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This action is funded by the European Union

ANNEX 3

of the Commission Implementing Decision on the financing of the annual action programme in favour of Central Asia for 2018 part 2 and in favour of the Asia region for 2018 part 4

Action Document for EU-Central Asia Rule of Law Programme

1. Title/basic act/ CRIS number	EU-Central Asia Rule of Law Programme CRIS number: ACA/2018/040-951 financed under the Development Cooperation Instrument			
2. Zone benefiting from the action/location	Central Asia The action shall be carried out at the following locations: Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, Uzbekistan.			
3. Programming document	Addendum No 1 to the Multiannual Indicative Programme between the European Union and Central Asia for the period 2014-2020 ¹			
4. Sector of concentration/ thematic area	Rule of Law Good Governance	DEV Assistance: YES		
5. Amounts concerned	Total estimated cost: EUR 8 421 000 Total amount of EU budget contribution EUR 8 000 000 This action is co-financed in joint co-financing by: - Council of Europe for an amount of EUR 421 000;			
6. Aid modality(ies) and implementation modality(ies)	Project Modality Indirect management with the Council of Europe			
7 a) DAC code(s)	Main DAC code: 15130 – Legal and judicial development			
b) Main Delivery Channel	Council of Europe – 47138			
8. Markers (from	General policy objective	Not targeted	Significant objective	Main objective

¹ Decision C(2018)4741 of 20/07/2018

CRIS DAC form)	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	X
	Aid to environment	X	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality (including Women In Development) ²	<input type="checkbox"/>	X	<input type="checkbox"/>
	Trade Development	X	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, Maternal, New born and child health	X	<input type="checkbox"/>	<input type="checkbox"/>
	RIO Convention markers	Not targeted	Significant objective	Main objective
	Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>
9. Global Public Goods and Challenges (GPGC) thematic flagships	N/A			
10. SDGs	Main SDG 16 (Peace, Justice and Strong Institutions) Secondary SDG 8 (Decent work and Economic growth); SDG 5 (Gender equality and empower women and girls)			

SUMMARY

This programme aims to reinforce the rule of law, good governance, democracy and human rights in Central Asia in accordance with European and other international standards.

All five Central Asian countries will be involved in the programme's regional activities. In addition to these, since the programme is demand-driven, they could benefit from specific bilateral Council of Europe support. Country-specific interventions will also cover all five countries of the region to the extent possible.

The programme will consist of four specific objectives:

- 1) To promote the creation of a regional common legal space between Europe and Central Asia
- 2) To enhance business integrity and compliance in the private sector
- 3) To enhance the effectiveness of anti-corruption, anti-money laundering and asset recovery systems in the Central Asian countries
- 4) To enable national counterparts to reform the national legal systems, state institutions and the judiciary.

² Please provide justification in section 3.3 if gender equality is not targeted.

The main partners in the definition and implementation of this programme will be: Governmental bodies at all levels, notably ministries of foreign affairs and line ministries (e.g. justice, interior); Constitutional Courts; Parliaments; public/ independent structures with specific responsibilities in the relevant areas (e.g. human rights, anti-corruption and law enforcement bodies, central electoral commissions, media-regulatory bodies; ombudsmen institutions); the judiciary; civil society, including lawyers' association; youth organisations and media professionals.

Depending on the nature of the activities, the programme will involve civil society representatives. Where relevant, institutions having gone through or provided support to democratic reform processes in Council of Europe member states and exceptionally in other countries, might be involved in specific activities (e.g. Parliaments, Constitutional Courts, electoral bodies, agencies fighting corruption, governmental administration), including from EU member states active/engaged on both the targeted countries and areas. Experts and institutions from these EU MS which are members of CoE networks, councils or committees will be prioritised when expertise is sought.

1 CONTEXT

1.1 Sector/Country/Regional context/Thematic area

Since the break-up of the Soviet Union at the beginning of the 1990s, the Central Asian states have taken major steps to put forward the creation of independent judiciaries and the development of modern, democratic legal systems geared towards market economy. Implementation of principles based on the rule of law in an economic, political and societal context, and empowerment of the judiciary to apply the relevant provisions, represent important milestones within this reform process. All partner countries have enshrined democratic principles and the rule of law as major cornerstones in their constitutions.

There is a high degree of commonality between European (continental) and Central Asian legal systems, as they derive historically from common roots. However, the legacy of the soviet legal culture, with its combination of nihilism and idealism, has direct influence on the speed and effectiveness of the process of implementing reforms in the legal system and the judiciary. In addition, the reform process is also influenced the respective economic and political situation in each country. Due to a range of factors, the Central Asian states have developed very differently in this respect over the last few years.

Despite many reform efforts in recent years, there are still deficiencies in the application of laws, as well as the quality and consistency of legislation, due to a lack of capacity of the relevant actors. In addition, the judiciary is still subject to corruption and undue political influence. It is these factors in particular that have a negative impact not just on the rule of law but also on the business climate in the Central Asian countries and that hinder sustainable economic development.

1.1.1 *Public Policy Assessment and EU Policy Framework*

Since the adoption of the EU Strategy for Central Asia in 2007, countries of Central Asia have come a long way to becoming significant partners of the European Union. The current formats of cooperation between the EU and the Central Asian countries include the EU-Central Asia ministerial meetings and the Cooperation Councils. The objectives and priority areas of the 2007 EU Strategy for Central Asia and the Council Conclusions on the EU Strategy for

Central Asia of 22 June 2015 remain pertinent, as reflected in the Council Conclusions on the EU Strategy for Central Asia of 19 June 2017. These objectives include the development of a strong and durable relationship, based on joint ownership and aimed at fostering peaceful, prosperous, sustainable and stable socio-economic development of the Central Asia region in line with the EU Global Strategy and the joint commitment to the Sustainable Development Goals (SDGs). The Council also reconfirmed the *“crucial importance of continuing a meaningful dialogue with the Central Asian countries on good governance, the rule of law and human rights. This involves promoting respect for human rights, prioritising even further the rule of law cooperation in the EU Strategy, and supporting Central Asian countries to fight corruption and promote accountability”*. Under the auspices of the 2007 EU Strategy for Central Asia, the Rule of Law Initiative for Central Asia, coordinated by France and Germany with the support of the European Commission (Rule of Law platform programme) constitutes the overarching regional framework for enhanced cooperation and dialogue between the EU and Central Asian partners as well as between the Central Asian countries themselves on Rule of Law issues. It reflects a sustained EU-Central Asia policy dialogue and is implemented through both multilateral and bilateral programmes. It aims to help the countries of Central Asia approximate their national justice systems, legislation and practices with international (primarily European) standards. It was launched in 2008 with the aim of supporting legal reforms, especially constitutional, criminal, and administrative law, legal training, and the sharing of experience on issues such as how to strengthen the capacity of the judiciary or draw up effective legislation on priority issues of reform.

The proposed action is in line with the 2017 European Consensus on Development³ and the policy priorities PEACE and PEOPLE, as well as PROSPERITY. Other EU frameworks relevant to this action are the Council of Europe conventions, the Charter of Fundamental rights of the EU, and the requirements of democracy and the rule of law as assessed by the EU Rule of Law framework, DG JUST policy in the area of civil and criminal justice, fundamental rights and equality, as well as the Gender Action Plan (GAP) 2016-20⁴.

The adherence of the respective legal frameworks and justice systems to international best standards on Rule of Law and the reform initiatives vary considerably between the five Central Asian partner countries:

Kazakhstan

The legal system of Kazakhstan is based on civil law and founded on statutory legislation, which provides for a hierarchy of legal acts. Within the hierarchy, international treaties ratified by Kazakhstan take priority over all other laws of the country, except for the constitution. Currently, the focus remains on the implementation of the 2017 constitutional reform (new powers of the Constitutional Council). Kazakhstan is now finalising and preparing for the implementation of new legislation in the field of administrative law and justice, and the reform of public administration. As part of the judicial reform a judicial ethical code has been adopted to increase the accountability of judges. A separate legal procedure on investment issues was established, and a special investment panel within the Supreme Court is now responsible for trying disputes involving major investors. At the initiative of the Ministry of Justice, a draft law “on legal assistance” is currently being developed aimed at improving the regulatory framework in relation to defence attorneys and

³ https://ec.europa.eu/europeaid/sites/devco/files/european-consensus-on-development-final-20170626_en.pdf

⁴ http://www.consilium.europa.eu/en/meetings/fac/2015/10/st13201-en15_pdf/

commercial lawyers' activities. Kazakhstan has undertaken a number of high-level policy and co-ordination initiatives in the field of promoting business integrity, in particular through the Anti-Corruption Charter of Entrepreneurs. One of the areas where operationalisation is needed and effectiveness needs to be enhanced is the development and implementation of a monitoring and evaluation framework to assess implementation of the National Anti-Corruption Strategy. Another area, where action by Kazakh authorities has been repeatedly delayed, is the operationalisation of an effective asset declarations regime. At the level of government agencies, where ethics officers have been appointed to ensure implementation of anti-corruption norms, assistance is needed to enhance their effectiveness, mainly through capacity building. In the anti-money laundering field Kazakhstan is experiencing many similar issues as its neighbouring countries and European states, in particular ineffective interagency co-ordination and lack of feedback from competent authorities.

Kyrgyz Republic

The legal system of Kyrgyzstan was developed within the framework of Soviet law and has, in the post-independence period, been moving towards a modern legal system. The main factor impacting the rule of law is the ongoing legal and judicial reform with the adoption by the end of 2011 of 17 new codes and framework laws (civil procedure, administrative, criminal, criminal procedure, criminal executive codes, code of misconduct, law on free legal aid, law on mediation, law on enforcement of court decisions, law on status of judges, etc.). In 2017 Taza Koom project has been launched. Implemented via the efforts of representatives of civil society, government agencies and private businesses, the project aims to build a state that serves its citizens, improves public services and creates better conditions for business. Another important factor potentially impacting on rule of law is the new National Sustainable Development Strategy 2020-2040 and its initial stage of development known as “40 Steps to a New Life”(Kyrk Kadam). To coordinate the work on the legal and judicial reform, in 2012, the President created a Council for Judicial Reform. As of 2018 onward the task of the Council is to monitor and coordinate state bodies implementing the new legal provisions, developing secondary legislation, training staff, establishing new institutes, in close cooperation with civil society, expert community and international donors. While the implementation of reforms takes time, surveys continue to show citizens’ low trust in the judicial system in Kyrgyzstan, with a particular distrust towards judges, prosecutors and law enforcement bodies. The intended plan of the August 2012 Presidential decree to strengthen the judiciary’s independence from external political interference is yet to fully materialise. Corruption is a large scale problem: corruption proofing of legislation remains an issue and laws better regulating conflicts of interests or protecting whistle-blowers have not progressed. In the law enforcement field capacities to conduct financial investigations and recover criminal proceeds remain low. This contributes significantly to the overall problems experienced by the law enforcement system to combat economic crime. In the AML/CFT area, significant gaps remain with regard to the understanding of key money laundering and terrorism financing risks at the national and sectorial levels. Since 2014 the EU has been supporting the legal and judicial reform. In a dialogue with civil society organisations, the current EU’s support goes until 2022 with a focus on secondary legislation, legal awareness of citizens, creation of new institutes, strengthening independence and accountability of the judiciary and improving professionalism of prosecutors.

Tajikistan

Tajikistan is a civil law country, which means that judicial decisions are not sources of law. The judicial system from the Soviet period remains largely in place, with courts at city, district, regional, and national levels and a parallel system of military courts. The justice system remains highly politicized and overall access to justice is a major issue. The Tajik government consolidated many of the authoritarian developments of recent years through Constitutional amendments (referendum in May 2016) reinforcing the powers of the President. The court system suffers from a lack of trained judges and lawyers and from pressures applied by local political factions and the central government. Furthermore, legal amendments introduced in November 2015 to the law on the legal profession have increased the control of the executive branch of government over the licensing of lawyers, and cut the number of lawyers licensed to practice drastically. Elsewhere, Tajikistan has made the reduction of administrative barriers for business one of its major policy priorities. For this purpose the State Committee on Investment and Management of Government Property has initiated a number of policy reforms to ease doing business in Tajikistan, and has supported an effective platform on policy dialogue between the government and the private sector, although it has not yet developed a policy framework to ensure the protection of entrepreneurs' rights. Tajikistan has developed a number of institutional mechanisms to prevent and combat corruption, however gaps remain. This includes the lack of whistleblower legislation, which would effectively cover the business sector. Ethics commissions in state bodies have been set up, but they require significant capacity building in order to facilitate effectiveness. Regulatory inconsistencies remain in the framework for conflict of interest, which require streamlining and operationalisation. A policy framework of parallel financial investigations needs to be developed in order to enhance the effectiveness of measures to combat economic crime. On the anti-money laundering side, authorities have carried out and adopted an AML/CFT National Risk Assessment; however its results need to be retranslated into the work of financial institutions.

Turkmenistan

Turkmenistan's legal system is currently transitioning from Soviet law. It is a civil law country in which the laws are hierarchically organised, with the Constitution of Turkmenistan at the top. Turkmenistan is in need of an overall review of the legislative and regulatory framework. In Turkmenistan the constitution declares the establishment of an independent judiciary, but in practice the president's role in selecting and dismissing judges compromises judicial independence. The president appoints all judges for a term of five years, without legislative review, except for the chairman of the Supreme Court. Wide-reaching reforms in the field of administrative law are necessary, on the one hand, in order to consolidate the somewhat fragmented legislation on administrative issues into one single piece of legislation and therefore to achieve greater transparency, and, on the other hand, to create a law on administrative process with a view to enabling the resolution of public law disputes.

In July 2017, a draft Law on administrative procedures was passed in first reading by the Mejlis (Parliament). The Law on Ombudsperson entered into force on the 2nd of January 2017, and on the 20th of March the Mejlis elected Mrs Yazdursun Gurbannazarova to the post of Ombudsperson. Recently, Turkmen authorities have undertaken several steps towards implementing anti-corruption policies, namely by establishing in June 2017 a national service to combat economic crimes, and by adopting in September 2017 amendments to the Law on combating corruption, which introduce a number of new preventative mechanisms, such as rewards for whistle-blowers and follow-up on their reports, corruption proofing of legislation,

conflict of interest prevention, involvement of civil society in anti-corruption policies and others. Initial steps are being undertaken to develop a system of corporate governance, in particular with regard to the reform and privatization of state-owned enterprises. In the field of anti-money laundering/combating the financing of terrorism

Uzbekistan

Following the election of the President of the Republic of Uzbekistan Shavkat Mirziyoyev in December 2016, a number of measures have been announced which aim to reform the legal and judicial sectors. It is hoped that this would lead to greater legal certainty and the further democratization of the country. Specifically, the President signed the Decree on Uzbekistan's Development strategy on five priority areas for 2017-2021⁵. Priority 2 of the Strategy puts forward priority areas for ensuring the rule of law and further reform of the judicial system. In April 2017 a judicial reform was introduced which included creating administrative courts and reforming the economic courts, merging the Supreme Court and the Supreme Economic Court, and the creation of a Supreme Judicial Council. The institution of Ombudsman for the protection of rights of entrepreneurs was recently created as well as a number of strategic documents in the anti-corruption field, including a new law on anti-corruption adopted in early 2017. In the anti-money laundering field authorities have carried out a National Risk Assessment (NRA). One of the most difficult areas remains the identification of beneficial ownership of legal entities. The Presidential Decree on Approval of the Concept of Administrative Reform was adopted on 8th of September 2017, which deals with improper functioning of existing public-private partnerships limiting involvement of NGOs and businesses in addressing social issues. On that same day the President also signed the Law on Distribution and Ensuring Access to Legal Information aimed at provision of guarantees for free access to legal information and clarifying the authority of the Parliament, Cabinet of Ministries, and other government bodies on distribution of legal information. Despite these efforts, some have expressed scepticism. A struggling economy, high unemployment, a perceived corrupt and abusive administration, the existence of political prisoners (some of which have been released in the meantime) and forced labour in the cotton fields are major reasons for the state's previous reputation as repressive.

1.1.2 Stakeholder analysis

For the successful implementation of the Programme in Central Asia it is important to ensure the commitment and strong buy-in of all relevant stakeholders. The established systems have their strengths and weaknesses in particular with regards to the independence of some key institutions. In the current political context of the region, **presidential administrations** of all five states will play an essential role in co-ordination of different activities, thus it is highly important to ensure their involvement. **Ministries of Foreign Affairs** play overall an important co-ordinating role, therefore all communication with the authorities will be channelled through Ministries of Foreign Affairs of the targeted countries. **National parliaments** should play a more important role in developing and promoting reforms and in ensuring that different draft laws are in line with international standards. **Constitutional courts and councils** play an essential role in the reform process through decisions on constitutional reforms and on draft legislation. **General Prosecutor's Offices** are the engine of every criminal proceeding, and are key partners in the field of fighting corruption and economic crime alongside other specialised agencies and institutions specific to each country.

⁵ <http://strategy.uz/about-strategy>

The key stakeholders for actions under the Council of Europe Programme ‘Human Rights Education for Legal Professionals’ (otherwise known as [HELP](#)) will be the **national training institutions (NTI) for justice professionals** and **Bar associations**. Training will benefit directly legal professionals (mainly judges, prosecutors and lawyers) but also, when relevant, law enforcement officers such as police officers or data protection officers.

Other key stakeholders will be (1) the competent ministries (ministries of justice, interior, ministries responsible for human rights and other relevant line ministries); (2) the judiciary, judicial professionals and judiciary supervisory bodies; (3) Public governance structures with specific responsibilities in the relevant areas such as anti-corruption, and anti-money laundering; ombudspersons; law enforcement authorities. Within these organisations, key duty bearers, policy makers and implementers have been identified and will be engaged in the different components of the Action. Participation will be based on relevance and potential impact. Other key stakeholders include Bar Associations, Chambers of Commerce, legal professionals and relevant non-governmental organisations as well as other donors and international/regional organisations

1.1.3 Priority areas for support/problem analysis

All countries of the region are formally committed to and engaged in reform efforts, yet they face considerable challenges in this process. Even though national legislation has been improved de jure in recent years and is closer to international standards in a number of areas, the quality and consistency of this legislation, and its de facto effective implementation and every-day practice remain a challenge. Hence due attention shall be paid to supporting implementation of national legislation, as well as to the adoption of legislation in line with best standards where that is not already in place.

The following priority areas for support have been identified:

1. Promoting key European conventions and international standards related to Human Rights, Good Governance and democratic values.

Council of Europe Conventions are considered as a key reference to promote human rights, democracy and the rule of law, and to promote a common legal space at pan-European level and beyond. They form the legal *acquis* of the Council of Europe and the EU. Furthermore, a new generation of Council of Europe conventions (e.g. Medicrime, trafficking, money laundering and financing of terrorism, violence against women⁶) address issues which nowadays constitute global threats to human rights and rule of law. Adopting a strategic, long-term approach, the new Action could initiate a process of progressively creating a common legal space between Europe and Central Asia, thus raising the level of intergovernmental co-operation between the signatories of the conventions and compliance with European and international best standards, and in the end enhancing the protection of human rights; nevertheless seeking at bilateral level complementarities with international conventions already signed by individual partner countries with a view to help the latter fulfil

⁶ CoE Convention on the counterfeiting of medical products and similar crimes involving threats to public health ([CETS No. 211](#)), opening date for signature 28/10/2011; CoE Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198), opening date for signature 16/05/2005; CoE Convention on Action against Trafficking in Human Beings ([CETS No. 197](#)), opening date for signature 16/05/2005; CoE Convention on preventing and combating violence against women and domestic violence ([CETS No. 210](#)), opening date for signature 11/05/2011.

international human rights commitments⁷. Council of Europe action to promote a good understanding as well as an effective implementation of the ratified conventions will therefore be pursued, with a view to raising awareness on these legal instruments and the related rights among national authorities, members of Parliaments, civil society and other target groups. The programme will also take into account, where appropriate, the relevant aspects of the EU acquis (internal market, good governance). The EU-CA high-level policy dialogue conducted under the Rule of Law platform programme will be continued.

2. Promoting transparency and action against economic crime

The countries of the Central Asian region have a set of common challenges, needs and priorities in the area of transparency, business integrity, anti-corruption, anti-money laundering and counter financing of terrorism. At the strategic level, there is a general lack of a solid evidentiary basis for anti-corruption strategies and action plans, deficient budget planning for effective strategy implementation and absence of timelines and measurable indicators to assess the progress and impact. In the institutional area the establishment of numerous layers of government agencies and overlapping interagency structures poses significant co-ordination challenges. This usually results in weak institutional, financial and functional independence of specialised institutions and poor implementation and ineffective law enforcement practice. High corruption risks have been established in public procurement as well as the sector of publicly owned or controlled enterprises. At the same time there are weak/non-existent incentives for companies to improve their compliance. On the side of the governments there is a general lack of an anti-corruption policy perspective to reduce administrative barriers for business in the context of licensing and inspections practices, as well as mechanisms to guarantee protection of rights of entrepreneurs. These issues are exacerbated by a lack of integrated whistle-blower mechanisms and protections for the private sector.

In the field of anti-money laundering/combating the financing of terrorism (AML/CFT) significant challenges exist in assessing and addressing national and sectorial AML/CFT risks. There is an overall lack of understanding and implementation of AML/CFT measures and risk-based internal control/compliance principles in the financial and non-financial sectors. In this regard the authorities need to build capacities to implement effective risk-based systems for supervision. Major challenges exist in establishing a solid track record of effectively imposing confiscation measures with regards to criminal proceeds.

The new Action will support policy dialogue and reforms and will address institutional capacity gaps in the area of business integrity and compliance, combating corruption, anti-money laundering and ineffective law enforcement, notably building upon EU lessons learnt and best practices. The Action will also reach out to civil society, bar associations and legal professionals, raising their awareness, knowledge and understanding of public policy in these areas and empowering them to monitor its implementation.

3. Fostering Good Governance through efficient functioning of State institutions and public administration

The countries of the region are reforming their institutions and public administration and trying to integrate best international practices. Recent constitutional changes in Kazakhstan

⁷ For example, Kyrgyzstan's GSP+ (Generalised Scheme of Preferences) status is linked to the implementation of 27 international conventions on human rights, good governance, labour and environmental standards ([GSP+](#)).

and Kyrgyzstan, and declarations by public officials of Uzbekistan on their intention to carry out a number of reforms in the judiciary, suggest that the authorities would be ready to reconsider the distribution of powers between different institutions and modernise their respective public administrations. These changes could be a good opportunity to assist these countries in conducting reforms in line with international standards, notably in the field of the rule of law. The Venice Commission has an important tool in this field – The rule of law checklist, adopted in 2016. It provides a comprehensive list of criteria which could be used as reference in conducting reforms by the countries of the region. In the last seven years, the Venice Commission has prepared several opinions upon request from the national authorities of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. The new Action will take into account the opinions/recommendations of the Venice Commission as well as the results of the activities implemented in the framework of the Rule of Law Platform (in particular on constitutional, criminal and administrative law and legal training). The action will target not only the institutional support but also some of the crucial human rights issues (such as access to justice, right to a fair trial, etc.), which are essential for the rule of law. In partner countries where legal and judicial reforms are well under way, in an effort to build synergies with EU-funded as well as other internationally or nationally funded initiatives, the Action will seek the engagement of civil society and professional communities to assess the on-going reforms and recommend measures to improve their implementation. The action will include working with national associations of local authorities (ALAs), depending on their existence and capacity, in order to strengthen local ownership and to ensure efficient implementation of the described reforms and measures. In those countries where ALAs not able to fulfil their advocacy role, the action may support their capacities in order to act as an interlocutor between the local, national and regional level.

2 RISKS AND ASSUMPTIONS

Risks	Risk level (H/M/L)	Mitigating measures
Political instability in various forms, resulting in changes of government, but also military or other conflicts.	High	The Council of Europe has significant experience of working in environments where there are risks of political and economic instability. This results in a risk assessment that is manageable, except in extreme situations;
Insufficient political will to carry out reforms	Medium	<ul style="list-style-type: none"> • Awareness-raising on the part of authorities on the agreement reached with the EU linked to conditionality; • Ensure motivation; • Build ownership of programme results.
Soviet legacy and cultural nihilism influencing speed and effectiveness of reform process	High	<ul style="list-style-type: none"> • Policy dialogue combined with technical advice; • Close coordination of all beneficiaries ensured. • Strong involvement of civil society ensured.
Change in the political context or leadership, decreasing interest of the authorities to implement the actions,	High	<ul style="list-style-type: none"> • Most of the activities will be implemented in close co-operation with administrative staff to ensure institutional memory,

their unwillingness to proceed with concrete and specific activities		<p>programme ownership and continuity</p> <ul style="list-style-type: none"> • Duly inform the European Union Delegations in targeted countries • Provide strategic advice
Lack of engagement in the project	Medium	Local presence shall be instrumental in guaranteeing constant day-to-day contact with beneficiaries in all beneficiary states. Presence of local consultants shall be ensured by the Programme team in all 5 jurisdictions, with one jurisdiction serving as the main regional hub.
High beneficiaries' workload leading to delays or postponement in implementation of some programme activities due to	Medium	<ul style="list-style-type: none"> • Duly inform the European Union Delegations in targeted countries; • Revise Programme plans; • Continue implementation when possible
Limited absorption capacity of the expert knowledge by the relevant authorities	High	<ul style="list-style-type: none"> • Good planning of activities • Build ownership of programme results
The authorities are not willing to request legal opinions from the Venice Commission	Medium	<ul style="list-style-type: none"> • Work with the authorities by explaining the procedures and impact • The Kyrgyz Republic (since 2000) has sought the Venice Commission's opinion 25 times, Kazakhstan 6 times (since 2010), Tajikistan 3 times and Uzbekistan once.
The recommendations of the Venice Commission re not followed and/or the quality of amendments is poor	Medium	Organise follow-up activities with a wide range of actors to explain the VC's recommendations
Duplication of work with other international organisations present in the field	Medium	<ul style="list-style-type: none"> • Liaise with the international organisations present in the field to inform on the forthcoming activities • Co-organise activities with the organisations that are active in certain areas • Become part of the co-ordination mechanism to exchange information on planned and on-going programme activities
High sensitivity of some topics covered by the HELP catalogue of courses; Existence of adequate national tutors; Availability of prompt and good quality translations into national languages.	Low	<ul style="list-style-type: none"> • Council of Europe will work closely with partner on the selection of HELP courses in line with needs and context of targeted countries. • The field team will support partners during the selection of tutors and require advice to select translation services.
Lack of effective co-ordination mechanisms with national and international partners to avoid overlaps and to ensure synergies among programmes	High	Increased number of joint activities with international partners with whom co-ordination of plans is already achieved and in order to strengthen common message, achieve economic efficiency and increase acceptance of the reforms

Insufficient of ownership of results by project partners	High	Indicators of results developed together with project partners and civil society organisations; Monitoring of achievement of results by civil society organisations where appropriate.
Assumptions		
<ul style="list-style-type: none"> • Continued commitment from beneficiaries to implementation of governance reforms, in particular the relevant ministries and relevant institutions; • Constructive and effective involvement of the beneficiaries in the Programme; • Good level of absorption capacity by beneficiaries. 		

3 LESSONS LEARNT, COMPLEMENTARITY AND CROSS-CUTTING ISSUES

3.1 Lessons learnt

- The Rule of Law platform programme showed that a regional approach to fostering legal reform in Central Asian countries is instrumental and that regional dialogue from the technical up to the highest political level is creating a stimulus for advancing in the reforms;
- The approach chosen in the platform programme was a very activity orientated one (dialogue, workshops, training of specialists) but a strong strategic orientation was insufficiently developed; the "acquis" approach for the new Action is expected to rectify this weakness;
- The approach chosen in the platform programme was very much built around a series of "one-off" events with limited grasp of local context and local reform process, capable of promoting only limited ownership and sustainability. Integrating the current action into the EU funded bilateral initiatives, at the level of individual partner countries and where appropriate, would help ensure more adherence to the local needs, help achieve wider and deeper impact and secure sustainability.
- The expected results were not linked to SMART indicators of achievement. Indicators had not been developed together with project partners and civil society organisations. Lack of monitoring and evaluation mechanisms to measure achievement of results.
- The choice to use an international consultancy company as implementer reinforced the activity orientation of the programme; programme implementation through a body with more institutional weight could help to be strategically more focussed.
- Central Asian countries are at very different stages in their development and reform of their legal and judicial systems; therefore regional programme activities need to be complemented with actions at national level according to needs and policy commitments; programme actions at national level need to be strongly expanded to achieve real change;
- Reporting and monitoring was focused on the Rule of Law platform programme but did not cover the larger frame of the Rule of Law initiative. The links between the new Action and the Rule of Law Initiative need to be more transparent.
- The involvement of EU/CoE Member States in the old and in the new Action was and is of crucial importance. Some EU/CoE Member States are prepared to strongly engage in the implementation of the new Action and suggest twinning as an efficient instrument. As the use of this instrument is limited to the Instrument of Pre-Accession Assistance (IPA) and the European Neighbourhood Policy (ENP) a twinning similar modality shall be explored. EU/CoE Member States having been involved in previous

phases of the RoL platform and ensuring cooperation with the region could be invited to participate in governance meetings for the purpose of effective coordination. Institutions that may participate in these peer-to-peer activities include, but may not be limited to, the following:

- **in Germany** - Constitutional Court, Federal Financial Supervisory Authority (BaFin);
 - **in France** - Conseil Constitutionnel, Conseil d'Etat, Agency for Anti-Corruption; High Authority for the Transparency of Public Life of France, Unit for Combating Laundering of Criminal Proceeds and Financing of Terrorism (TRACFIN);
 - **in Latvia** – the Constitutional court, Corruption Prevention and Combating Bureau (KNAB).
 - **In Finland:** in a number of occasions the CoE has worked with experts from Financial Intelligence Unit under the National Bureau of Investigation (NBI) of Finland, which is responsible for implementation of anti-money laundering policies and activities in Finland.
 - **EU MS** - National Training Institutions for judges and prosecutors from these EU countries can be also invited. They are part of the HELP Network, which convenes annually in CoE's premises, where homologue NTI in Central Asia targeted countries may be invited. The information could be also transmitted to the institutions concerned via CoE/EU member-state delegations to the CoE. The advice of these members could also be sought as to the names of experts from Germany, France, Finland and Latvia who could be involved in concrete activities. The Venice Commission also tries to accommodate requests coming from the beneficiary countries as to the specific competencies and/or experience of concrete EU member states.
- A male population was overwhelming the majority beneficiary from training activities offered by the Rule of Law platform programme, which can be explained by the traditional male prevalence in the profession of judicial/legal officers. The new Action needs to emphasise more gender balance and identify activities to attract more women.

3.2 Complementarity, synergy and donor coordination

Co-ordination to ensure an efficient use of resources and the relevance of the Council of Europe's actions is performed at different levels and in different forums, including the Committee of Ministers of the Council of Europe (in case of Central Asia, through the Rapporteur Group for External relations (GR-EXT)).

The Council of Europe's actions are worked out and implemented in areas where the Council of Europe has a strong expertise and added value. In order to avoid duplication of activities during implementation of the Programme and build synergies with other international organisations implementing programmes of legal assistance in the targeted countries, regular consultations and meetings will be conducted and mechanisms of co-ordination established.

To ensure the relevance of its actions, the Council of Europe will work in close co-ordination with relevant international partners, notably the European Union and in particular the EU Delegations in countries of Central Asia.

Regular exchanges with **European Union Delegations will be organized**, the European Union and the Council of Europe will systematically co-chair programme **Steering**

Committees, A list of European Union Delegations contact persons will be established with this purpose. EU MS may also be invited to these meetings.

EU Member States involvement: EU MS involvement will be assured through a three folded mechanism of engagement and information sharing:

- i. EU MS experts, professionals and relevant EU MS institution representatives are **engaged** as experts, consultants and network share-holders during individual activities (regional or in country);
- ii. EU MS representatives in the region or country specific through their other national aid programmes or foreign diplomatic representations are invited regularly to attend and participate, where appropriate, significant and relevant activities of the programme where they can **monitor progress** in specific sectoral reform (i.e., common space, human rights, economic crime, constitutional and administrative law);
- iii. EU MS aid programmes or foreign diplomatic representations in country and region are provided programme reporting and deliverables on regular basis as information sharing for their **observation**.

All the information sharing with the relevant counterparts will take place based on the programme's visibility and communication strategy and action plan for this specific programme, but also through Council of Europe's communication proceedings within the organisations bodies (Committee of Ministers where EU MS Ambassadors monitor CoE's programme implementation in the region.

Donors: There are a significant number of donors active in the region providing assistance to rule of law and legal reform. In addition to the European Union, EU Donors include Germany (BMZ/GIZ) with a large rule of law programme (EUR 21M) on Access to justice, administrative law, Civil law, and Judicial training covering all Central Asian countries. Finland is working with the UNDP on access to justice, especially in Tajikistan and Kyrgyzstan. DFID is running a small capacity building project for the newly established Office of the Ombudsperson in Turkmenistan. A number of international donors and providers are engaged in the Central Asian region on issues of promotion of transparency and action against economic crime. The OSCE through their field presence carry out a number of activities, most actively in Uzbekistan, Kyrgyzstan and Kazakhstan on anti-corruption and AML/CFT issues. UNODC also runs a regional programme in this field. Bilateral projects are being implemented by the IMF and World Bank Group, spanning issues of good governance, ease of doing business and AML/CFT. USAID is another large international donor running regional and country-specific projects in various areas, including in the field of governance. An exhaustive overview of what other donors are doing in the Central Asia region is available on <http://ruleoflaw.eu/docs/Mapping.pdf>, a database with the results of the mapping exercise carried out by the Rule of Law platform programme.

In Kazakhstan

OSCE organises trainings on anti-money laundering part of a certification programme for financial entities launched in 2015. A three-day training seminar on anti-money laundering and combating the financing of terrorism for some 60 banking, insurance, security industry and government sector representatives was organised in September 2016 in Almaty. A three-day workshop on anti-money laundering and countering financing of terrorism was organised

in September 2017 in Astana for representatives of the financial sector, Designated Non-Financial Businesses and Professions and non-profit organisations.⁸

OSCE also supported the development of a guidebook on anti-money laundering and countering financing of terrorism in 2015.

In Kyrgyzstan

EU and Council of Europe: The joint EU/CoE Programme “*Strengthen Prevention and Combating of Corruption in Kyrgyz Republic*” (SPCC-KY) aims to assist Kyrgyz authorities in strengthening their rule of law capacities to prevent and fight corruption in the Kyrgyz Republic. The Programme duration is 24 months (1.08.2016 - 31.07.2018) and works towards the achievement of the following expected results: Enhanced adherence of the Kyrgyz Republic to the European and international anti-corruption standards; Enhanced capacities to implement effective anti-corruption strategies and policies; Strengthened capacities and skills of judiciary, prosecutorial and law enforcement agencies to efficiently address corruption; Anti-corruption public awareness raising campaign.

The EU in Kyrgyzstan is implementing a large number project on legal and judicial reform, *The Rule of Law programme in the Kyrgyz Republic – phase 2* (12MEUR), on torture prevention, gender based violence, combating violent extremism and radicalism and son on.

The OSCE is engaged in strengthening the efforts of the Kyrgyz Government in combating violent extremism and radicalisation that lead to terrorism (VERLT). The Office supports a network of youth across five Central Asian states to co-operate and share best practices on countering the threat of terrorism, as well as raising awareness of the issue. Trainings on terrorism financing have been organized under this activity. The OSCE started in 2013 the Programme “Improving good governance through efficient service delivery in Kyrgyzstan” in Bishkek and Osh. Its objective is to enhance the Government’s anti-corruption efforts and implementation of public administration reform through promoting transparent, accountable and responsible service delivery.⁹ It is unclear what the status of the project is and whether it has a financial crimes component. The OSCE Office in Kyrgyzstan works with prosecutors, judges, lawyers, police officers, and civil society to support the legal and judicial reform process.

In Tajikistan

Eurasia Foundation for Central Asia: Anti-corruption is one of the core tenets of Eurasia Foundation for Central Asia-Tajikistan’s activities. It worked with the Canada Fund and the local NGO Marifat in Khatlon province to reduce the incidence of corruption in small businesses, and change citizens’ attitudes towards corruption through a mass education campaign. Under the USAID-supported Good Governance Initiative Fund (GGIF), it also worked to increase the transparency of public agencies and organisations such as the state energy company Barqi Tojik, and ensure the accountability of civil servants in their work.

The Eurasia Foundation of Central Asia – Tajikistan and the State Agency for Financial Management and the Fight against Corruption signed a joint Memorandum of Understanding, committing the two to work together in the fight against corruption.¹⁰

⁸ OSCE <http://www.osce.org/programme-office-in-astana/343911> , accessed on 11.01.2018

⁹ OSCE, <http://www.osce.org/bishkek/101720?download=true> accessed on 16.01.2018.

¹⁰ [Eurasia Foundation for Central Asia web site.](#)

In Turkmenistan

UNDP supported a regional conference of nine states of CIS and EU on and the Civil Service Academy of Turkmenistan to discuss modern developments in the restructuring of the civil service and tackling corruption in November 2017. UNDP was at the support planning stage in November 2017.¹¹

In Uzbekistan

The OSCE is active in Uzbekistan, mainly assisting with ad hoc initiatives in the law enforcement and anti-money laundering sectors.

3.3 Cross-cutting issues

The Action will follow the Right Based Approach (RBA¹²) at all levels and stages of work, based on the principles of gender equality, inclusion of diversity, equal access and participation of all in society, irrespective of their specific characteristics (e.g. sex/gender; age; ethnicity; disabilities; religious or political belief; etc.). Accordingly, the Action will integrate a systematic consideration of these principles throughout the design, implementation and monitoring of all activities. Moreover, the RBA is an integral part of the **Project Management Methodology** (PMM) of the Council of Europe. The PMM has been significantly upgraded in 2017 and is now perfectly compatible with the results-chain and results-based management of the European Commission, as well as with the requirements of other major donors.

The Council of Europe is a major human rights watchdog institution in Europe and its mandate is articulated in three pillars – rule of law, human rights and democracy – with the European Court of Human Rights and other monitoring organs ruling and overseeing these areas. It ensures that Council of Europe applies systematically and intrinsically a **human rights approach** at all levels and stages of its activities. Its *acquis*, including Council of Europe legal instruments and institutions, combined with the principles of equality, non-discrimination, balanced participation (both **gender-based and of civil society**) brings further added value to Council of Europe activities. As a component of this human rights approach, the Council of Europe emphasises gender mainstreaming and promotes civil society participation, as outlined in relevant guidelines.

The gender mainstreaming approach will be defined as the actions within the Programme are developed. For example, the standards for gender equality and women’s rights will be taken into account when the various pieces of legislation and national frameworks are revised in the light of European standards. The issue of gender equality will also be incorporated into training and programmes. The impact of gender will be analysed when actions are designed and implemented. In addition to gender mainstreaming, specific actions will be considered to promote gender equality. The Action will seek to contribute to the Sustainable Development Goals (SDGs) of the United Nations. Particular emphasis will be given to contributing to SDG 5, “Achieve gender equality and empower all women and girls”, and SDG 16, “Promote just, peaceful and inclusive societies” (including target 16.A, “Strengthen relevant national

¹¹ UNDP in Turkmenistan,

<http://www.tm.undp.org/content/turkmenistan/en/home/presscenter/pressreleases/2017/11/02/undp-and-the-civil-service-academy-discuss-modern-developments-in-the-restructuring-of-the-civil-service-and-tackling-corruption-.html>

¹² https://ec.europa.eu/europeaid/sites/devco/files/online_170621_eidhr_rba_toolbox_en_a5_lc_0.pdf

institutions, including through international co-operation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime”, and target 16.B, “Promote and enforce non-discriminatory laws and policies for sustainable development”). Additionally, the Action will seek to achieve the objectives 7, “Girls and women free from all forms of violence against them (VAWG) both in the public and in the private sphere”, and 17, “Equal rights and ability for women to participate in policy and governance processes at all levels”, of the EU GAP 2014-2020. For examples, the Action will advocate for (a) HELP courses on women’s rights (access to justice for women/violence against women) and (b) increased female participation in capacity building activities which will be organised – as much as possible – with an approach of balancing working/personal life that may favour women’s participation. Implementing RBA and mainstreaming gender balance will be based on a genuine participatory process with duty bearers and right holders throughout the entire Action.

4 DESCRIPTION OF THE ACTION

4.1 Objectives/ results

This programme is relevant for the Agenda 2030. It contributes primarily to policy priorities related to PEACE and PROSPERITY, and notably to the progressive achievement of SDG 16 (Peace, Justice and Strong Institutions), but also promotes progress towards SDG 8 (Decent work and Economic growth), and SDG 5 (Achieve gender equality and empower women and girls). This does not imply a commitment by the countries benefiting from this programme.

The **Overall Objective** is to contribute to reinforcing human rights, the rule of law and democracy in Central Asia in accordance with European and other international standards.

Specific Objective I: To promote the creation of a regional common legal space between Europe and Central Asia.

Expected Result 1 Awareness is progressively raised about the benefits of a common legal area between Europe and Central Asia based on key Council of Europe conventions open to non-member states and other international standards;

Expected Result 2 Increased policy dialogue and collaboration among Central Asian countries and with Council of Europe member states; and[?]

Expected Result 3 Legal professionals throughout the Central Asian region have enhanced knowledge of European human rights standards through HELP methodology.

Specific Objective II: To enhance business integrity and compliance in the private sector;

Expected Result 1 Countries of the Central Asian region establish networks and exchange experience on business integrity practices and protection of the rights of entrepreneurs; and

Expected Result 2 Business administrative barriers and violation of entrepreneurs’ rights are reduced.

Specific Objective III: To enhance the effectiveness of anti-corruption, anti-money laundering and asset recovery systems in the Central Asian countries;

- Expected Result 1** Capacities for regional cooperation of competent authorities involved in combating and preventing corruption, economic crime and terrorism are enhanced;
- Expected Result 2** Mechanisms and capacities of authorities to prevent corruption are improved;
- Expected Result 3** Capacities of law enforcement authorities to tackle corruption, money laundering and economic crime are enhanced;
- Expected Result 4** National systems to combat money laundering and terrorism financing are strengthened.

Specific Objective IV: To enable national counterparts to reform the national legal systems, state institutions and the judiciary.

- Expected Result 1** In-depth analysis of the existing legislation, the regulatory framework and institutional/operational systems is available to all major stakeholders;
- Expected Result 2** The new legislation in the field of administrative law and justice, including the reform of public administration and ADR is prepared and ready for implementation/being implemented;
- Expected Result 3** The process of the constitutional reform is supported; and
- Expected Result 4** Representatives of public administration and the judiciary have increased their efficiency.

At country-specific level, the expected results will be further discussed with state authorities and civil society organisation taking into account the relevant programmes and projects funded by the EU and by other donors in the field concerned by the Action.

During the inception phase indicators of achievement of expected results will be developed together with project partners and civil society organisations. The indicators will be used also for monitoring purposes.

4.2 Main activities

The Central Asia programme will be open to all five countries of the Central Asia, which are covered by the EU's policy on Central Asia and the Council of Europe's policy towards neighbouring regions. It will allow beneficiaries meeting the conditions for co-operation as claimed by the policy of the Council of Europe towards neighbouring regions to benefit from the Council of Europe's expertise in the fields of human rights, the rule of law and democracy.

Regionally, the Programme will focus on providing as deliverables its **regional support** by:

- i. Raising awareness raising on sensitive issues that pertain foundations of rule of law reforms;
- ii. Exploring new areas of work in the fields of expertise of the Council of Europe, whenever it is considered that the launching of action in a sensitive area can be facilitated through a regional approach;
- iii. To encourage regional networking in relevant areas of work.

- iv. Promoting and facilitating the participation of Central Asian representatives in existing networks (e.g. specialised intergovernmental or conventional committees of the Council of Europe; platforms to exchange on common issues of interest; exchange of information in areas such as the fight against money laundering etc.).
- v. Available tools and existing networks such as HELP and the network of Schools of Political Studies, where experts exchange practices and jointly address issues of common interest (e.g. human rights protection, fight against corruption and money-laundering, civil society role, etc.).
- vi. Capacity and institutional building,
- vii. Risk assessment and research studies for an enhanced regional co-operation.

Country-specific, the regional activities will be complemented by country-specific actions, which will aim at addressing specific governance issues based on individual country needs.

- i. Delivery of seminars and workshops on European standards and accession procedures to Council of Europe conventions;
- ii. Training of Trainers for target groups on European standards, Council of Europe conventions and other international conventions;
- iii. Multi-disciplinary Training and Peer to Peer review and workshop[s] aimed at capacity building for those specialised institutions, at the national and subnational level;
- iv. Methodology and tool development on specific sector analysis and risk assessments pertaining one of the four subjects/specific objectives of the programme.
- v. Specific Legal and Technical analysis over legal and policy framework[s] or/and processes that each country would have as identified on-going needs and reform before and throughout the programme delivery.
- vi. Engaging civil society organisations, professional associations and other non-state bodies in a dialogue on all relevant aspects of Action.
- vii. Ensuring monitoring of achievement of expected results by the use of SMART indicators agreed with project partners and civil society organisations.

4.3 Intervention logic

Specific Objective I requires authorities, as they prepare or revise legislative frameworks, to ensure implementation once the national laws are adopted and/or once a country has become a Contracting Party to a Council of Europe convention. Actions to promote a sound understanding and the effective implementation of conventions will therefore be pursued in the context of the Central Asia Programme, with a view to raise awareness on key legal instruments (open to non-European non-member states of the Council of Europe) among national authorities, members of Parliaments, civil society and the other target groups of the Programme. Thus, awareness raising regional events and the Programme's regional Steering

Committees will also be instrumental to disseminate information about conventions and the benefits of a common legal area. Full use of the HELP programme will also be made. Relevant HELP modules will be adapted to the contexts of Central Asian beneficiaries with the main goal being to facilitate the progressive creation of a common legal space.

Specific Objective II aims at enhancing business integrity and compliance in the private sector, reducing administrative barriers and ensuring the protection of rights of entrepreneurs in Central Asia. At the regional level, this will be achieved through exchanging good practices among the states of the Central Asian region and setting regional benchmarks for the protection of rights of entrepreneurs. At the national level, it will require the development of institutions and policies to protect entrepreneurs' rights, such as business ombudsmen, compliance standards and whistle-blower regimes. The project will aim to mobilize the interested stakeholders, in order to build momentum for the necessary reforms and support them through institutional, legislative advice, implementation of good practices and capacity building.

Specific Objective III aims to enhance the effectiveness of anti-corruption, anti-money laundering and asset recovery systems in the Central Asian countries. It will be pursued at the regional level through the development of regional capacity building and research programmes, that facilitate the understanding and regional response to common economic crime threats. At the national level it will involve support to policies and mechanisms for the prevention of corruption (including conflict of interest frameworks, asset declarations and ethics requirements), law enforcement and asset recovery measures, as well as efforts to strengthen interagency cooperation, financial intelligence and supervisory capacities vis-a-vis the financial and non-financial sectors.

Specific Objective IV aims to provide continued institutional support to democratic governance and national institutions in constitutional and legislative processes through legal expertise, networking and capacity building. At the regional level this will be achieved through an exchange of experience and building of peer to peer exchanges in the field of constitutional and administrative law and justice. This dialogue can also include national Associations of Local Authorities, if present, to ensure that best practises and experiences are shared and the local perspective in issues such as access to justice are discussed. At the national level, it is to support the authorities of the five CA states in their endeavours to reform their legal systems, state institutions and the judiciary and engage civil society organisations to monitor and evaluate the reform process with the use of proper indicators. This could include among others reform of public administration and ADR and improvement of mechanisms of interaction between different state institutions, including at the local level, and other stakeholders.

5 IMPLEMENTATION

5.1 Financing agreement

In order to implement this action, it is not foreseen to conclude a financing agreement.

5.2 Indicative implementation period

The indicative operational implementation period of this action, during which the activities described in section 4.1 will be carried out and the corresponding contracts and agreements implemented, is 72 months from the date of adoption by the Commission of this Action Document.

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. Such amendments to this decision constitute technical amendments in the sense of point (i) of Article 2(3)(c) of Regulation (EU) No 236/2014

5.3 Implementation modalities

Both in indirect and direct management, 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 affecting the respective countries of operation¹³.

5.3.1 Indirect management with an international organisation

This action may be implemented in indirect management with the Council of Europe. This implementation entails all of the activities outlined in section 4.2. This implementation is justified because the Council of Europe has long-standing experience both in the area of rule of law and in the Central Asia region. It already implements several projects in Central Asia on both a regional and bilateral level in the area of rule of law. They have a strong institutional mandate, and access to both Russian speakers and comparable countries in the Eastern neighbourhood.

The entrusted entity would carry out the following budget-implementation tasks: general implementation and monitoring of activities, contracting, paying, and reporting.

5.4 Scope of geographical eligibility for procurement and grants

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

The Commission's authorising officer responsible may extend the geographical eligibility in accordance with Article 9(2)(b) of Regulation (EU) No 236/2014 on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

5.5 Indicative budget

Module	EU contribution (amount in EUR)	Indicative third party contribution (amount in EUR)
5.3.1 Indirect management with the Council of Europe	8 000 000	421 000
Total		8 421 000

5.6 Organisational set-up and responsibilities

The implementation of the Central Asia Programme is co-ordinated by the Council of Europe's ODGP. The Action will be implemented through the Council of Europe presence in

¹³ https://eeas.europa.eu/sites/eeas/files/restrictive_measures-2017-04-26-clean.pdf

the field and limited number of staff in the Headquarters. Furthermore, Central Asia Programme beneficiaries and European Union Delegations will be closely involved and accompanying the implementation of the Central Asia Programme.

The **Council of Europe** currently does not have **Field Offices** in any of the five Central Asian states. The Council of Europe has launched negotiations with Kazakhstan on a Memorandum of Understanding that, once signed, would allow the Council of Europe to have an operational office in the region and deploy staff. At this stage the Council of Europe proposal was positively received by the Ministry of Foreign Affairs of Kazakhstan, which gives hope that an agreement on the opening of an office could be reached by January 2019, when the Action is due to start.

In case it might not be possible it is suggested to launch the Action from Strasbourg with a clear intention of redeployment to be filed once the agreement is reached in the course of 2019. In case the agreement is not reached, negotiations will be held with Kyrgyzstan where the Council of Europe has implemented several projects and where a framework co-operation document between the Government and the Council of Europe also exists. If a decision for an office cannot be found in the course of 2019, the Council of Europe and the European Union will discuss the situation with a purpose of finding another suitable solution.

It is planned to have seven staff members based in Astana – one programme co-ordinator, one senior project manager, two project managers, one communication officer, one financial assistant and one project assistant. A limited number of staff will be based in Headquarters in Strasbourg: to co-ordinate the implementation of the HELP component (one project manager 50% of time); to ensure quality control of Component II (one project manager, full time for 36 months), and co-ordination of activities and the expertise of Component III (one project manager and project assistant). Communications Officer (50% of time) and a Linguistic Assistant (20% of time) will also be based in Strasbourg to support the co-ordinated and coherent reporting and the unified communications strategy of the whole Programme.

One of the main tasks of the team in Astana will be to ensure overall co-ordination of the programme implementation, maintaining contacts with the European Union Delegations in Central Asia, with international organisations and **Council of Europe member states** present and active in Central Asia in the same areas of competence as the Council of Europe. Relevant donor co-ordination platforms will also be organised as appropriate.

In order to ensure the appropriate supervision by the **European Union Delegations**, the European Union and the Council of Europe will seek to systematically organise briefing and/or de-briefing meetings between Council of Europe experts and staff, and relevant staff of the European Union Delegations responsible for operations. Such meetings will allow the European Union Delegations to give input to the Council of Europe experts and staff, and to be kept informed of the progress of the different interventions. A list of European Union Delegations contact persons will be established with this purpose.

Staff recruitment will be undertaken in full compliance with the Council of Europe rules and Framework Administrative Agreement between the European Union and the Council of Europe on Actions administered by the Council of Europe and funded or co-funded by the European Union. The recruitment procedures and the selection of the staff will take place in line with the Council of Europe staff recruitment procedures, and will comply with equal opportunity policies. The recruitment decision remains the final responsibility of the Council of Europe.

Central Asia Programme Experts will be selected by the Council of Europe in a transparent procedure based on Council of Europe rules and regulations. The use of an experts' pool shall be governed by the Council of Europe rules and regulations, including procurement rules where applicable and data protection rules. The European Union will have the opportunity to give input to the Council of Europe experts during the briefing/ debriefing meetings as mentioned above.

Moreover, the Venice Commission is made up of “independent experts who have achieved eminence through their experience in democratic institutions or by their contribution to the enhancement of law and political science” (Article 2 of the Revised Statute) from 61 Venice Commissions' member states. Each Member State appoints a member and a substitute member for a renewable term of office of four years. These experts are independent and serve in an individual capacity.

When it has to prepare a legal opinion, the Venice Commission decides who from its individual members has the most appropriate background for taking part in an activity. Depending on the availability of experts, the second choice goes to external experts from the Council of Europe's pool of experts in a given field.

The Venice Commission also tries to accommodate requests coming from the beneficiary countries as to the specific competencies and/or experience of concrete EU member states.

Central Asia Programme Focal Points: Each Central Asia Programme beneficiary authority will be invited to designate a Central Asia Programme Focal Point with the Council of Europe, the European Union Delegations and the European Commission in each beneficiary. They will be invited to join key events of relevant Networks and Committees of the Council of Europe (e.g. HELP Annual Network conference).

The supervision and guidance of the implementation of the Central Asia Programme will be ensured by:

- **Regional Steering Committee**, reviewing and overseeing the implementation of the actions of the Central Asia Programme at the regional level and suggesting new themes for potential regional co-operation in line with the objectives of the Programme;
- **National Steering Committees**, overseeing the implementation of the actions of the Central Asia Programme at national level of all subject matters carried out at a national level implemented with the beneficiary.

The Regional Steering Committee (RSC) will meet at the beginning and after the end of the inception period and once a year the implementation of the Programme. Additional meetings of the RSC may be convened as/if need arises during the implementation of the Central Asia Programme. The RSC will look at achievements at a regional level and give directions for regional co-operation. It will be co-chaired by the European Commission and the Office of the Directorate General of Programmes (ODGP) of the Council of Europe.

National Steering Committees (NSC): beneficiaries of the Programme will be decided in agreement between DG-DEVCO and the ODGP, based on a proposal by the ODGP in the light of the volume of country-specific activities planned and implemented with the beneficiary in question. NSCs will be co-chaired by the European Commission and the Office of the Directorate General of Programmes (ODGP) of the Council of Europe.

In addition, the setting-up of **Project Steering Committees (PSC)** will be encouraged regarding the main actions of the Programme (e.g. project steering committee of actions relating to fighting economic crime).

Central Asia Programme beneficiaries will be invited to designate a Focal Point.

Videoconferences/meetings between DG-DEVCO and the ODGP to exchange on Central Asia Programme progress and any relevant issue related to implementation will be organised on a regular basis, and whenever the need arises on the proposal of one of the two sides.

5.7 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 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) or the list of result indicators (for budget support). The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

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

5.8 Evaluation

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

A mid-term evaluation will be carried out for problem solving and learning purposes, in particular with respect to assessment of progress on delivery of specified Project results and towards the achievement of the Project's objectives.

A final evaluation will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that such a regional programme aiming to engage with all five Countries of Central Asia is the first of this scope and scale.

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.

The financing of the evaluation shall be covered by another measure constituting a financing decision.

5.9 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.

The financing of the audit shall be covered by another measure constituting a financing decision.

5.10 Communication and visibility

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU. The visibility of the EU will be ensured through the implementation of the Action. All documents, reports and information prepared and disseminated by the Project will acknowledge that activities in the framework of the current project are “funded by the European Union” in respect of the agreement reached between the EC and the CoE on visual identity (logos in particular) of joint programmes. Graphic line and image will be in line with the Visual Identity and Graphic Charter of the Council of Europe.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation and supported with the budget indicated in section 5.5 above.

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

The Communication and Visibility 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.

The Central Asia Programme communication and visibility plan will build on aims and objectives selected to keep beneficiaries and national stakeholders well informed through a systematic use of communication tools. This plan will be consistent with the 10 Golden Rules to ensure visibility of European Union funding.

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

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

The detailed communication and visibility plan will be discussed separately and will be appended to the contract.

6 APPENDIX - INDICATIVE LOGFRAME MATRIX¹⁴

The baselines and targets will be established during the inception phase of the programme and will be added to the logframe matrix at that time.

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

	Results chain: Main expected results (maximum 10)	Indicators (at least one indicator per expected result)	Sources and means of verification	Assumptions
Impact (Overall Objective)	To reinforce the rule of law, good governance, democracy and human rights in Central Asia in accordance with European and other international standards	Human Rights and Rule of Law Country Score according to the Fragile State Index World Bank Worldwide Governance Indicators on Rule of Law and Control of Corruption	Fragile State Index World Bank Worldwide Governance Indicators Council of Europe progress review reports on Neighbourhood Co-operation Priorities with beneficiaries of the region.	Not applicable
Outcome(s) (Specific)	SO I: To promote the creation of a regional common legal space	<input type="checkbox"/> Status of policy dialogue and collaboration among Central	Committee of Ministers decisions.	Constructive and effective involvement

¹⁴ Mark indicators aligned with the relevant programming document mark with '*' and indicators aligned to the EU Results Framework with '**'.

Objective(s)	between Europe and Central Asia	<p>Asian countries and with Council of Europe member states</p> <ul style="list-style-type: none"> <input type="checkbox"/> Number of countries that have approved and implemented legislation aligned with international standards <input type="checkbox"/> Level of compliance with the international standards in the field of rule of law 	<p>Council of Europe expert opinions and assessments.</p> <p>Assessment reports of the Council of Europe/ European Union/ UN and other international relevant organisations (OECD, World Bank, IMF, UN, TI, EAG).</p>	<p>of the beneficiaries in the political dialogue established with the Council of Europe.</p> <p>Good level of absorption capacity by beneficiaries.</p> <p>Effective cooperation of National authorities in the beneficiary countries with the programme.</p>
	SO II: To enhance business integrity and compliance in the private sector	<ul style="list-style-type: none"> <input type="checkbox"/> Bribery incidence (per cent of firms experiencing at least one bribe payment request); <input type="checkbox"/> % of firms identifying corruption as a major constraint, disaggregated by sex of the owner <input type="checkbox"/> National and international index of level of corruption involving the business sector versus 2018 baseline <input type="checkbox"/> Number of reports from entrepreneurs or public on corruption-related activity disaggregated by sex of the owner <input type="checkbox"/> Number of regional networks on business integrity practices and protection of the rights of entrepreneurs established 	<p>Assessment reports of the Council of Europe/ European Union/ UN and other international relevant organisations (OECD, World Bank, IMF, UN, TI, EAG).</p> <p>Feedback from participants in the various training, peer-to-peer, networking events.</p> <p>Training pre and post evaluations.</p> <p>Steering committee reports.</p> <p>Surveys, studies in neighbourhood related priority areas.</p>	<p>Capacity of beneficiary institutions to absorb assistance provided through the programme.</p> <p>Constructive interagency cooperation and active engagement of different project beneficiaries in developing institutional and strategic frameworks.</p> <p>The existing gaps are acknowledged by the authorities</p>

			<p>Official reports and statistics of beneficiary institutions in the CA countries.</p> <p>Project output documentation and deliverables, progress reports and final report.</p>	<p>Relevant authorities accept to co-operate with the Venice Commission on the issues pertaining to constitutional and legislative reforms and their implementation.</p>
	<p>SO III: To enhance the effectiveness of anti-corruption, anti-money laundering and asset recovery systems in the Central Asian countries</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Level of approximation (evaluation of legislation) with international standards and recommendations in the field of economic crime <input type="checkbox"/> Level of implementation of international standards and recommendations in the field of economic crime <input type="checkbox"/> Level of corruption involving the business sector <input type="checkbox"/> Level of compliance with international standards and recommendations in the field of economic crime 	<p>Statistical analysis /survey conducted by the project team (when applicable).</p> <p>Website of the Parliaments and other national institutions; Project reports; Training materials</p>	
	<p>SO IV: To enable national counterparts to reform the national legal systems, state institutions and the judiciary.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Relevant legislation is developed, aligned with international standards, adopted by the Parliaments and enforced by relevant actors <input type="checkbox"/> Relevant amendments to the legislation are prepared, publicly discussed and submitted to the Parliaments for adoption in line with the recommendations made 	<p>Website of the Venice Commission; Websites of the Parliaments and other national institutions; Project reports; Training materials; Reports of other international organisations;</p>	

		<p>by the Venice Commission</p> <ul style="list-style-type: none"> <input type="checkbox"/> Improved compliance with the international standards in the field of rule of law <input type="checkbox"/> Improved level of knowledge and ability to use international standards by national public administrations, judiciary and legal professionals in their daily work 	Opinions of the Venice Commission	
Outputs (Regional actions)	<p>SOLO1 Awareness is progressively raised about the benefits of a common legal area between Europe and Central Asia based on key Council of Europe conventions open to non-member states and other international standards;</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Level of knowledge and ability to use international standards by national public administrations, judiciary and legal professionals in their daily work. <input type="checkbox"/> Number of conventions in which the beneficiaries expressed clear interest to participate; <input type="checkbox"/> Number of Country-specific Working Groups on Council of Europe conventions with MFAs and line ministries established 	<p>Decisions of the Committee of Ministers of the Council of Europe</p> <p>Training pre and post evaluations.</p> <p>Steering committee reports.</p> <p>Project output documentation and deliverables, progress reports and final report.</p>	<p>Political commitment of governments to reform initiatives in the project areas.</p> <p>Effective cooperation of National authorities in the beneficiary countries with the programme.</p> <p>Commitment of beneficiary institutions to the project expected results.</p>
	<p>SOLO2 Increased policy dialogue and collaboration among Central Asian countries and with Council of Europe member states;</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Number of Council of Europe Committees in which representatives of Central Asia are either members or have an observer status. 	<p>Decisions of the Committee of Ministers of the Council of Europe</p>	<p>Capacity of beneficiary institutions to absorb assistance provided through the programme.</p>
	<p>SO I. O3. Legal professionals throughout the Central Asian</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Level of knowledge of European human rights standards among 	<p>Training pre and post evaluations.</p>	<p>Constructive interagency</p>

	<p>region have enhanced knowledge of European human rights standards through HELP methodology.</p>	<p>legal professionals (through HELP methodology).</p>		<p>cooperation and active engagement of different project beneficiaries in developing institutional and strategic frameworks.</p>
	<p>SOII.O1. Countries of the Central Asian region establish networks and exchange experience on business integrity practices and protection of the rights of entrepreneurs.</p>	<p><input type="checkbox"/> Number of regional exchanges and benchmarks established for protection of rights of entrepreneurs</p>	<p>Progress and theme reports and statistics from other international organisations (OECD, World Bank, IMF, UN, TI, EAG).</p> <p>Official reports and statistics of beneficiary institutions in the CA countries.</p> <p>Statistical analysis /survey conducted by the project team (when applicable).</p>	<p>Leadership understands the need for professional training, reveal the necessary interest and provide continuous support for the organisation of workshops and trainings for relevant actors;</p> <p>Participants of trainings are willing and/or able to apply new skills acquired in the workplace and also share new experience with colleagues.</p>
	<p>SOIII.O1 Capacities for regional cooperation of competent authorities involved in combating and preventing corruption, economic crime and terrorism are enhanced.</p>	<p><input type="checkbox"/> Number of international cooperation and asset recovery requests on corruption and economic crime cases</p>	<p>Progress and theme reports and statistics from other international organisations (OECD, World Bank, IMF, UN, TI, EAG).</p> <p>Project output documentation and deliverables, progress reports and final report.</p> <p>Statistical analysis /survey</p>	

			conducted by the project team (when applicable).
	SO IV.O1. In-depth analysis of the existing legislation, the regulatory framework and institutional/operational systems is available to all major stakeholders;	<input type="checkbox"/> Number of stakeholders with access to the in-depth analysis	Statistical analysis /survey conducted by the project team (when applicable). Project output documentation and deliverables, progress reports and final report.
	SOIV.O2. The new legislation in the field of justice and administrative law, including the reform of judiciary, public administration and ADR is prepared and ready for implementation/being implemented;	<input type="checkbox"/> Number of new legislation in the field of justice and administrative law, including the reform of judiciary, public administration and ADR that is implemented/ ready for implementation	Venice Commission opinions; Steering committee reports. Project reports
	SOIV.O3. The process of the constitutional reform is supported (where applicable)	<input type="checkbox"/> Number of draft laws submitted to the Venice Commission for an opinion <input type="checkbox"/> Number of draft laws adopted by national Parliaments	Venice Commission opinions; Steering committee reports. Project reports
	SOIV.O4. Representatives of public administration and the judiciary have increased their capacity to implement international standards.	<input type="checkbox"/> Number of representatives from CA states in regional conferences, capacity-building activities and regional seminars	Project output documentation and deliverables, progress reports and final report.