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ANNEX 4

of the Commission Implementing Decision on the financing of the annual action plan in favour of the Republic of Malawi for 2022

Action Document for Access to Justice Programme - Chilungamo II

ANNUAL PLAN

This document constitutes the annual work programme in the sense of Article 110(2) of the Financial Regulation, and action plan in the sense of Article 23.2 of NDICI-Global Europe Regulation.

1. SYNOPSIS

1.1. Action Summary Table

1. Title CRIS/OPSYS business reference Basic Act	Access to Justice Programme - Chilungamo II CRIS number: NDICI AFRICA/2022/043-257 OPSYS ref.: ACT-60670 Financed under the Neighbourhood, Development and International Cooperation Instrument (NDICI-Global Europe)
2. Team Europe Initiative	Yes; TEI Good Governance for Malawi.
3. Zone benefiting from the action	The action shall be carried out in Malawi
4. Programming document	Multiannual Indicative Programme for Malawi 2021-2027
5. Link with relevant MIP(s) objectives/expected results	The Action contributes to: <u>Specific objective 1</u> : Advancing democracy, human rights and the rule of law. <u>Expected Result 2.1.3</u> : Provision of fair justice, including access to legal assistance enhanced
PRIORITY AREAS AND SECTOR INFORMATION	
6. Priority Area(s), sectors	MIP Priority Area 2, Democratic and economic governance.
7. Sustainable Development Goals (SDGs)	Main SDG: <ul style="list-style-type: none"> SDG 16 (Peace, Justice & Strong Institutions) Other significant SDGs: <ul style="list-style-type: none"> SDG 5 (Gender Equality and women empowerment) SDG 10 (Reduced Inequality)
8 a) DAC code(s)	15130 Legal and judicial development (30 %) 15150 Democratic participation and civil society (30 %) 15160 Human rights (20 %)

	15170 Women's equality organisations and institutions (%)			
8 b) Main Delivery Channel	Private Sector Institutions - 60000 Recipient Government – 12000 Non-Governmental Organisations (NGOs) and Civil Society - 20000			
9. Involvement of multilateral partners	No			
9. Targets	<input type="checkbox"/> Migration <input type="checkbox"/> Climate <input checked="" type="checkbox"/> Social inclusion and Human Development <input checked="" type="checkbox"/> Gender <input type="checkbox"/> Biodiversity <input type="checkbox"/> Education <input checked="" type="checkbox"/> Human Rights, Democracy and Governance			
10. Markers (from DAC form)	General policy objective	Not targeted	Significant objective	Principal objective
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Aid to environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and women's and girl's empowerment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Trade development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, maternal, new-born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Disaster Risk Reduction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Inclusion of persons with Disabilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Nutrition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	RIO Convention markers	Not targeted	Significant objective	Principal objective
	Biological diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Internal markers and Tags:	Policy objectives	Not targeted	Significant objective	Principal objective
	Digitalisation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Tags: digital connectivity		<input type="checkbox"/>	<input type="checkbox"/>
	digital governance		<input checked="" type="checkbox"/>	<input type="checkbox"/>
	digital entrepreneurship		<input type="checkbox"/>	<input type="checkbox"/>
	digital skills/literacy		<input type="checkbox"/>	<input type="checkbox"/>

	digital services		<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Connectivity Tags: transport people2people energy digital connectivity	<input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	Migration (methodology for tagging under development)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reduction of Inequalities (methodology for marker and tagging under development)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Covid-19	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BUDGET INFORMATION				
12. Amounts concerned	Budget line: BGUE-B2022-14.020122-C1-INTPA Total estimated cost: EUR 17 000 000			
MANAGEMENT AND IMPLEMENTATION				
13. Type of financing ¹	Direct management through Grants and Procurement Indirect management with Malawi Government			

1.2. Summary of the Action

Under the Overall Objective of improving humane and effective delivery of justice for all, the Action intends to address challenges related to human rights violations, gender inequality and gender-based violence, violence against children and limited access to justice, especially for those living in the most vulnerable and marginalised situations. This translates into the Specific Objectives of enhancing the effectiveness of the institutional framework and of the legal and coordination frameworks on the one hand, and of improving access to justice for those living in marginalised and vulnerable situations on the other hand.

The Action builds on previous interventions in the justice sector and will continue to support justice reforms that aim at long-term and sustainable solutions to systemic issues with accessibility and effectiveness of key justice institutions. To this end, the Action will support institutional capacity building, gradual decentralisation of services and introduction and scaling up of innovative solutions such as alternative sentencing and expansion of paralegal and mediation services.

The Action will also support closer coordination within the sector, improving also the interaction between supply and demand side, ultimately supporting the development of a more accountable and transparent system. Increased transparency and inclusiveness of the justice system will also be pursued by supporting key institutions in strengthening their internal control and disciplinary mechanisms. Similarly, institutions with the mandate to investigate cases of injustice and human rights abuses such as the Malawi Human Rights Commission (MHRC), the Malawi Police Service and the Office of the Ombudsman will also be supported to continue playing an oversight role to ensure equal access to justice for people living in vulnerable situations.

The Action contributes to priority area 2 of the Multiannual Indicative Programme, namely “Democratic and economic governance”, and to specific objective 1, which is to advance democracy,

¹ Art. 27 NDICI

human rights and the rule of law to address challenges related to human rights violations, gender inequality and gender-based violence, violence against children and limited access to justice for the marginalised groups. The Action contributes to expected result 2.1.3 which looks at enhancing the provision of fair justice, including access to legal assistance.

This Action is aligned to the 2030 Agenda for Sustainable Development as it contributes primarily to the progressive achievement of SDG 16 (Peace, Justice and Strong Institutions), SDG 5 (Gender Equality) and SDG 10 (Reduced inequalities). It will also contribute to the EU Gender Action Plan III.

The Action is a significant component of the Team Europe Initiative (TEI) “Good Governance for Malawi”. Overall this TEI aims at strengthening participatory, transparent and effective governance systems, focusing in particular on empowering citizens and civil society, supporting the electoral cycle, promoting the enjoyment of human rights, improving access to justice, and supporting public finance management reform and the fight against corruption. This action contributes then to the strands of action on enhancing access to justice and promoting the enjoyment of human rights. Cooperation of Germany and Ireland will also be contributing to the different components of the TEI.

2. RATIONALE

2.1. Context

Malawi ranks 174th out of 189 countries on the 2020 Human Development Index². It is one of the most densely populated countries on the continent with a total population of 19.6 million³ of which 16% live in urban areas and 83 % in rural areas⁴, and over 50% is younger than 18⁵. With the population expected to double by 2038⁶, population growth rate is one of the highest in the region⁷.

Despite advances in gender equality over the last decade, Malawi still ranks 142nd out of 162⁸ countries on the 2020 Gender Inequality Index (GII), reflecting high levels of inequality in women’s empowerment and economic activity with government acknowledging a failure to meet Millennium Development Goals 1, 2, 3 and 5, all of which have a gender component.

Malawi’s development has stagnated for the past 20 years, with only minimal and precarious improvements in health and education indicators but going backwards on poverty and growth. The High Court annulled the 2019 presidential elections due to a high number of irregularities, and the re-run in June 2020 saw the opposition take over. The new administration has so far shown higher commitment to the rule of law and human rights, and its drive on anti-corruption is reflected in the increased budget allocations for the governance institutions, increased women participation in governance and increased awareness of human rights and governance issues.

Government has also championed a transformative development plan, Malawi 2063, which aims to see Malawi move towards an inclusive and self-reliant nation. The Agenda promises to promote rapid structural transformation, economic growth and governance, sustained and inclusive development, economic independence, social justice and the rule of law. It envisions an effective and efficient governance system and institutions with strict adherence to the rule of law.

The Democratic Governance Sector (DGS) remains however very broad and diverse with 19 institutions and lacking an up-to-date strategy. Review of the sector has recommended that the sector be split to allow a limited number of institutions working together to achieve a single common goal

² <http://hdr.undp.org/sites/default/files/Country-Profiles/MWI.pdf>

³ United Nations World Population Prospects database 2021

⁴ World Bank Databank, 2021

⁵ UN World Population Prospects (2019 Revision)

⁶ <https://www.worldbank.org/en/country/malawi/overview>

⁷ <https://worldpopulationreview.com/countries/malawi-population>

⁸ <http://hdr.undp.org/en/content/gender-inequality-index-gii>

i.e. justice institutions in a justice sector. The DGS Strategy expired in 2017 and a new strategy is still under development, though it is clear that access to justice will remain one of its main priorities.

2.2. Problem Analysis

Short Problem Analysis: The Constitution of Malawi guarantees every person the right of access to justice which entitles him or her to: recognition before the law; access to any court of law or any other tribunal with jurisdiction for final settlement of legal issues; and effective remedies by a court of law or tribunal for acts violating his or her rights and freedoms.⁹ Since the adoption of the current Constitution in 1994, the legal provisions that guarantee inclusive access to justice have been supported by the development and operation of a wide range of state and non-state institutions involved in the delivery of justice. Despite the existence and operation of relevant legal standards and institutions, access to justice remains limited for the majority of Malawians, especially women, the poor and other social groups whose access to justice remains disproportionately limited. This is exemplified by data from the Chilungamo Programme-supported 2018 Justice and Democratic Accountability Survey which, among other things, showed that in the period between 2013 and 2018, only 5.9% of the respondents had directly experienced the judicial system and that only 6.6% and 9.7 % percent of the respondents had actually used the courts and the police respectively. The data also show that limitations in access to justice affect certain socio-demographic groups disproportionately as exemplified by data showing that in the period between 2013 and 2018, legal aid, in its widest sense, had been provided to 23% of male respondents, compared to 16% of women and 20% and 9% of rural and urban residents respectively. Similarly, while 64% of urban residents claimed to have had access to private lawyers in the case of rural residents the proportion fell to 23% among rural residents.

There is low demand for access to justice with the citizenry and this reflects one of the country's major challenges in relation to democratic governance, namely a defective political settlement where citizens are indifferent to engaging duty bearers with respect to flaws in accountability. In turn, the low demand by citizens is attributable to their limited knowledge of and capacity to relate with the justice system and to strong disincentives which deter demand. Disincentives include low number of functioning Magistrate Courts (there are 209 Magistrate Courts across the country of which 62 are not functional); use of paper based system, a huge cause for inefficiency in the management of cases; limited number of Judges and Magistrates, coupled with lack of transparency and accountability in the judiciary causes; delayed judgements.

Limited responsiveness from duty bearers in the justice sector is largely due to their low effectiveness, inadequate incentives to trigger the functioning of existing accountability mechanisms and insufficient inclusivity in their composition and operations. In addition, the status of Magistrate courts, Victim Support Units (VSUs) and Prison facilities deny duty bearers and people seeking justice, a dignified place to deliver and to access justice respectively. The facilities need rehabilitation that takes into account the rights of the victims (women and children).

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

The key institutions targeted by the Action include Ministry of Justice, Legal Aid Bureau, Malawi Police Services, Malawi Human Rights Commission, Malawi Prison Services, Office of the Ombudsman and the Judiciary. Civil society organisations (CSOs), who play a key role in improving access to justice, will contribute to the Action's objectives through the provision of paralegal and mediation services to people in conflict with the law in police cells, prisons and courts.

The **Ministry of Justice** (MoJ) is the lead policy holder on all legal matters and obligations under international treaties. MoJ is also the coordinating Ministry for the Democratic Governance Sector. The Ministry lacks technical capacities, which issue is compounded by a high level of staff turnover.

⁹ Section 41.

The **Judiciary** plays a crucial role in access to justice as it has jurisdiction over all issues of judicial nature, however, support is needed especially in subordinate courts which handle the majority of the cases.

The **Malawi Police Service** is the first point of contact for most of vulnerable people seeking justice. Continued support is required in training police prosecutors, investigators and Victim Support Unit (VSU) officers regarding crimes against women and children, plea bargaining and victims' rights. Existing accountability mechanisms and departments responsible for their implementation (as the Professional Standard Unit (PSU) and the Independent Complaints Commission) also need technical support to fulfil their mandate.

Legal Aid Bureau (LAB) was established as an independent body under the Legal Aid Act (2010) and plays a significant role in access to justice by providing legal aid to the vulnerable and facilitating access to the formal justice system. However, it is severely underfunded and under-resourced with 25 lawyers and 36 paralegals serving the entire country. LAB is currently championing Paralegal reform process to allow paralegals to represent vulnerable people in lower courts. Support will be needed to generally increase accessibility of legal aid services across the country.

Malawi Prison Services' (MPS) mandate is to house, detain and rehabilitate persons sentenced to imprisonment in whatever form such imprisonment may take. The main challenge is the congestion of the prisons, which presently house some 18,000 prisoners against a capacity of 7,000. This congestion is at times caused by high levels of un-sentenced prisoners and excessive pre-trial detention. A draft Prison Bill introducing a parole system, that would systemically reduce overcrowding, is to be tabled in Parliament. Prisons will require support for the implementation of the parole system and other measures aiming at decongestion and support to prisoners' reintegration in the society.

The **Malawi Human Rights Commission (MHRC)** is a key player when it comes to holding government to account for its commitments under international instruments as well as holding duty bearers to account for the promotion and protection of human rights. While the MHRC has done well, also with EU support. When it comes to human rights education and monitoring of compliance with international instruments, its capacity to investigate and deal with complaints and to hold public inquiries is severely constrained by its limited budget.

The constitutional and independent **Office of the Ombudsman (OoO)** is tasked with investigating all cases of injustice. The office has been crucial to providing access to justice for vulnerable people in both rural and urban areas under the Chilungamo Programme. Due to the nature of the investigations of the OoO support is required to ensure that the office is empowered and is able to conduct its investigations independently.

Civil society organisations (CSOs), who are key players in domestic accountability and access to justice will contribute to the Action's objectives through the provision of paralegal and mediation services.

3. DESCRIPTION OF THE ACTION

3.1. Objectives and Expected Outputs

The **Overall Objective (Impact)** of this Action is to improve humane and effective delivery of justice for all, especially those living in marginalised and most vulnerable situations.

The **Specific Objectives (Outcomes)** of this Action are to:

SO1: Enhance effectiveness legal and coordination frameworks of the key justice institutions

SO2: Improve access to justice for all, especially for the population living in the most vulnerable situations and women

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

Outputs 1.1. Improved knowledge, gender-balance skills and capacities of the key justice institutions;

Outputs 1.2. Improved legal and coordination frameworks for key justice institutions (Judiciary, Prisons Services, Police Service, Office of the Ombudsman, Legal Aid Bureau and Malawi Human Rights Commission, under the leadership of the Ministry of Justice);

Outputs 1.3. Improved capacity of Malawi Prison Services to implement alternative sentences;

Outputs 1.4. Improved mechanisms and frameworks for enhance accountability in justice institutions.

Outputs 2.1. Improved physical conditions of justice system infrastructure with a gender perspective;

Outputs 2.2. Improved capacity to offer legal and paralegal aid and mediation;

Outputs 2.3. Improved legal awareness and education among those living in the most vulnerable and marginalised situations.

3.2. Indicative Activities

Output 1.1 – Improved knowledge, gender-balance skills and capacities of the key justice institutions :

- Support institutional strengthening of the target justice institutions (e.g. implementing recommendations of functional reviews conducted);
- Capacity development of key staff of target justice institutions in areas relevant to the Action.
- Support Higher Education Institution (HEI) such as the Chancellor College in developing curricula that cater to the training need of justice institutions.
- Support to the human resources to implement gender equality plan and reinforce the representation and participation of women in the justice institutions.

Output 1.2 – Improved legal and coordination frameworks for key justice institutions:

- Strengthened governance of the sector through technical support for the finalisation of the DGS strategy, the inclusive monitoring of its implementation – via Technical Working Groups; facilitation of the establishment and functioning of coordination mechanisms at local level (e.g. Court Users Committees; National Legal Aid coordination committees, etc.) involving ministries, departments and agencies and civil society;
- Provision of technical support to justice institutions for the development of legal and inter-organisational coordination frameworks such as the Criminal Justice Coordinating Committee (CJCC).

Output 1.3 – Improved capacity of Malawi Prison Services to implement alternative sentences:

- Technical support to Malawi Prisons Service in the implementation of the functional review recommendations, with the three pillars of correctional services, parole and community services. The project will specifically support the introduction of parole and community services in pilot districts

Output 1.4 – Improved mechanisms and frameworks for enhance accountability in justice institutions:

- Operational and technical support to the Office of the Ombudsman for handling public interest litigation cases and system investigations of public offices;
- Strengthening of accountability and internal control mechanisms in public justice institutions (e.g. Police Professional Standards Unit and the Independent Complaints Commission; Inspectorate for Prisons Services; Judicial Service Commission, etc...);

- Introduction of performance considerations in Human Resources management practices of selected public justice institutions (e.g. Judiciary Performance Management System and Gender Plans) ;
- Digitalisation of internal processes across the targeted public justice institutions (including introduction of the Case Management System for the Judiciary, the Prisoners' registry, Police MIS etc.) and their harmonisation;

Output 2.1 – Improved physical conditions of justice system infrastructure with a gender perspective

- Rehabilitation of selected prisons' facilities (including WASH +).
- Rehabilitation of Victim Support Units (VSUs) in Police Stations.
- Rehabilitation of Magistrate Courts with the Judiciary.

Output 2.2 – Improved capacity to offer legal and paralegal aid and mediation:

- Expansion of village mediation services through training and deployment of additional mediators to cover an increased number of districts;
- Provision of paralegal services in detention centres across the country;
- Direct support to the Ministry of Justice, Office of the Director of Public Prosecution, in the prosecution of cases, in particular for those living in the most vulnerable and marginalised situations, such as cases concerning persons with albinism and Sexual Gender Based Violence cases;
- Support to MHRC for the development of strategic litigations;
- Out-reach activities of the targeted Justice institutions (including through mobile courts, mobile clinics and camp courts involving collaboration between the Judiciary, OoO, MHRC and LAB).

Output 2.3 – Improved legal awareness and education among the population living in the most vulnerable situations:

- Support Media and Civil Society in the development and delivery of legal awareness and education programmes targeting mainly those living in the most vulnerable situations;
- Further the support to awareness raising on the existence and function of VSUs through the Police;
- Support to Legal Aid Bureau, the Office of Ombudsman and MHRC to raise awareness on the functions of their offices and on relevant human rights and women rights;
- Support locally based Higher Educational Institutions in relevant research activities that contribute to the dialogue around the enhancement of legal awareness and education in the country.

3.3. Mainstreaming

Gender equality and empowerment of women and girls

As per OECD Gender DAC codes identified in section 1.1, this Action is labelled as G1. This implies that the Action prioritises the rights of women and other groups living in the most vulnerable situations by creating opportunities and spaces for women to be protected by the law, to gain knowledge of their rights, access legal aid and to ensure their involvement in decision-making processes. All training and capacity building interventions will be required to be gender balanced, both when it comes to participants and those providing training. The data collected by the digital processes or other processes will be disaggregated minimum by sex.

Human Rights

The programme applies the human rights-based approach (HRBA) and human rights are mainstreamed. Particular attention is given to the rights to access to justice, transparency and accountability, socio-economic rights and services, and freedom of information. Support provided to the MHRC specifically to better protect human rights through increased capacity in the areas of

investigations of human rights abuses, adherence to international human rights instruments and public inquiries. The paralegal aid service and village mediation component of this Action, will ensure that people living in poverty who are in conflict with the law are able to access justice in detention centres or at their door step through village mediations. The action will respect the 5 HRBA principles: respect to all human rights, participation, accountability, transparency, and non-discrimination.

Disability

As per OECD Disability DAC codes identified in section 1.1, this Action is labelled as D1. This implies that persons with disabilities will benefit from the Action as it focuses on providing access to justice for all.

Democracy

Equal access to justice for all is a constituent element of democracy and rule of law. This Action aims to empower individuals to meaningfully participate in the legal decisions and processes that affect their lives and by extension, the democratic process.

3.4. Risks and Lessons Learnt

Category	Risks	Likelihood (High/ Medium/ Low)	Impact (High/ Medium/ Low)	Mitigating measures
Risk related to the external environment	Key policy measures and reforms required are not implemented and current ineffective policies are continued.	Low	Medium	Regular dialogue with relevant government counterparts, local authorities and CSOs and coordination with development partners will be a regular feature of the programme (the Steering Committee of the Action will consist of high level representatives from all partner institutions and will provide a meaningful and effective platform for policy and political dialogue).
Risk related to the external environment	Ministry of Justice is the coordinating Ministry for the DGS but lacks capacity and is faced with high levels of staff turnover which may affect implementation of the Action.	Low	Low	The Action has budgeted for technical assistance to support the Ministry with the management of the Action.
Risk related to planning, processes and systems	Delayed publication of the DGS Policy and Strategy.	Low	Low	Drafts of the DGS Policy and Strategy are taken into account in the formulation of the Action. A work plan is developed to ensure timely completion of the documents.

Risk related to the external environment	Political interference affecting independence of oversight and justice institutions.	Medium	Medium	Enhance political dialogue to address external influence, support for institutional capacity building and coordination facilitation between oversight institutions. Ensure conditions for stronger demand for access to justice and accountability.
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Lessons Learnt:

After two decades of support to governance in Malawi, the major lesson learned from previous EU programmes is that support to institutions alone will have limited results if not paired with the genuine interest from Government Counterparts to address the root causes of the major inefficiency of the Justice Sector in the country.

The experience developed under the ongoing Chilungamo Programme, supported by a number of studies conducted in the sector over the last few years clearly shows that in order to increase demand for access to justice, it is important to identify and address the disincentives that currently dissuade rights-holders from making those demands while, at the same time and on the supply side of the equation, dealing with all those issues that constrain duty bearers from being more responsive to the demands.

On this basis, the Action intends to continue the work initiated with the justice sector institutions in areas related to efficiency, inclusiveness and transparency while enhancing the work on the demand side, in particular with a more tailored and targeted support to those segments of society that are most likely to be excluded from the formal justice system.

The work conducted over the last few years clearly signal the need for greater collaboration and result oriented interventions (as opposed to capacity building as an end in itself) and that programmes aimed at improving access to justice work best when they include a focus on improving coordination, collaboration and cooperation amongst role players. The Action will focus on enhancing coordination among justice sector institutions building on the successful experiences tested under the Chilungamo programme and going beyond that with an increased emphasis on the implementation of coordination mechanisms at the local level.

The experience gained with previous interventions suggests that access to justice is also improved when specific and more proportionate procedures and sanctions are in place for minor (civil) matters. For this reason, the Action will further the work for the introduction of and increased reliance on alternative sentences (such as community service), and measures such as the parole system for the rehabilitation of prisoners.

Ultimately, there is a recognition that sustainability of donor funded interventions in the justice sector is a challenge. Due to the extremely limited (and shrinking) fiscal space, the government has to finance activities that go beyond the already stretched operating costs, investments in areas not perceived as essential to directly foster economic development tend to be penalised. While continuing the dialogue with key decision-makers to a better understanding of the benefits arising from a well-functioning justice system, the Action will also explore specific elements of the programme to be sustained and continue beyond the Action by local government in the context of the on-going decentralisation process. Cost-sharing experiences that proved successful under the Chilungamo Programme (e.g. rehabilitation of VSUs at the police stations and of Magistrate Courts) will be replicated.

3.5. The Intervention Logic

The Action will improve humane and effective delivery of justice for all. The underlying intervention logic for this Action is that this objective can be achieved by addressing the constraints on the ability, especially for certain disadvantaged groups, to access to justice which have resulted in:

- a. Low demand for access on the part of citizens; and
- b. Inadequate responsiveness from the duty-bearers tasked with justice delivery.

As such the Action will focus on the attainment of two specific and related outcomes: (1) To improve access to justice for all by increasing demand for access to justice by all, especially women and people living in poverty; (2) To enhance effectiveness of institutional framework to improve inclusive responsiveness of duty-bearers.

Improved access to justice will be sought by improving people's capacity to demand for justice, their motivation to increasingly access and rely on justice institutions and at the same time the responsiveness of the justice providers. Activities in support to awareness raising and aiming at increasing the overall knowledge of the Malawi law and of the legal system at large will be combined with initiatives addressing major bottlenecks discouraging people to access justice and mainly focusing on reducing the cost of accessing justice and improving transparency and accountability in the system. The success of these outputs will largely depend on the holding of the assumptions that the political environment will continue to be conducive for increased accountability of justice institutions, the relevant authorities continue mass public awareness on the legal services and aid and the relevant institutions avail sufficient resources to maintain the digitalised processes and platforms.

At the same time, the increased demand arising by more empowered citizens and by a better and more accessible delivery of justice services will be sustained by an improved institutional framework and supported by strengthened justice institutions. The Action will in fact be supporting the development of relevant legislations and policies and the institutional strengthening of all the relevant justice institutions to support their implementation and enforcement. The assumptions underpinning successful implementation are that role players in the criminal justice system will remain amenable to coordinating efforts, that the Prison Bill if finally passed to introduce the Parole System and that the draft Democratic Governance Sector Strategy is followed-up, endorsed, partly funded and monitored.

3.6. Logical Framework Matrix

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

Results	Results chain (@): Main expected results (maximum 10)	Indicators (@): (at least one indicator per expected result)	Baselines (values and years)	Targets (values and years)	Sources of data	Assumptions
Impact	To improve humane and effective delivery of justice for all.	1. Country score of Rule of Law as per Worldwide Governance Indicators project **o 2. Mo Ibrahim Index for African Governance (dimension 2: participation and human rights). *	1. Rule of law – 45.7% (WGI 2020) 2. 2. Score 63 (2014)	1. Rule of law: Score: 50% (2026) 2. 60 %Score: 65 (2026)	1. World Bank WGI 2. Mo Ibrahim Index	<i>Not applicable</i>
Outcome 1	Enhance effectiveness and the legal and coordination frameworks of the key justice institutions	1.1. Number of cases resolved, investigations concluded, and complaints addressed, disaggregated by sex, age group, type of offense and location (urban/rural) 1.2. Number of institutional databases digitalised. 1.3. Number of prisoners benefiting from the parole system and serving alternative sentences to imprisonment.	1.1. TBD ¹⁰ 1.2. TBD 1.3. None by 2021	1.1. TBD 1.2. TBD 1.3. TBD	1.1. Prosecutor's Office and Judiciary reports 1.2. Reports of the project 1.3. Annual Prison reports.	
Outcome 2	Improve access to justice for all, especially the vulnerable population.	2.1. Number of people directly benefiting from legal aid interventions supported by the EU+ (2.1. 18% men and 19.3% women access legal representation: 45 000 (over 2014-2019) – supported by	2.1. 25% men and 30% women: 300,000 people: (120,000 women (40%) and (60%) 180,000 men)	2.1. Annual Legal Aid Bureau' reports.(2021)	Role players in the criminal justice system will remain amenable to

¹⁰ TBD to be intended across the log-frame as “To Be Defined by the end of the inception period, based on available data and statistics”

		disaggregated by sex, age group, type of support and location (urban/rural)) *(GERF 2.25 NDICI)	previous EU intervention.		Annual Progress Reports by partner CSOs- (2021)	coordinating efforts. Relevant Justice Sector Institutions will be provided with sufficient funds by government to cover for operating costs.
Output 1.1 related to Outcome 1	Improved knowledge, gender-balance skills and capacities of the key justice institutions	<p>1.1.1. Number of short-term functional review recommendations implemented for selected Justice institutions</p> <p>1.1.3. Number of relevant staff¹¹ across target Justice institution trained disaggregated by institution and gender.</p> <p>1.1.4. Status of the curricula of the Chancellor College</p>	<p>1.1.1. TBD</p> <p>1.1.2. TBD</p> <p>1.1.3. TBD (specific target for women will be set at inception)</p> <p>1.1.4. None</p>	<p>1.1.1. TBD</p> <p>1.1.2. TBD</p> <p>1.1.3. TBD</p> <p>1.1.4. Elaborated on and discussed with Chancellor College</p>	<p>1.1.1. TA monitoring, progress report</p> <p>1.1.2. Functional reviews and minutes if discussions</p> <p>1.1.3. Training records, assessments</p> <p>1.1.4. Curricula and discussion records</p>	<p>The institutional reviews are incorporated into the key justice institutions' own development plans and are funded, as necessary.</p> <p>The trained officials stay at their job and apply the knowledge.</p> <p>The curricula is further accepted, funded and used by the Chancellor College.</p>
Output 1.2 related to Outcome 1	- Improved legal and coordination frameworks for key	1.2.1. Status of functioning of the Criminal Justice Coordinating Committee	1.2.1. 1 annual meeting, % of resolutions TBD.	1.2.1. 2 bi-annual meetings; % of resolutions TBD	1.2.1. Annual Judiciary Reports	Participation of justice institutions and commitment

¹¹ To be defined during inception following capacity needs assessment.

	institutions (Judiciary, Prisons Services, Police Service, and Office of the Ombudsman, Legal Aid Bureau and Malawi Human Rights Commission, under the leadership of the Ministry of Justice.)	(CJCC) defined by regularity of the meetings and % of resolutions adopted (out of the total) ¹² 1.2.2. Status of the draft Domestic Governance Strategy (DGS) 1.2.4. Number of draft bills and policies ¹³ developed;	1.2.2. Current DGS expired 2017. 1.2.4. 0 by 2021	1.2.2. Draft is prepared and discussed with the relevant institutions 1.2.4. TBD	1.2.2.-. Discussion records on the drafts 1.2.4. the draft bills and discussion records at the cabinet	to the CJCC coordination remains robust. The draft DGS is followed-up, endorsed, funded and monitored The charters are adopted and coordination mechanisms become effective The draft bills and policies are followed-up, funded and monitored
Output 1.3 related to Outcome 1	Improved capacity of Malawi Prison Services to Implement alternative sentences	1.3.1. Status of the pilots of community services. ¹⁴ 1.3.2. The status of descriptions and roadmaps of implementation of alternative sentences.	1.3.1. None by 2021 1.3.2. None by 2021 1.3.3 None by 2021	1.3.1. The pilots realised by 2026. 1.3.2. Finalised based on the pilots and discussed with the Malawi Prison Services by 2024 1.3.3. Functional parole system by 2025	1.3.1. Annual Project reports, Prison Service Reports 1.3.2. Draft texts and discussion records	Lessons of pilots are integrated into alternative service descriptions. The Prison Bill passes to introduce the Parole System. Responsibility of community service

¹² The CJCC is composed of high level representatives from the Judiciary, Legal Aid Bureau, Ministry of Justice (DPP), the Police and the Malawi Prison Services.

¹³ Policies and bills to be prioritised to be defined during inception and specific reference will be made

¹⁴ To be further specified during inception

		1.3.3. Status of parole services as provided under the Prison Bill.			1.3.3. Annual Project reports, Prison Service Reports	is moved under Prisons Service.
Output 1.4 related to Outcome 1	Improved mechanisms and frameworks for enhanced accountability in justice institutions	<p>1.4.1. Number of public interest litigation cases and system investigations of public offices conducted with EU support ¹⁵;</p> <p>1.4.2. Status of draft accountability and internal control mechanisms in justice institutions;</p> <p>1.4.4. Status of Human Resources management systems introduced</p> <p>1.4.5. Number of internal processes across the targeted public justice institutions digitalised</p>	<p>1.4.1. None by 2021</p> <p>1.4.3. Accountability and internal control mechanisms in justice institutions established but not fully operational</p> <p>1.4.4. None by 2021</p> <p>1.4.5. 0 by 2021</p>	<p>1.4.1. Drafts finalised and discussed with Ombudsman Office</p> <p>1.4.3. Accountability and internal control mechanisms in justice institutions fully operational by 2026</p> <p>1.4.4. Human Resources management systems introduced in at least one justice institutions by 2026</p> <p>1.4.5. TBD</p>	<p>1.4.1. – Annual reports from the Office of the Ombudsman</p> <p>1.4.3. s Justice Institutions reports and Project Progress Report</p> <p>1.4.4. Justice Institutions reports and Project Progress Report</p> <p>1.4.5. The protocols of the digitalised</p>	<p>Political environment will continue to be conducive for increased accountability of public institutions</p> <p>The relevant institutions avail sufficient resources to maintain the digitalised processes and platforms.</p>

¹⁵ To be defined during inception

					processes and system tests	
Output 2.1 related to Outcome 2	Improved physical conditions of justice system infrastructures.	2.1.1. Number of Magistrate courts rehabilitated 2.1.2. Number of Victim Support Units (VSUs) rehabilitated; 2.1.3. Number of prisons with WASH+ facilities rehabilitated	2.1.1. 0 by 2021 2.1.2. 0 by 2021 2.1.3. 0 by 2021	2.1.1. TBD 2.1.2. TBD 2.1.3. TBD	2.1.1. – 2.1.3. Progress Reports, works completion and acceptance acts	GoM keeps co-funding infrastructure development and rehabilitation in the sector
Output 2.2 related to Outcome 2	Improved capacity to offer legal and paralegal aid and mediation.	2.2.1. Status of Victim Support Units supported by the programme. 2.2.2. Status of Village Mediation Services (VMS) 2.2.3. Number of paralegal services supported by the project 2.2.4. Number of cases for which the action supported the Prosecutor's Office in the MoJ 2.2.5. Number of strategic litigations conducted by Malawi Human Rights Commission (MHRC) with EU support	2.2.1. 10 by 2022 2.2.2. Village Mediation services are established in 11 districts and 22 traditional authorities in 2021. 2.2.3. 0 in 2021 2.2.4. 0 by 2021 2.2.5. 0 by 2021	2.2.1. VSU-s are established and equipped (number TBD) 2.2.2. Village Mediation services are established and trained in (number TBD) of districts and (number TBD) of traditional authorities 2.2.3. TBD 2.2.4. TBD 2.2.5. Recommendations drafted and discussed with MHRC	2.2.1. Project Progress reports, Police reports 2.2.2. CSO reports 2.2.3. CSO reports, Malawi Prisons Services Report 2.2.4. Case files and reports 2.2.5. MHRC reports	The relevant authorities undertake awareness and education campaign to provide for an acceptable context for paralegals to offer their services to community The VSUs and VMCs are further maintained and funded by the government / local authorities The MoJ and Prosecutor's Office learn on the best practices and compile internal guides Recommendations for strategic litigation are

						integrated into MHRC manuals and procedures
Output 2.3 related to Outcome 2	Improved legal awareness and education among the vulnerable population.	<p>2.3.1. Number of people reached with messages on rights of victims, disaggregated by sex (**)</p> <p>2.3.2. Number of people (disaggregated by sex) attending awareness raising and education events in rural areas.</p> <p>2.3.3. Number of cases supported through mobile courts dealing with gender based violence.</p>	<p>2.3.1. 0 by 2021</p> <p>2.3.2. 0 by 2021</p> <p>2.3.3. 0 by 2021</p>	<p>2.3.1. TBD</p> <p>2.3.2. TBD by end of inception</p> <p>2.3.3. TBD by end of inception</p>	<p>Annual LAB Reports</p> <p>Annual Judiciary Reports</p> <p>Annual Police Reports</p> <p>Annual MHRC Reports</p> <p>CSO Reports</p> <p>Project Progress Reports</p>	<p>The relevant authorities continue mass public awareness on the legal services and aid.</p> <p>The CSOs, media are further encouraged to highlight the legal services and aid</p> <p>Legal Aid Bureaus and Ombudsman Office have sufficient funding for awareness raising.</p>

4. IMPLEMENTATION ARRANGEMENTS

4.1. Financing Agreement

In order to implement this Action, it is envisaged to conclude a financing agreement with the Malawi Government

4.2. Indicative Implementation Period

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

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

4.3. Implementation of the Budget Support Component

n/a

4.4. Implementation Modalities

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the Action with EU restrictive measures¹⁶.

4.4.1. Direct Management (Grants)

Grants: (direct management)

(a) Purpose of the grant

With respect to specific objective 2 of the Action which is to improve access to justice for all, especially the vulnerable population. The grant will be aimed increasing the demand for access to justice. It will support activities related to the respective results of Output 2.2: *strengthened and increased offer of legal and paralegal aid and village mediation*, and 2.3: *increased legal awareness and education among the vulnerable population*.

(b) Type of applicants targeted

The potential applicants for funding shall be a civil society organisation(s) with demonstrated in-depth knowledge and expertise in training and mobilising paralegals to detention centres as well as training and monitoring of village mediators. With regard to essential characteristics, the applicant shall be a legal person or an entity with legal personality, and established in one of the EU member states or eligible countries defined by the basic act.

4.4.2. Direct Management (Procurement)

Under the responsibility of the Commission's responsible authorising officer, a service contract to provide technical assistance (TA) for the implementation of all activities related to MoJ, Judiciary, Police, Prisons, MHRC, OoO and LAB will be contracted by the Commission to support all objectives/activities outlines under sections 3.1. and 3.2. Technical assistance might be made available to other DGS institutions according to the needs identified during implementation of the programme. The contractor will be responsible for providing the long and short-term TAs and overall management, monitoring and evaluation of their performance.

¹⁶ 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.

This call has been launched on 01/04/2022 under a suspensive clause prior to the adoption of this Decision. This is justified because of the overarching coordinating role the TA will play in the implementation of the action.

4.4.3. Indirect Management with the Partner Country

A part of this Action with the objectives of (1) enhancing effectiveness of institutional framework through institutional capacity development and enhancing the legal and coordination frameworks for key justice institutions and (2) improvement of access to justice for all, especially the vulnerable population, may be implemented in indirect management with the Government of Malawi according to the following modalities:

The partner country will act as the contracting authority for the procurement and grant procedures. The Commission will control ex-ante all the procurement procedures except in cases where programme estimates are applied, under which the Commission applies ex-ante control for procurement contracts above EUR 100,000 (or lower, based on a risk assessment) and may apply ex-post control for procurement contracts up to that threshold. The Commission will control ex-ante the grant procedures for all grant contracts.

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

The financial contribution covers 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.

a) Overview of implementation

Activity/objective/Output, include location	Type of financing (works, supplies, or service contract, grant, programme estimate)
Support to Public Institutions	Programme Estimate

b) Implementation through programme estimates

The contracting authority for these activities shall be The Malawi Government. The project supervisor shall be the Ministry of Justice. An imprest administrator and an imprest accounting officer, and their deputies, shall be appointed for the management and implementation of the programme estimate by the contracting authority, in agreement with the Head of Delegation.

In accordance with the powers delegated to them by the partner country authority that appointed them, the imprest administrator and the imprest accounting officer shall draw up and implement the programme estimate, award contracts and grants, commit expenditure and make the corresponding payments.

The imprest administrator and the imprest accounting officer shall submit their technical and financial reports to the project steering committee, where applicable, and to the Malawi Government, represented by the Ministry of Justice, and a copy to the Head of the EU Delegation.

4.5. Scope of geographical eligibility for procurement and grants

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

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

4.6. Indicative Budget

Indicative Budget components	EU contribution (EUR)
Grant (Direct management) – Call for Proposal – CSO led paralegals and village mediation component (contributing to outputs 2.2 and 2.3 of the Action) cf. section 4.4.1	4 000 000
Procurement (Direct management) – Technical Assistance to the Ministry of Justice (contributing to all the outputs of the Action) cf. section 4.4.2	4 100 000
Indirect management with the Government of Malawi – Multi Annual Programme Estimate (contributing to all outputs of the Action) cf. section 4.4.3	8 200 000
Evaluation and Audit - cf. sections 5.2, 5.3	200 000
Contingencies	500 000
Total	17 000 000

4.7. Organisational Set-up and Responsibilities

The programme will be housed within the Ministry of Justice.

Responsibility for the implementation, coordination, monitoring and evaluation of the remaining activities will be vested in a **Programme Steering Committee (PSC)**, meeting at least twice a year, and consisting of, as a minimum:

- The Solicitor General / representative of the MoJ (Chair).
- A representative of each of the following beneficiaries: Judiciary, MHRC, Police, Prisons, LAB, Office of the Ombudsman and the CSO awarded the grant on paralegal services and village mediation.
- A representative of the EUD as an observer.

Under the responsibility of the Commission, a service contract related to procuring the **Technical Assistance** for the implementation of all aspects of the programme will be contracted. The contract will focus on support to implementation of activities related to the programme-estimate.

The contractor may be responsible for establishing a Secretariat that will report directly to the PSC and that will consist of at least:

- A long-term Justice Expert.
- Finance Manager
- Relevant national support staff including Procurement and M&E Experts

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

5. PERFORMANCE MEASUREMENT

5.1. Monitoring and Reporting

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

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

Availability of relevant public statistics will be researched by the implementers for use as baseline and subsequently to measure progress at the end of the Action. Where such public data is not available the implementers will launch specific surveys at start and end of the Action to measure progress. The cost associated to these possible surveys will be integrated in the relevant contracts. Whenever possible the project will harmonise its data collection with national partners systems. A joint monitoring system will be agreed for the TEI project.

Gender equality and the human rights based approach will be mainstreamed into the monitoring and evaluation of the project and indicators will be sex-disaggregated and disaggregated by other relevant aspects whenever possible (e.g. age, disability).

5.2. Evaluation

Having regard to the nature of the Action, a mid-term will be carried out for this Action or its components via independent consultants contracted by the Commission.

The mid-term evaluation will be carried out for problem solving and realignment of activities to address any changes that have occurred.

The Commission shall inform the implementing partner at least one month in advance of the dates envisaged 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 following the best practice of evaluation dissemination¹⁷. 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.

5.3. Audit and Verifications

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

¹⁷ See best [practice of evaluation dissemination](#)

6. STRATEGIC COMMUNICATION AND PUBLIC DIPLOMACY

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

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

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

APPENDIX 1 REPORTING IN OPSYS

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

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

The present Action identifies as

Action level		
<input type="checkbox"/>	Single action	Present action: all contracts in the present action
Group of actions level		
<input type="checkbox"/>	Group of actions	Actions reference (CRIS#/OPSYS#):
Contract level		
<input checked="" type="checkbox"/>	Single Contract 1	Indirect management with the Government of Malawi – Multi Annual Programme Estimate (contributing to all outputs of the Action)
<input checked="" type="checkbox"/>	Single Contract 2	Direct management – Technical Assistance to the Ministry of Justice (contributing to all the outputs of the Action)
<input checked="" type="checkbox"/>	Single Contract 3	Direct management – Call for Proposal: CSO led paralegals and village mediation component (contributing to outputs 2.2 and 2.3)
	(...)	
<input type="checkbox"/>	Group of contracts 1	