability; respect for human rights and civil liberties; protection of civil and political rights for all; and, a justice system that is effective, transparent, efficient and equitable.

The NSDP II is aligned with the United Nations 2030 Agenda for Sustainable Development and the African Union Agenda 2063. In its 2019 report on Voluntary National Review (VNR) of the implementation of the United Nations 2030 Agenda for Sustainable Development , Lesotho underlined the progress and achievements made on six focal areas for 2019, including SDG 16. It pledged, inter alia, to accelerate the implementation of the National Reforms Agenda and to strengthen the law enforcement agencies to meet the needs of special groups, including children and people with disabilities. The policy complies with relevant international commitments and adequately addresses the governance setbacks and incidents of human rights violations experienced during the previous five years. It also acknowledges the challenges in the administration of justice and the weakened effectiveness of the oversight bodies due to the lack of technical and financial resources and limited legal and operational independence. However, the NSDP II does not set up a performance monitoring and evaluation framework.

The budget estimates for the justice and governance sectors will not increase in the coming three years, nor will the institutional capacities to implement the policy, given current impediments in human and financial resources mobilisation.

Several strategies guide the justice and governance sectors. These strategies were developed in 2014 with the support of the EU but remain in line with the NSDP II objectives and planned interventions. The overall impact of the Justice Sector Reform Strategy (2015-2020) is for Lesotho to be ‘a stable and peaceful democracy in which all people enjoy safety and equal access to justice’ and its specific objective is ‘an efficient, effective, impartial and accountable justice sector that meets the needs of all communities in Lesotho’. It includes five outcomes: 1) Strengthened justice sector institutions for improved collaboration, communication and cooperation; 2) Strengthened rule of law, independence of the Judiciary and justice sector institutions; 3) Improved access to justice; 4) Improved law enforcement, prosecution and correctional services and 5) Credible and accountable justice sector.

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<sup>18</sup> Op. cit.

This sector-wide policy, as well as the other strategies elaborated by the Ministry of Justice (MoJ) and the Ministry of Law for the period 2014-2019 have not been implemented due to budget constraints. The national anti-corruption strategy and action plan, developed by the Directorate on Corruption and Economic Offences (DCEO) for 2014-2019, had a more successful implementation thanks to the increase of the Directorate's budget for the year 2017/2018, acquisition of logistics, increase of staffing and the pursuance of a multi-sectoral approach that mobilised various stakeholders from all key sectors of society - public, private, and civil society groups - to participate in the fight against corruption.

The Lesotho government developed a National Action Plan to end Gender Based Violence (GBV) in 2011 and embarked on a pilot project to implement the plan in three districts. Since then, stakeholders have established GBV networks in 13 councils in 3 districts. These networks received training on women's empowerment, preventing and responding to GBV, and the importance of gender equality.<sup>19</sup> The GBV network project also trained members of the judiciary and the police, namely the Child and Gender Units, where officers handle GBV cases confidentially and separately. In addition, awareness campaigns on GBV were directed at boys and men in rural communities. Radio programmes were used to sensitise communities on GBV.<sup>20</sup>

#### **1.4 Stakeholder analysis**

Direct beneficiaries and duty bearers targeted by the programme are the institutions listed below. They are critical on account of their legal status but suffer of limited financial and human resources and low technical capacities.

The Judiciary. The current judicial model is based on a dual court structure composed of statutory law courts and customary law courts. Under the reforms' recommendations, this dual system is proposed to be transformed into a single court structure with changes in the jurisdiction and presiding of the local, subordinate and superior courts. The decentralisation of the High Court has started with the construction of a new justice complex in Leribe (for the Northern region) which is expected to be completed and equipped at the beginning 2020. Despite these capital investments, the financial autonomy granted to the Judiciary under the Judiciary Act 2011 has not led to an increase of its operational budget.

The Ministry of Law, Constitutional Affairs and Human Rights is principally mandated to undertake the promotion, protection and monitoring of human rights; start criminal prosecutions and civil litigation on behalf of the government. It is also in charge of law reform and revision, the drafting of legislation, interpreting and negotiating international agreements and domestication of such agreements. The Attorney's General office, the Parliamentary Counsel Department, the Law Reform Commission and the Human Rights Unit will be provided with technical support to improve legislative drafting, revision and modernisation. The office of the Director of Public Prosecutions (DPP) will be provided with professional training to deal with corruption offences and other specialised criminal issues. All these

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<sup>19</sup> The training was supported by the United Nations Population Fund (UNFPA).

<sup>20</sup> See Gender Link Lesotho 2016 -2020: [https://genderlinks.org.za/wp-content/uploads/2016/03/Lesotho\\_Strategy2016to2020\\_ahsxmm\\_REVISED\\_06015.pdf](https://genderlinks.org.za/wp-content/uploads/2016/03/Lesotho_Strategy2016to2020_ahsxmm_REVISED_06015.pdf).

departments are understaffed and under resourced. However, they recently received substantial IT and furniture equipment support via World Bank support (see 3.2).

The Ministry of Justice and Correctional Service primarily provides for access to justice through legal representation of indigent Basotho, the use of non-custodial sanctions and restorative justice, the safe custody of inmates and the rehabilitation and reintegration of offenders. Its administrative and technical units operate with few human and material resources. The Legal Aid Unit comprises 16 legal aid counsels to provide free legal assistance in both civil and criminal matters throughout the country. The Probation unit comprises 9 officers to cover Maseru and six districts. The Correctional Service (LCS) is better staffed with a personnel of 1546 running 14 prisons which house about 2700 inmates for an official population capacity of 3125 (2.8 % women and 56 juveniles live in separate facilities). Each facility has a manager and 3 rehabilitation officers in charge of reintegrating offenders.

The Law Society (LS). The LS and the practice of lawyers is regulated by the Legal Practitioners Act and the Law Society Act and Rules of 1983. The LS has around 200 registered practitioners and is headed by a newly elected board. The LS has difficulties in promoting access to justice and in exercising the sound administration of justice and legal practices. Beyond their designation by the Judiciary in criminal cases (pro-deo representation of indigents), they can hardly afford to provide *pro bono* representation in criminal and civil matters following the referral of cases by the Legal Aid Unit (LAU).

The legal aid clinic of the Law Faculty at the National University of Lesotho (NULLAC) provides 50 law students (during the 5<sup>th</sup> year of the Law diploma) with hands-on training preparing them for future practice, under the supervision of 17 professional staff able to conduct court representation. The NULLAC agreed with the Law Society to limit their legal representation to certain types of clients. Students provide free legal services to indigent clients through consultations at the university once a week and mobile clinics focused on community education and mediation, defence of detainees and groups in vulnerable situations.

The chieftainship. The Chieftainship Law of 1968 and Local Government Act of 1997 allows Chiefs to preside over issues related to criminal acts, community and family conflicts taking place within his/her jurisdiction. If the matter is beyond their jurisdiction, e.g. domestic violence, rape etc., the chiefs systematically refer these cases to the Child and Gender Police.

The independent and oversight institutions targeted by the programme. The institutions targeted by the programme are the Ombudsman, the DCEO, the Office of the Auditor-General, the Judicial Service Commission and the Parliament.

The Office of the Ombudsman: This is established under the Constitution and the Ombudsman Act of 1996. It is mandated to ensure the rights of citizens in the areas of injustice, maladministration, human rights violations, corruption and degradation of the eco-system. It receives and investigates complaints against officials and employees of government agencies and statutory corporations. The office of the Ombudsman has limited autonomy, capacity and resources. It reports directly to Parliament, which oversees its budget allocation, operational and financial performance and submits a Special Report to Parliament when its

recommendations on resolving a complaint are not complied with. However, this enforcement mechanism has not proved very effective until now.

The DCEO is established under the 1999 Prevention of Corruption and Economic Offences Act. It is mandated to fight corruption and economic offences using a three-level approach - public education, prevention and investigation. Despite its financial autonomy, the directorate relies on funding from an annual budgetary allocation by the government that decreased for the financial year 2019/2020. Although the DCEO was allowed to recruit 25 additional staff, it would like to be more independent and to be able to prosecute corruption and economic offences directly, without seeking approval from the DPP. Two drafting bills are under preparation to change the legal status of the DCEO and to establish an anti-corruption court (part of the High Court).

The Judicial Service Commission (JSC). It is an institution that is foreseen by the Constitution that was established by an Act of 1983 . It is composed of four members (with the Chief Justice as chairman) and it is mandated to advise the Prime Minister on matters relating to the appointment, discipline and removal from office of judicial officers. Under the Administration of the Judiciary Act of 2011, the JSC is able to appoint all members of the Judiciary and any other officers of any court, and to discipline or dismiss members of the Judiciary. However, the composition and functioning of this Commission is still contested.

The Parliament. This seeks to enhance its autonomy and its ability to fulfil its legislative, monitoring and oversight functions. It is currently contemplating transforming its portfolio committees to permanent committees, so they become more specialised and thematically focused. Given human and financial resources constraints, the Members of Parliament do not have the ability to conduct the law-making process and encounter difficulties in outreach to their constituencies.

The Auditor-General Office (OAG) is established under the Audit Act of 2016 and its primary role is to promote accountability, trust and value for money in the management of public resources. The independence of the OAG is considered severely compromised due to its inability to recruit its own staff: OAG recruitment is done through the Public Service Commission (Ministry of Public Service). Poor remuneration and fringe benefits restricts its ability to attract and retain competent skilled labour<sup>21</sup>. Although it has legally received full autonomy, the OAG does not have powers to present audit findings directly to the Parliament.

Right holders of this programme are Civil Society Organisations and Basotho citizens.

Civil Society Organisations (CSOs): CSOs have been actively involved in efforts aimed at promoting the rule of law during the democratisation process. However, most CSOs face capacity and financial constraints and the country EU Roadmap for engagement with the Civil Society underlined the absence of a formalised structured way of engagement with CSOs in national development and the political reform processes. CSOs will be involved as direct beneficiaries of the programme, through their support under output 1.2, and indirectly under

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<sup>21</sup> World Bank Country report 2015, in WYG Organisation Capacity Assessment of key public finance institutions (2019).

the Lesotho Civil Society Support Programme and the European Instrument for Democracy and Human Rights (EIDHR). Their engagement by the government in the national reform process and active interaction with some ministries and local authorities will be further enhanced and expanded through their continuous involvement in the implementation of the reforms process. Twenty-one representatives of different civil society organisations are nominated as members of the NRA and, as such, will be directly participating in the deliberations and activities of the NRA. They will therefore be capacitated by the programme to perform decision-making functions and to monitor the implementation of the reforms process. They will also be involved in programme activities related to the revision of laws, policy development, training of legal / judicial practitioners as well as joint actions facilitating legal awareness and access to justice.

All Basotho citizens: This specifically includes groups in the most vulnerable situations such as women, children, juveniles in conflict with the law, persons with disabilities, elderly, communities living in isolated rural areas and other minority groups.

The Gender Country Profile for Lesotho 2016 noted that there was near gender parity in judicial representation in Lesotho. It cited that High Court male and female judges are equal in number and that the President of the High Court was the first woman to occupy such a high position in the Region. It also noted that women are more fairly than men represented in local, central and magistrate courts, with some 56 % being magistrates, including the Chief magistrates. Other women are positioned as heads of public sector institutions (e.g. OAG, DPP, Central Bank and Independent Electoral Commission.)

## **1.5 Problem analysis/priority areas for support**

The justice and governance sectors present a number of serious challenges affecting their institutional and operational functions. These problems have been identified in the different sector strategies developed by the beneficiaries, including: the sectors' gap assessments conducted in the framework of the national reform process; research studies, reports and advocacy papers published by donor agencies and human rights organisations and bilateral and group consultations conducted during the formulation mission. The constraints identified can be clustered under four main key issues. These will be addressed through the actions' objectives.

### **1) Necessary political and institutional reforms**

Structural deficits present in the constitutional, justice, security and other sectors' systems have been largely discussed in the framework of the National Dialogue Reform Process. The constitutional issues raised by the public and professionals, as they relate to the programme's interests, focus on the necessity to review the Bill of Rights and the separation of powers. The foremost points to be revised in the Constitution are: the enforceability of socio-economic rights in order to expand their recognition to more social groups; the inclusion of provisions that obligate the State to assist and protect the victims of human rights violations and to allow individuals or organisations to go to court on behalf of aggrieved parties; a provision recognising the applicability of international instruments after incorporation into domestic law and enabling the parliament to be involved in the country's ratification of international agreements; the removal of discrimination towards women on the basis of Customary Law.

Concerns were expressed about the Prime Minister's powers in relation to the appointment and removal or dismissal of judicial leaders (Chief Justice and President of the Court of Appeal), heads of security agencies, heads of oversight institutions and his powers in relation to prorogation and dissolution of the Parliament. The resulting effect of this political interference in other branches of government and oversight bodies seriously undermines the core principles of their independence and is being advanced as the main obstacle for these institutions not being able to dispense services and discharge their functions with efficiency and transparency. New mechanisms and structures are therefore proposed in the relevant sector reform reports to enable the Judiciary, the Parliament and oversight institutions to have more control over their resources and to enhance their independence from the executive.

## **2) Deficiency of the justice service delivery**

The main issues concerning the administration of justice are: inadequate human and financial resource allocation; absence of political and institutional commitment to justice sector reform; limited independence of the judiciary; inadequate, obsolete and outdated legal frameworks and policies; general management inefficiency of courts; lack of professional training for legal and justice sector actors; non-completion of cases and late delivery of judgements. Moreover, there is a lack of coordination between agencies, namely in the criminal justice chain. This has led to significant backlogs of both civil and criminal cases at every jurisdictional level, yielding lengthy pre-trial detention and violations of the right to a fair trial.<sup>22</sup>

The programme will support the streamlining of legislative drafting and legal amendment processes to be timelier and of better quality. It will aim to reduce the delays in disposing of criminal cases by facilitating the implementation and enforcement of the Speedy Trial Act of 2002, which set time limits for each stage of pre-trial and trial processes. It will also support the High Court and magistrate courts to continue reducing the backlog of civil cases, through strengthening the court mediation processes, reviewing the Courts rules and the manual case management process for an efficient and integrated information, recording and archiving system. Following the discontinued functioning of the case management system (CMS), which was installed with the financial assistance of the Lesotho Millennium Challenge Compact and EU from 2013 and the challenges encountered with the non-completion/use of other IT tools/database in other institutions during the former EU funded project, this programme will first conduct preliminary and thorough assessments of the ICT environment of Lesotho. These will include an assessment of key institutions' commitment and capacities *before* any equipment is procured. Small scale IT *pilot activities* are also envisaged in the first instance.

Except for the two training colleges of the police and the LCS, there is no judicial or law training institute in Lesotho. The Judicial Education Institute Bill of 2011 has never been voted. Judicial officers and lawyers benefit from training programmes organised on an ad hoc manner, mostly outside of the country. During the formulation mission, all actors agreed that

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<sup>22</sup> See Legislative reform assessment and analysis report, conducted under the Strengthening the Lesotho Justice Sector Project (SLJS) in 2014. Also, a study conducted by the Catholic Commission for Justice and Peace (CCJP) (not published) estimated that the average trial waiting period for pre-trial detainees assessed to be less about 12 months, with exceptional cases detained longer than 5 years.

the Faculty of Law of the University of Lesotho could lead and coordinate, in cooperation with other justice institutions (including the Law Society and CSO), the development of induction and continuous training curricula for lawyers, judicial officers and court personnel.

### **3) Shortcomings in access to justice, knowledge of rights and legal representation**

Given the severe underfunding of the justice sector and the inefficiencies described above, the rights holders have considerable difficulty in obtaining access to justice and to legal information. This is especially the case for women, children and groups in vulnerable situations. A large majority of pre-trial detainees do not have legal representation because they cannot afford it and have no knowledge of their legal rights in obtaining legal assistance.<sup>23</sup> The justice sector reform report and non-governmental organisations' (NGO) reports also highlight the lack of policies responsive to persons with disabilities, enabling them to access justice and legal information (e.g. through infrastructure, use of sign language and Braille).

Coupled with costly legal services, long distances to access services and a very low confidence in the justice system<sup>24</sup>, most Basotho, especially those residing in rural areas, rely on customary courts or traditional law systems. While the local and central courts offer an accessible, affordable and efficient means of resolving disputes, they are presided by non-trained lawyers and often fail to follow due process or comply with human rights standards. Chiefs are regularly updated by their ministry on new laws and seem to be favoured by CSO to disseminate legal and civic education and facilitate alternative dispute resolutions approaches. Despite the organisation of 2 to 3 mobile legal aid clinics per month in the different districts<sup>25</sup>, the LAU often needs to refer the cases to advocates of the Law Society or lawyers of CSO when present in the targeted districts. The programme will therefore support the revision of the Legal Aid Act and the development of a legal aid policy, centred on people's justice needs, in cooperation with other legal aid providers (Law Society, National University of Lesotho Legal Aid Clinic, CSOs or paralegals) to expand the provision of legal aid services. It will also assess the feasibility and costs of the LAU's decentralisation in the 3 remote districts of Thaba-Tseka, Qasha's Nek and Mokhotong, to facilitate their establishment and equipment, in cooperation with district administrators and local councils.

Probation only applies to juveniles (minors in conflict of the law) under the framework provided by the Children's Protection and Welfare Act but cannot be organised for pre-trial detainees when community service sentences are imposed<sup>26</sup>, due to the limited resources of the Probation Unit. Except for juveniles, there exist a few educational programmes for adult pre-detainees and convicted offenders. Vocational training has been put in place, but is very limited, especially for women. The Correctional service (LCS) prepare and supervise parole and amnesty cases and conduct restorative justice while conducting rehabilitation and

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<sup>23</sup> Op. cited under 15. According to the study: 77 % of pre-trial detainees were in this situation.

<sup>24</sup> Afrobarometer, 2019, op. cited. Less than half of Basotho (49 %) trusted the courts in 2019, against 60 to 67 % between 2014 and 2017. There is also an increase in perceptions of corruption to 61 % for magistrates.

<sup>25</sup> The LAU handled 346 cases during the 1<sup>st</sup> quarter of 2019 and 493 during the 2<sup>nd</sup> quarter.

<sup>26</sup> Community service can be ordered by the court under the Criminal Procedure and Evidence Act amendment of 1998.

reintegration programmes for convicted offenders. However, their small operational budget limits the reintegration process. Rehabilitation and probation officers need specialised training in penitentiary social work and management. -The programme will therefore assist the Probation Unit and LCS to develop adequate policies (corrections policy and probation policy), ensure specialisation of their staff and improve the skills training of the inmates for their reintegration.

The 2016 ‘Gender Country Profile for Lesotho’<sup>27</sup>, the Social Institutions and Gender Index (SIGI) (2019)<sup>28</sup>, and the UN Children Rights Committee highlight the high rates of domestic, sexual and physical violence experienced by women, boys and girls. While the State enacted in 2003 the Sexual Offences Act, the domestic violence Bill has not yet been passed by Parliament and the use of mediation in cases of violence still remains a barrier to the right of access to justice for women and girls. GBV cases remain underreported, prosecuted as common law offences of assault and few are brought to trial. A GBV study, conducted by Gender Links in 2016, showed that 86 % of women in Lesotho had experienced some form of GBV at least once in their lifetime. Preliminary results of the 2019 Violence against Children Survey (VACS)<sup>29</sup> highlights that 43 % of females and 59 % of males experienced violence in childhood: only 11 % sought services and 8 % received services. The referral mechanisms and Standard Operational Procedures for children in conflict with the law and victims of sexual abuse and exploitation need to be enforced. Few donors started to support initiatives for legal responses to GBV (see 3.2). The programme will therefore support the justice system to ensure gender responsive services to meet the special needs of women, girls and boys (at the level of the prosecution, court intermediary, probation, children’s court, villages’ child justice committees).

#### **4) Constraints and challenges for the judicial accountability and governance oversight**

Independent oversight bodies have limited resources, capacities and powers. They depend on the government for their budget, recruitment and regulatory policies, which prevent them to perform their autonomy effectively and efficiently. Beyond those structural aspects, which should be dealt with under the reforms’ implementation process, the programme will assist the independent institutions to improve operationalisation of their current structures. The programme will first support the setting of accountability mechanisms in the Judiciary. Indeed, the legal framework does not organise the removal of judges from office for misconduct, there is no code of conduct for judicial officers and no possibility for the public to address their complaints against magistrates. The Judicial Service Commission (JSC) will be supported to manage and supervise the selection, career management and performance of judicial officers. Moreover, the future Judicial Complaints Authority under the JSC, will be assisted to receive and investigate the complaints against judicial officers and issue disciplinary sanctions.

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<sup>27</sup> Final Report dated 14 September 2016.

<sup>28</sup> SIGI index, 2019 <https://www.genderindex.org/country/lesotho/>.

<sup>29</sup> Conducted under the guidance of the Ministry of Social Development with various government ministries and departments, US Government and UN agencies, CSO, coordinated by ICAP. Funded by PEPFAR through CDC Lesotho.

The programme will support the Ombudsman and the DCEO to decentralise their offices and provisionally facilitate their outreach, complaints intake clinics and investigation in different districts. The DCEO undertook a National Benchmark Survey on Corruption in December 2018, which identified constitutive elements of corruption that need to be tackled: nepotism/favouritism in the recruitment, promotions and transfers in both public and private sectors' workplace; misuse of public funds, facilities and assets; bribes and collusion between public and private companies in procurement. Hence, the DCEO requires assistance to establish branch offices in the Northern and Southern districts and to support the functioning of their anti-corruption committees. It also wants to improve its prevention and intelligence functions and its forensics capacity, to better monitor public procurement and perform financial investigation. Furthermore, it requires training on asset recovery and management, money laundering and tracking of assets in foreign jurisdictions.

The parliamentary portfolio committees lack technical skills and information on parliamentary practices and procedures. They do not have staff to assist them in their research and secretarial work. In addition, roles and responsibilities of Members of Parliament (MPs) are not well understood by the general public and so further outreach is needed in order to engage in dialogue with their constituencies. The OAG is still dependent on the government for budget appropriation, and insufficient funds are barring the office from operating efficiently. Other challenges affecting the audit functions have been assessed in a recent diagnostic report<sup>30</sup>. The African Development Bank (AfDB) assistance to OAG will extend until 2020. However, some technical expertise needs and equipment requests remain uncovered.

## 2 RISKS AND ASSUMPTIONS

<b>Risks</b>	<b>Risk level (H/M/L)</b>	<b>Mitigating measures</b>
Political instability in Lesotho remains a threat to the smooth continuation of the national dialogue reform process and can compromise its implementation.	H	The EU support to the National Reforms Authority, by assisting its members and secretariat to coordinate and implement the reforms, is likely to facilitate the decisions taken during the previous national dialogue consultations. Continuation of EU sector policy dialogue is also expected to sustain stakeholder consensus and promote stability.
Lack of independence of the legislature, the judiciary and the oversight bodies might aggravate polarisation of the governance sector and further paralyse the functioning of the public service delivery.	H	The political and institutional reforms recommended during the national dialogue consultations should result in constitutional and legislative changes and ensure more independence to the Parliament, the Judiciary and the oversight bodies. If the planned reforms do not materialise, the programme will support the independent institutions to strengthen their autonomy and continue

<sup>30</sup> WYG (October 2019). Diagnostic report and action plan. Internal Audit; External Audit and Public Accounts Committee. Organisation Capacity Assessment of Key Public Finance Institutions and Develop a Five-year Action Plan for PFM Reform in Lesotho (2019-2023).

		advocating for changes in their legal status.
A key challenge in the governance sector is the absence of coordination among key stakeholders, which may impact on the effectiveness of the proposed reform interventions.	M	The programme will assist beneficiary institutions to organise or improve coordination mechanisms, in relation to technical issues obstructing the smooth functioning of the criminal justice chain, a proper sensitisation on rights-holders and an effective legal assistance and protection of vulnerable and minority groups.
Resistance to change in the different government, justice and independent institutions may obstruct programme management and ownership, as well as restrictive mainstreaming of gender and rights-based approaches.	M	The programme will closely involve beneficiary institutions at every stage of the programme implementation and will closely monitor the impact of the capacity building and training delivered to the different actors, as well as the use of the equipment provided. Interventions carried out with duty bearers will focus on the long-term benefits of the programme results for the right holders.
Impunity of human rights violations and acts of corruption, as well as limited legal assistance or protection granted to vulnerable groups, including inmates, victims of sexual gender-based offences, and other minority groups may further exacerbate tensions and violence amongst communities.	M	The support and capacity building provided to the justice sector institutions and the oversight bodies by the programme will focus on improving ethical standards in their operational systems and increasing the legal responses protecting women, children, minors in conflict with the law, victims of sexual abuse and exploitation.
<b>Assumptions</b>		
<ul style="list-style-type: none"> <li>• The political context remains sufficiently stable to maintain an environment that encourages reforms of the justice and governance sectors.</li> <li>• Government and development partners are committed to continue leading and supporting the national reform agenda based on the decisions issued during the consultation process.</li> <li>• A good partnership exists between the units of the MoJ and the other legal aid providers.</li> <li>• Active engagement of justice actors and independent bodies remains strong to obtain the required changes of their organisational, operational and financial means.</li> <li>• Government continues to apply an inclusive and participative approach with other public institutions and CSO during the implementation of the programme.</li> </ul>		

### 3 LESSONS LEARNT AND COMPLEMENTARITY

#### 3.1 Lessons learnt

The intervention essentially builds on the lessons learnt from the Strengthening Lesotho Justice Project (SLJP) funded by the EU under the 10<sup>th</sup> EDF (EUR 4 000 000) and implemented over 2 years (2013-2015) after substantial delays. The project addressed governance and capacity building issues within the justice sector institutions. The ex-post evaluation of the SLJP concluded that the initiative represented a ‘pilot project’ and, although results were in general disappointing, a number of positive achievements were highlighted. Key recommendations were to direct further support towards access to justice interventions, particularly at the regional/district level, with a focus on women and juveniles. Specific suggestions included support to coordination of chain-linked initiatives, support to Law Clinics and further rolling out of mediation facilities, which have experienced considerable

success in the courts where they were introduced and have helped reduce burdens on mainstream courts.

However, the developed strategies or the provision of skills training have not been fully transferred and sustained. The institutional memory retained by key beneficiaries is very limited or inexistent in some specific cases (eg: Ministry of Law and Law Society).

The recommendations of the evaluation remain valid in 2020. Therefore, the current programme will pursue the good practices introduced by the SLJP and mitigate certain drawbacks:

- An inception period of 6 months shall be considered, to engage directly with stakeholders, update the political and sector analysis, align outputs and activities, integrate rights-based and gender sensitive approaches, conduct assessment studies, identify baselines and establish a strong monitoring, risk and performance framework.
- A holistic, inclusive and participatory approach, regularly involving the key stakeholders at each stage of the implementation and monitoring process of the programme, will be critical to engage and motivate the different institutions.
- The programme implementation period shall be a minimum of 4 years to allow for adequate preparation (e.g. needs /logistic and costs assessments) and the implementation of interventions that will yield positive and sustainable results and tangible impacts.
- Institutions will be capacitated and supported with due consideration given their current human and financial resources and based on their commitment to deliver results. Hence, they will be encouraged to monitor their own progress and to report directly to the programme through main focal points identified in each institution.

The lack of leadership among justice institutions demands that the programme supports a strong coordination process and favours the implementation of joint reflections and actions.

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

The action complements the following on-going EU funded programmes and other donor initiatives:

- **Support to the Management & Coordination of Development Cooperation** (EU - EUR 2 750 000, 2014 to mid-2020). This project aims to improve the effectiveness of aid policy orientation through strengthened management and coordination of development cooperation, and in particular strengthen the office of the National Authorising Officer.
- **Participatory Initiative for Social Accountability in Lesotho (PISA)** (EU/GIZ - EUR 3 400 000 - 2<sup>nd</sup> phase 2019-2022). This project aims to increase citizens' awareness of governance matters and their capacity to engage in democratic processes, through enhanced community participation in public policy processes with local structures. Given its close cooperation with rural and urban local councils and its large presence through its 38 district centres, this programme will seek to link as much as possible with PISA.
- **Strengthening Governance of Social Protection in Lesotho: Building an Integrated Social Protection System** (EU-UNICEF: EUR 16 000 000). This programme aims to

increase the efficiency and cost-effectiveness of the government's measures for social protection and to ensure equitable treatment and universal coverage of most vulnerable segments of society. Further, under its own resources, UNICEF supported the childrens' court of Maseru by providing them a re-fabricated building, furniture and IT equipment.

- **Support to Civil Society programme** (EU 2018-2022, EUR 4 500 000). Under this programme, the EU supports the Lesotho Council of NGOs to better coordinate the sector and also provides grants for CSOs' support to the EU Governance Programme under the 11<sup>th</sup> EDF through three lots - gender, civic education and strengthening economic justice. One of these grants supports Lesotho's women's rights organisations with the project **Socio-Economic Empowerment through Gender-Responsive Policies, Legislation and Action** (EDF – 2019-2022- EUR 989 765) that aims to contribute to the development of transformative gender policies and laws, improving knowledge about GBV and the economic empowerment of women, especially survivors of GBV.
- **Support to the National Reform process** (EU – EUR 359 000), provided through two projects financed from the African Peace Facility (SAPMIL and NLF support).
- **Partnerships for the Prevention of Violence against Women and Girls in Southern Africa** (PfP) – German Federal Ministry for Economic Cooperation and Development (BMZ - EUR 4 500 000) – 2017-2020. This regional project, implemented by GIZ in Lesotho, South Africa and Zambia, focuses on strengthening the capacity of the Ministry of Gender, Youth and Sports and Recreation in Lesotho to conduct awareness and prevention on sexual base-violence, namely through digital solutions and stakeholders' networking.
- **Lesotho National Dialogue and Stabilisation Project (LNDSP)** - UN Peace Building Fund (USD 2 000 000; 06/2018-12/2019). The UNDP supported the National Reforms dialogue process and delivered human rights training to the different security agencies and the Correctional Service (LCS) to equip participants to comply with international obligations in the performance of their duties. UNDP will request a no-cost extension of the Peace Building Fund (PBF) to support the establishment and operationalisation induction of the NRA, until the programme starts.
- **The United Nations Development Assistance Framework for Lesotho 2019-2023** under its Pillar 1,<sup>31</sup> its aim is to increase capacities of governance institutions, strengthen implementation of key national frameworks, better use of evidence in policy making, support to national monitoring and evaluation systems for programme implementation.
- **Private Sector Competitiveness and economic diversification** (World Bank (WB): USD 785 000) - 2019. In order to stimulate the development and revision of economic and business related laws, the WB has supported the capacities of the Office of the Parliamentary Counsel in legislative drafting, financed an index of laws of Lesotho from 1800 to 2018, improved the ICT environment of the Ministry's offices by automating the network and procuring a substantive amount of IT equipment to its different departments.
- **The US Embassy** has restarted military assistance to the Lesotho Defence Force and provides training to the police and national security service. They also support the development of community policing and the revision of the Police Complaints Authority.
- **The Capacity development and support programme**, funded under the President's Emergency Fund for AIDS Relief (PEPFAR) through USAID and implemented by FHI 360 expertise (2014-2024). This aims to mitigate the impact of HIV, STIs and TB by increasing and strengthening the capacity of local NGOs and governments in Southern

<sup>31</sup>

United Nations Development Assistance Framework for Lesotho 2019-2023.

Africa to implement effective HIV epidemic control and justice for children related interventions/activities, through the promotion of child safeguarding policies and education on sexual violence. Under another USAID programme, the Baylor clinic, Catholic Relief Service (CRS) and Women and Law in Southern Africa (WILSA) are partnering to carry out post violence care and legal services to victims of GBV.

- **African Development Bank.** The AfDB has been supporting the OAG and the Public Account Committee (PAC) of the Parliament under the last country strategy. Following a training and organisational needs assessment, they will provide technical assistance and training to the OAG in 2020. In its country strategy for 2020-2024, the AfDB will pursue to support e-governance by increasing digital infrastructure and coverage of data services in rural and unserved areas, and by improving government skills to implement ICT initiatives.

The Governance sector is the fourth in volume of development cooperation funds and received 11 % of the disbursed external financial assistance for the financial year 2017/2018, with a decrease in comparison to the 15 % registered during previous years: 2014/2015-205/2016.<sup>32</sup>

Donor-government coordination is ensured through the organisation of an aid coordination forum by the Ministry of Development and Planning, co-chaired by the European Union. Although it should take place on a quarterly basis, it only occurred once in 2019. There is no specific coordination led by the government or the donors in the governance sector.

It is to be noted that the Lesotho Mounted Police Services (LMPS) and its relevant units such as the Police Complaints Authority (PCA) and the Child and Gender Protection units will not be targeted by the project due to the technical support provided to them by other agencies (US Embassy, UNICEF, UNDP). However, the project plans to involve police officers in cooperation interagency meetings organised with the other actors of the criminal chain.

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

## **4 DESCRIPTION OF THE ACTION**

### **4.1 Overall objective, specific objective(s), expected outputs and indicative activities**

**The overall objective / impact of the programme** is to foster rule of law, good governance, human rights and gender equality in Lesotho.

**The specific objectives (SO)** are:

SO1: Improved governance and performance of justice and public service sector institutions.

SO2: Increased efficiency and quality of justice service delivery.

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Ministry of Development Planning, Lesotho Development Cooperation support 2017/2018.

SO3: Improved access to justice for all, in particular for women, children and groups in vulnerable and marginalised situations.

SO4: Increased accountability, transparency, integrity and credibility of justice and governance institutions.

The **expected outputs** and indicative activities are:

Output 1.1 –Developed capacities of the National Reforms Authority (NRA) to implement legal and institutional reforms.

- Support the NRA to lead, manage, coordinate and oversee the reforms’ process.
- Support the NRA to implement legal, policy and institutional reforms.
- Strengthen the information and legislation drafting processes of the NRA to ensure implementation of the reforms.
- Support the secretariat of the NRA to perform its administrative functions.

Output 1.2 – Established information and dialogue platforms for engaging right-holders, CSO and interest groups in the implementation of reforms.

- Support the NRA to develop right-holders’ awareness and information programmes on the reforms’ implementation process, and to produce and disseminate suitable education and communication tools and materials.
- Build the capacity of CSOs (mostly those not represented in the NRA) to monitor implementation of the reforms process.
- Support organisation of right-holders’ dialogue platforms at the community level and engagement of special interest groups (women, youth, persons with disabilities, children, elderly and specific minority groups) in the reforms’ implementation process.

Output 2.1 – Revised legislative and regulatory frameworks following the main reforms undertaken and other legal amendments and policy development in relation to the programme.

- Support capacity building of the Attorney General, Office of the Parliamentary Counsel, the Law Reform Commission and the Human Rights Unit under the Ministry of Law on legislative reform, drafting process, comparative research analysis and reporting, through a Training of Trainers that includes rights-based-approach (RBA) and gender mainstreaming.
- Assist the Ministry of Law (MoL) and the Ministry of Justice (MoJ) planning and financial department in conducting efficient research methodology and cost impact assessment of bills, including gender responsive budgeting.

Output 2.2 - Established mechanisms for improving cooperation and coordination between criminal justice actors.

- Support coordination arrangements between police officers, prosecutors, courts and correctional service with respect to the organisation of pre-trial conferences.
- Strengthen the capacities of prosecutors and judges to implement the Speedy Court Trial Act, to use standardised cases processing procedures and to better handle specific crimes (such as sexual related offences and GBV offences).
- Provide technical assistance to investigators and prosecutors from the Director of Public Prosecution and the DCEO, as well as judges to better handle corruption and serious economic offences, money laundering, frauds, cybercrimes, etc.

Output 2.3: Increased capacities of justice actors to better administrate legal and judicial services.

- Support the organisation of project and financial management trainings (planning, budgeting, monitoring and performance) for the registrars, deputy and assistant registrars of the courts, the planning and financial departments of the Ministry of Law and the Ministry of Justice.
- Organise and deliver specialised training sessions to the Master of the High Court; court clerks and judges' clerks, as well as interpreters of the High Court and Magistrate Courts to perform their duties with adequacy.
- Conduct a thorough assessment of the ICT environment and infrastructure of the justice sector institutions and of their commitment and ability to use IT tools or automation processes, for possible implementation of small-scale pilot IT activities.

Output 2.4: Enhanced capacity of the Law Faculty of the University of Lesotho for training lawyers, judicial officers, prosecutors and court personnel.

- Support the Law Faculty of the University of Lesotho to elaborate an induction and continuous training curriculum (that includes RBA and gender mainstreaming) for judicial officers, prosecutors, clerks and secretaries, advocates of the Law Society, in cooperation with these different stakeholders.
- Deliver a Training of Trainers (ToT) to a pool of professors/magistrates/advocates/lawyers, mandated to train the legal actors afterwards (with certified recognition).
- Organise multi-stakeholders' workshops to discuss procedures and cost analysis of a permanent structure delivering induction and continuous training for lawyers and judicial officers (to advocate for the enactment and operationalisation of the judicial institute bill or the creation of a law training institute).

- Support and monitor the conduct of first training sessions delivered by the pool of trainers to key actors, including provision of equipment and stationery to the Law Faculty.

Output 3.1: Improved understanding of adequacy of legal, judicial and institutional responses to right-holders' needs.

- Conduct a justice needs survey covering the 10 districts in urban and rural areas, including a gender analysis and an analysis of specific vulnerabilities with an AAAQ framework<sup>33</sup>.
- Conduct multi-stakeholder seminars (including CSO) to discuss new policies and acts supporting the necessary changes to the legal aid, probation, rehabilitation and reintegration frameworks, as well as other laws concerning the legal protection of women and children.
- Conduct a logistic assessment: equipment and furniture needed by targeted ministerial units, courts and Ombudsman in the districts outside Maseru, including transport means, in order to support the expansion of legal awareness and representation services in most deprived areas.
- On this basis, provide adapted equipment and vehicles (when necessary for mandate).

Output 3.2: Extended legal aid and legal representation measures provided to indigents and groups in vulnerable situations;

- Support to the Legal Aid Unit of the MoJ to outreach groups in most vulnerable situations (including women, children, juveniles and inmates in vulnerable situations) and increase their legal representation in cooperation with the Law Society, the legal aid clinic of the University of Lesotho and lawyers of CSO, through joint pilot projects.
- Strengthen legal empowerment of specific groups to defend their rights and seek redress (victims of Sexual and Gender-based Violence (SGBV), persons with disabilities, LGBTI, victims of human rights violations, persons affected with HIV/AIDS), through legal information sessions and support to public interest litigation cases.
- Support the Law Society, the Law Faculty of University of Lesotho and the CSO to develop capacity of local actors to provide legal awareness and advice, such as chiefs, representatives of local community councils and eventually local courts (depending on the progress of reform process and the court system restructuring).
- Support the feasibility assessment of the decentralisation of the LAU's and Probation unit in the three mountainous districts: Mokhotlong, Thaba-Tseka and Qasha's Nek, and

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<sup>33</sup> The RBA AAAQ framework assesses the Availability, Accessibility, Acceptability, Quality of services, products and benefits to make sure that these will support and reinforce the right to access to justice.

procure necessary equipment and furniture to facilitate their operations throughout the country.

- Strengthen the legal/ judicial responses for children victims of violence, abuse and exploitation, by supporting capacities and material resources of actors involved in rehabilitation /reintegration procedures and court proceedings (prosecutors, children's courts, probation, village child justice committees and provision of protection equipment).

Output 3.3. Increased use of diversion and non-custodial measures, mediation, rehabilitation and reintegration mechanisms for inmates (men, women and juveniles).

- Support probation and correctional services of the MoJ to increase use of diversion and non-custodial measures, rehabilitation and reintegration of pre-trial inmates and convicted offenders (men, women and juveniles).
- Support magistrate courts (victim crime units), high court (mediation office) and correctional service to expand their mediation / restorative justice services.
- Organisation and delivery of a ToT to the trainers of the LCS training college on international human rights standards, specific treatment of women and juvenile offenders, social work and management.
- Support and monitor the training sessions delivered by the LCS trainers to correctional officers, rehabilitation officers and probation officers (including logistic support).
- Assess the feasibility of increasing educational and vocational training skills for inmates (men, women and juveniles), and support provision of equipment and capacity of current correctional human resources to develop additional workshops, literacy and skills training.

Output 4.1: Developed performance and integrity framework for the judiciary following the institutional and legislative reforms undertaken or to be proposed under this programme (revision of the competences of the judicial service commission, establishment of the judicial complaint authority, development of recruitment and career management procedures, disciplinary measures, code of ethics and conduct, etc.).

- Support the operationalisation of the revised Judicial Service Commission and the new Judicial Complaints Authority.
- Support the development of a regulatory framework for judiciary governance (code of conduct, inspection plan, disciplinary measures for misconduct of judicial officers, etc.).
- Organise the data collection, analysis and recording of judicial statistics in courts, disaggregated by sex, age and other relevant criteria.
- Support the introduction and implementation of a performance appraisal system for judicial officers and court personnel.

Output 4.2: Strengthened technical capacities and professional skills of the Ombudsman, DCEO, OAG and Parliament to perform their oversight mandates effectively.

- Develop the capacity of the Ombudsman to improve investigation of complaints and to enforce its decisions.
- Strengthen the capacity of the OAG to perform compliance audit services and quality audit reports, development of its operational systems and administrative processes through ToT.
- Develop the capacity of DCEO investigators and prosecutors, through the delivery of a ToT programme on investigation of financial crimes, asset recovery, detection of procurement fraud, forensics, etc.
- Support targeted parliamentary committees and Clerk's office to implement, after the reforms, their revised practices and procedures, and to fulfil their oversight role on relevant thematic areas (linked to legal, constitutional, justice affairs, women's rights, etc.).
- Provide training to all oversight bodies in leadership management, financial programming and reporting, setting monitoring and performance frameworks (preferably through support to national institutes: Lesotho Institute of Public Administration and Management (LIPAM) or Institute for Development Management (IDM).

Output 4.3: Improved governance functions and oversight mechanisms of the Ombudsman, DCEO, OAG and Parliament.

- Conduct a feasibility assessment and a cost / resource analysis of the decentralisation of DCEO and Ombudsman Offices in the two Northern and Southern districts (with a potential establishment of a one stop shop for both offices).
- Based on this assessment, assist both institutions to logistically install their branches out of Maseru with provision of equipment based on assessed needs and material delivered under the Strengthening the Lesotho Justice Sector Project (SLJS).
- Until this deployment is completed, support the Ombudsman and DCEO with outreach/ information campaigns, mobile complaints intake clinics, etc.
- Assist DCEO in strengthening the operationalisation of the national and community-based structures operating in the 10 districts and further develop anti-corruption educational material.
- Support the equipment of the Parliamentary committees, the Clerk's office and the OAG based on needs supporting the direct implementation of their functions.

## 4.2 Intervention Logic

The intervention logic is based on the main assumption that weaknesses in the justice and governance sectors are major constraints for improved efficiency, quality, accessibility and integrity of legal and judicial services. Moreover, efforts in support of public accountability can only be successful when courts, ministerial departments and oversight bodies have an effective autonomy to duly perform their mandate and consider their roles in complementarity with other key governance actors, including CSO and community systems.

The intervention assumes that, if the government commits to implement the necessary constitutional and legislative changes and if justice and governance institutions are sufficiently resourced, capacitated and remain engaged in the reform process with non-governmental actors, in coordination with other independent institutions and CSOs, then the independence, impartiality and credibility of the Judiciary and oversight institutions will be improved and further contribute to advancing the rule of law, human rights and gender equality.

Firstly, if the NRA develops sufficient capacities to implement the required legislative reform process in an inclusive and integrated manner, outreaching to and engaging diverse interest groups, then these reforms will benefit to improve the governance and performance of justice and public service sector institutions. Secondly, if legal and regulatory frameworks are appropriately revised, legal and judicial services better administered and justice actors adequately trained, then justice services will be delivered more efficiently and qualitatively.

Thirdly, if rights holders, namely groups in vulnerable situation and inmates, receive adequate legal advice and judicial representation, including adapted judicial and correctional treatment measures complying with international human rights standards, then access to justice for all, including for women, children and groups in vulnerable situations, will be improved. Finally, if justice and governance institutions strengthen their technical and professional capacities as well as their management and governance functions, then they will see their accountability, transparency, integrity and credibility increased.

Additionally, if institutional and legal reforms guarantee compliance with international commitments; if justice and governance sector entities ensure improved service delivery; increase legal aid and representation for groups in most vulnerable situations; and perform their oversight mandate efficiently and impartially, then the long term impact of the intervention to foster rule of law, good governance, human rights and gender equality in Lesotho.

The programme will seek to identify best solutions for change based on existing structures and current human and financial resources. Budget projections for the justice and governance institutions do not envisage a financial increase in the coming three years. Hence, the programme needs to remain realistic and plans to achieve what is feasible within current resources. The support to the ongoing national reform process and to the technical and operational capacities of the beneficiary institutions will be complementary but not dependent on each other so as to insulate the programme implementation from the risk of any potential negative impact that political instability could have on the reform process. Consistent support to interventions (including pilot initiatives) will address the deficit support of the state in the

justice and governance sectors and attempt to highlight initiatives that can be further followed and sustained with limited financial assistance but with maximum benefit for the final beneficiaries.

### **4.3 Mainstreaming**

Relevant cross-cutting issues have been integrated in the design of the action and will need to be addressed throughout programme implementation.

**Human Rights and Rights-Based Approach:** The action adopts a rights-based approach and includes support to applying all rights equally, increased accountability and transparency, as well as inclusiveness and participation. On one hand, the programme supports the supply side of governance by strengthening the capacity of institutions in the justice and governance sectors to perform their public service delivery duties better. On the other hand, the programme supports the demand side, by enhancing access to justice, legal empowerment and representation of groups in vulnerable situations to seek and obtain redress when their rights are violated, and by strengthening accountability mechanisms to increase citizens' capacity to hold the government and Judiciary to account for their actions. Although the action is primarily supporting public institutions and professional bodies, it will include indirect assistance to CSO by including them in dialogue platforms and pilot initiatives to be conducted jointly with the justice entities and oversight bodies in order to facilitate outreach to right-holders and to reinforce the legal rights of the population. Further, the action has been designed to complement and align with the EU funded 'Support to Civil Society in Lesotho Programme' and the European Instrument for Democracy and Human Rights, which will determine priority areas of intervention to complement the objectives of the current programme.

**Gender:** The programme will contribute strongly to gender issues, through increased access to justice for women and girls, and increased awareness of governmental accountability regarding their fundamental rights. The action will specifically adopt a gender-based approach when supporting the development of policies or acts, including a gender-budgeting approach, or when assessing the specific needs of women and juveniles before the development of educational, vocational or rehabilitation programmes in prison. The action also integrates a gender-oriented and sensitive approach by enhancing the rights of women, girls and boys to seek redress, in both criminal law and civil cases, namely cases of gender-based violence and by promoting public interest litigation in order to influence protection related policies. The action will also pay attention to support the disaggregation of data collected, based on sex and age, when assisting institutions with the conduct of surveys and studies.

**Resilience:** the action will strengthen the capacity of the judiciary and governance institutions to be more resilient to the current uncertain political context and assist them in structuring their work methodologies to improve their performance and to adequately monitor their strategies and policies. This will be achieved inter alia, by supporting research including data collection, feasibility assessment, cost analysis of bills, and baseline studies in order to ensure better evidence and context assessment. Results of these analyses will be made public and will be shared with key stakeholders to improve their policy-making processes, adjust their action plans / operational systems and provide a strong basis for requesting additional financial resources to the government. The programme will also ensure that language skills,

in particular, frequency and quality interpretation/translation are carefully integrated if needed in rural areas.

**Environmental sustainability:** The proposed action will not have a direct impact on the environment. It will however indirectly address environmental law and issues, while supporting the mandates of the Ombudsman, or when strengthening legal actions aiming to protect the environment.

#### **4.4 Contribution to Sustainable Development Goals (SDGs)**

This intervention is relevant for the United Nations 2030 Agenda for Sustainable Development. It contributes primarily to the progressive achievement of SDG 16 as it aims to ‘promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. In particular, it targets SDG 16.3, to: ‘Promote the rule of law at the national and international levels and ensure access to justice for all’, SDG 16.6, to: ‘Develop effective, accountable and transparent institutions at all levels’ and SDG 16.7 to: ‘Ensure responsive, inclusive, participatory and representative decision-making at all levels’. The action also contributes to SDG 10, to: ‘Reduce inequality within and among countries’ and SDG 5, to: ‘Achieve gender equality and empower all women and girls.’

### **5 IMPLEMENTATION**

#### **5.1 Financing agreement**

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country.

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

The indicative operational implementation period of this action, during which the activities described in section 4 will be carried out and the corresponding contracts and agreements implemented, is 60 months from the date of the entry into force of the financing agreement.

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

#### **5.3 Implementation of the budget support component**

N/A

## **5.4 Implementation modalities**

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures<sup>34</sup>.

### **5.4.1 Indirect management with an international organisation: UNDP**

A part of this action may be implemented in indirect management with the United Nations Development Programme (UNDP).

The implementation entails a contribution to Specific Objective 1 of the action: ‘Enhanced independence and performance of the justice and governance sector institutions’.

The envisaged entity has been selected using the following criteria:

UNDP has facilitated the National Dialogue and Reforms Process since September 2017. It then formulated the Lesotho National Dialogue and Stabilisation Project – signed in June 2018 - in cooperation with the government, CSO, SADC and UN agencies, which secured funding from UN Peace Building Fund to facilitate implementation of the Reform Agenda. The focus of the project was to build national consensus through a multi-level dialogue on the proposed reforms, including gender mainstreaming, respect for rule of law and human rights, citizens’ information and participation. The national dialogue process was implemented until its completion on 27 November 2019.

UNDP has therefore developed trust and strong relationships with national and international stakeholders and is therefore the best-qualified agency to continue supporting the implementation of the Reforms Agenda, following the establishment of the National Reforms Authority. Moreover, UNDP has requested a no-cost extension of the PBF in order to support the transitional period and activities foreseen for the establishment of the NRA: inauguration and induction training of NRA members, development of regulations, manuals, guidelines, terms of reference for operationalisation of the NRA and its secretariat, analysis and prioritisation of recommendations and decisions endorsed during Plenary II. The EU contribution could therefore take over after this ‘kick off’ period to support the reforms’ implementation process.

In case the envisaged entity would need to be replaced, the Commission’s services may select a replacement entity using the same criteria. If the entity is replaced the decision to replace it needs to be justified.

The Commission authorises that the costs incurred may be recognised as eligible as of 1 July 2020 because Specific Objective 1 aims to develop capacities of the National Reforms Authority through the applicable UNDP programme which will start on that date. The NRA was inaugurated on 6 February 2020 and is initially limited to a one year mandate.

### **5.4.2 Indirect management with the partner country**

A part of this action, with the objective 2: Improved efficiency and quality of justice service delivery, objective 3: Enhanced access to justice for all, in particular for women, children and

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<sup>34</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu) Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website it is the OJ version that prevails.

other vulnerable groups and objective 4: Increased accountability, integrity and credibility of justice and governance institutions, may be implemented in indirect management with the Kingdom of Lesotho according to the following modalities:

The National Authorising Officer, under the Ministry of Finance, will act as the contracting authority for the procurement and grant procedures. The Commission will control ex-ante all the procurement procedures except in cases where programme estimates are applied, under which the Commission applies ex-ante control for procurement contracts above EUR 50 000 (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 for grants.

The financial contribution partially covers, for an amount of EUR 350 000 the ordinary operating costs incurred under the programme estimates.

The partner country shall apply the Commission's rules on procurement and grants. These rules will be laid down in the financing agreement to be concluded with the partner country.

#### **5.4.3 Changes from indirect to direct management mode due to exceptional circumstances**

A service contract under direct management may be procured if negotiations with UNDP fail.

#### **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 subject to the following provisions.

The Commission's authorising officer responsible may extend the geographical eligibility on the basis of urgency or of unavailability of 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>EU contribution (in EUR)</b>	<b>Indicative third party contribution, in currency identified</b>
<b>SO1: Improved governance and performance of justice and public service sector institutions</b> 5.4.1 Indirect management with UNDP	2 500 000	N.A.
<b>SO2: Increased efficiency and quality of justice service delivery</b> <b>SO3: Improved access to justice for all, in particular for women, children and groups in vulnerable and marginalised situations</b> <b>SO4: Increased accountability, transparency, integrity and credibility of justice and governance institutions</b> 5.4.2 Indirect management with partner country	5 150 000	N.A.
Evaluation, (cf. section 5.9), 5.10 – Audit (cf. section 5.10)/Expenditure verification	400 000	N.A.
Communication and visibility (cf. section 5.11)	150 000	N.A.
Contingencies	300 000	N.A.
Totals	8 500 000	N.A.

## 5.7 Organisational set-up and responsibilities

A Programme Steering Committee (PSC) shall meet twice a year to decide the overall direction of the project, to monitor the indicators, to supervise the implementation of the project's activities and to review the activity reports. Additional meetings can be arranged at ad hoc request of the EU Delegation or any of the members. The PSC will be composed of the EU Delegation, UNDP and the main beneficiaries: line ministries and institutions as well as civil society organisations to be determined during the project's inception. The PSC will be responsible for electing one of its members to chair the Committee each year.

**Programme technical committees (PTC)** will also be organised on each component/outcome of the programme, in order to involve the key stakeholders in the planning and implementation of results which are directed at supporting them. These PTC will be held preferably every quarter, and will allow careful planning and monitoring of the interventions to be implemented in cooperation with key beneficiaries.

The National Authorising Officer will procure the service contract for recruiting the **Technical Assistance** (TA) that will implement the programme. The contract will focus on supporting the implementation of activities related to Components 2, 3 and 4, and the coordination with activities under SO1.

The programme will be implemented and managed by a **Programme Coordination Unit (PCU)** made up of experts provided through the service contract:

- Long-term ‘Justice Reform Expert’- Team Leader, with experience in justice sector reform and access to justice.
- Long-term ‘Governance Expert’, with experience in accountability mechanisms, including anti-corruption processes and civilian oversight systems.
- In addition, a pool of short-term experts will be available to support the programme’s activities and to capacitate and accompany the key stakeholders to perform their mandate.
- The service contractor will provide a programme coordinator financial/ procurement and administrative/logistic secretarial, both in support to the PCU and PSC included in the fee rate of the experts.

The Team Leader will provide support to the imprest officer of the programme estimate not only in the preparation of the programme estimate but also in its implementation.

#### **Start-up / inception phase (6 months)**

During the first six months after the deployment of the key experts, the PCU will be responsible for:

- Consulting broadly with beneficiaries and those responsible for the reforms and/or Constitutional/institutional review processes to determine what has changed between design and implementation.
- Conducting a learning needs and an equipment needs analysis for all beneficiaries where capacity building is supported.
- Preparing Terms of Reference and launching a justice needs survey.
- Sequencing of activities and producing the multi-annual programme estimate.
- Updating of the draft logframe, including identification of missing baselines, revision of indicators and determination of realistic targets.

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.

## **5.8 Performance and Results 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 partners' (UNDP, partner country) responsibilities. To this aim, the respective 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.

The programme will develop a monitoring system relying on a structured data collection and information mechanism process established by the programme, at its inception, through baseline and endline surveys, needs/capacity assessments, a detailed plan and a results framework, which allow the tracking of performance indicators developed in the logical framework matrix of the programme and progress achieved during and after its implementation for both contribution agreement and service contract. SDGs indicators referred above will be taken into account. This monitoring system will integrate a learning mechanism that evaluates at short-term and mid-term intervals the transfer of knowledge and skills delivered to beneficiary institutions and the changes occurred in their respective functions. Both monitoring and learning systems will allow progressive adjustments to the programme and enable a regular dissemination of results to the partner institutions.

Every report shall provide an accurate account of the 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.

Reports shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

## **5.9 Evaluation**

Having regard to the nature of the action, a mid-term evaluation and a final evaluation will be carried out for this action or its components via a team of independent consultants, including human rights and gender experts.

A mid-term evaluation will be carried out for learning purposes, in particular with respect to possible adjustments of the programme interventions and integration of lessons learnt. It will also inform about the achieved results and enable further analysis for setting sustainable actions.

The final evaluation will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the progress achieved against the baseline data and the impact analysis of legislative reforms, support interventions

and changes of approach (namely in regards of gender and rights-based orientations) produced by the programme in the justice and governance sectors.

The Commission shall inform the implementing partners (UNDP, partner country) at least 30 days in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

Evaluation services may be contracted under a framework contract.

### **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.

It is foreseen that audit services may be contracted under a framework contract.

### **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.

For the purpose of enhancing the visibility of the EU and its contribution to this action, the Commission may sign or enter into joint declarations or statements, as part of its prerogative of budget implementation and to safeguard the financial interests of the Union.

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 Requirements for European Union External Action (or any succeeding document) shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

It is foreseen that a contract for communication and visibility may be contracted under a framework contract for EUR 150 000.

**APPENDIX - INDICATIVE**

	<b>Results chain: Main expected results (maximum 10)</b>	<b>Indicators (at least one indicator per expected result)</b>	<b>Sources of data</b>	<b>Assumptions</b>
<b>Impact (Overall Objective)</b>	To foster Rule of Law, Good Governance, Human Rights and Gender Equality in Lesotho	1. Country score and ranking in the RoL indexes 2. Country score and ranking in the gender indexes 3. Country score and ranking in the corruption indexes 4. Status of domestication of international and regional instruments in national laws	1. IIAG Index 2. Gender Gap / Gender inequality Indexes 3. Corruption perceptions Index 4. UPR, UN bodies reports, NGO shadow reports	<i>Not applicable</i>
<b>Outcome(s) (Specific Objective(s))</b>	SO1: Improved governance and performance of justice and public service sector institutions	1.1 Level of autonomy and independence provided by the reforms to the justice and oversight institutions 1.2 % of budget and human resources allocated by the government to the justice institutions and oversight bodies	1.1 Expert analysis of the constitution, bills, laws and regulation (baseline and endline conducted by the intervention) 1.2 Annual Budget estimates books Public service commission reports	The political context remains sufficiently stable to maintain an environment that encourages reforms of the justice and governance sectors
	SO2: Increased efficiency and quality of justice service delivery	2.1 Rate of criminal cases handled in the time limits provided in the Speedy Court Trial Act, 2.2 % of laws and policies developed including a cost impact analysis and a gender analysis	2.1 Reports from interagency cooperation meetings 2.2 Reports of the Ministry of law	Government and development partners are committed to continue supporting the national reform agenda based on the decisions issued during the consultation process

	SO3: Improved access to justice for all, in particular for women, children and other vulnerable and marginalised groups	<p>3.1 Ratio of legal aid cases handled by the LAU (assisted by other legal providers) to the total number of cases received by the LAU (incl. cases sent by courts and prisons) in the 10 districts, disaggregated by sex, age, urban/rural social groups</p> <p>3.2 % of diversion and non-custodial cases processed by Probation and LCS throughout the country out of the total number of registered and eligible cases by disaggregated by sex, age, urban/rural social groups and type of cases</p>	<p>3.1 Justice needs survey (baseline and endline surveys)</p> <p>3.2 Reports of the Legal aid unit and quarterly reports of the MoJ</p>	A good partnership exists between the units of the MoJ and the other legal aid providers
	SO4: Increased accountability, transparency, integrity and credibility of justice and governance institutions	<p>4.1 % of complaints against judicial officers resulting in disciplinary measures out of total number of received cases by the Judicial Complaint Authority</p> <p>4.2 Ratio of complaints enforced by public agencies to the number of total of complaints investigated by the Ombudsman</p> <p>4.3 Ratio of corruption cases judged and enforced by courts to the total number of cases investigated and prosecuted by the DCEO</p>	<p>4.1 Annual reports of the High Court</p> <p>4.2 Reports of the Ombudsman and DCEO</p>	Active engagement of justice actors and independent bodies remains strong to obtain the required changes of their organisational, operational and financial means
<b>Outputs</b>	1.1 Developed capacities of the National Reforms Authority (NRA) to implement legal and institutional reforms	1.1.1. Number of constitutional and legislative reforms processed by the NRA in the justice and democratic governance sector	1.1.1 Reports of the NRA	Government continues to apply an inclusive and participative approach with other public institutions and CSO during the

	<p>1.2 Established information and dialogue platforms for engaging right-holders, CSO and interest groups in the implementation of reforms</p> <p>2.1 Revised legislative and regulatory frameworks following the main reforms undertaken and other legal amendments and policy development in relation to the programme</p> <p>2.2 Established mechanisms for improving cooperation and coordination between criminal justice actors</p> <p>2.3 Increased capacities of justice actors to better administer legal and judicial services</p> <p>2.4: Enhanced capacity of the Law Faculty of the</p>	<p>1.2.1 Number of citizens and type of interest groups attending the information and dialogue platforms (disaggregated by sex and interest group)</p> <p>2.1.1 Number of laws, regulations and policies developed/amended and implemented in the justice and democratic governance sectors, with the support of the intervention</p> <p>2.2.1 Number of interagency cooperation meetings hold by year in each district</p> <p>2.3.1 Status of monitoring implementation of strategic plans and justice services supported by the intervention</p> <p>2.4.1 Number and type of training programmes developed and</p>	<p>1.2.1 UNDP reports</p> <p>2.1.1 Gazette, GoL website, ministerial reports</p> <p>2.2.1 Programme progress reports</p> <p>2.3.1 Reports of the ministries and registrars</p> <p>2.4.1 Reports of the Law faculty</p>	<p>implementation of the programme</p>
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	<p>University of Lesotho for training lawyers, judicial officers, prosecutors and court personnel</p> <p>3.1: Improved understanding of adequacy of legal, judicial and institutional responses to right-holders' needs</p> <p>3.2. Extended legal aid and legal representation measures provided to indigents and groups in vulnerable situations</p> <p>3.3. Increased use of diversion and non-custodial measures, mediation, rehabilitation and reintegration mechanisms for inmates (men, women</p>	<p>delivered by the University of Lesotho (Faculty of Law) with the support of the programme</p> <p>3.1.1 % of persons participating in the assessment who are facing justice problems (disaggregated by sex and participant type)</p> <p>3.2.1 Number of indigent persons and inmates assisted by the LAU (in cooperation with other legal providers) in the 10 districts (disaggregated by sex, age, rural/urban, social groups) with the support of the intervention</p> <p>3.2.2 Number of women and girls, men and boys, who receive responsive legal aid services for cases of GBV with the support of the intervention</p> <p>3.3.1 Number of inmates benefiting from type of alternative detention measures and rehabilitation programmes (disaggregated by sex, age, social groups) with the support of the intervention</p>	<p>3.1.1 Baseline and endline justice needs survey</p> <p>3.2.1 Reports of the LAU, the Ministry of Justice, the NULLAC and the Bar</p> <p>3.2.2 ONG reports on recommendations from CEDAW Committee</p> <p>3.3.1 Reports of the courts Probation Unit, LCS</p> <p>4.1.1 Reports of the JSC and the</p>	
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	<p>and juveniles)</p> <p>4.1. Developed performance and integrity framework for the judiciary following the institutional and legislative reforms undertaken or to be proposed under this programme</p> <p>4.2: Strengthened technical capacities and professional skills of the Ombudsman, DCEO, OAG and Parliament to perform their oversight mandates effectively</p> <p>4.3: Improved governance functions and oversight mechanisms of the Ombudsman, DCEO, OAG and Parliament</p>	<p>4.1.1 Number of inspection sessions conducted by the JSC in courts with the support of the intervention</p> <p>4.2.1 Number of ToT or capacity building activities delivered to oversight bodies</p> <p>4.3.1 Number of complaints intake clinics and public awareness sessions conducted by the Ombudsman and DCEO with the support of the interventions</p>	<p>High Court</p> <p>4.2.1 Feedback training reports</p> <p>4.3.1 Statistics and reports of DCEO and Ombudsman</p>	
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