

ANNEX

of the Commission Decision in the field of governance in favour of Zimbabwe
to be financed from the European Development Fund Bridging Facility

Action Document for the Support to Institutional Strengthening in the Framework of the New Constitution

1. IDENTIFICATION

Title/Number	Support to Institutional Strengthening in the Framework of the New Constitution CRIS number: ZW/FED/026-387		
Total cost	Total estimated cost: EUR 10 280 000 Total amount of EDF contribution: EUR 8 000 000 – financed from the EDF Bridging Facility This action is co-financed in joint co-financing by: - UNDP for an estimated amount of EUR 800000 - Grant beneficiaries for an estimated amount of EUR 1 480 000		
Aid method/Method of implementation	Project Approach Direct Management , Grants – direct award Indirect Management with UNDP (United Nations Development Programme)		
DAC-code	151 15130 15152 15150	Sector	Government and civil society, general Legal and Judicial Development Legislatures and Political Parties Democratic Participation and Civil Society

2. RATIONALE AND CONTEXT

2.1. Summary of the action and its objectives

The new Zimbabwean Constitution adopted and signed into law on 22 May 2013 offers a new framework for engagement with public institutions, civil society and private sector. The new declaration of rights combined with the new provisions on socio-economic rights as well as the values and principles contained in the constitution represent progressive elements upon which future support in the Governance sector should be built.

Overall Objective: The overall objective is to foster good governance, the rule of law, accountability and transparency and to contribute to the consolidation of democracy in the Framework of the New Constitution.

Specific objectives:

- To strengthen the capacity of the Judicial Service Commission (JSC) and the Ministry of Justice, Legal and Parliamentary Affairs (MoJLPA) towards the implementation of the new Constitution in order to improve the administration of justice and the observance of the rule of law.
- To strengthen the capacity and the independence of the 8th Parliament to perform effectively its duties under the Constitution in particular in law-making, executive oversight and representation.
- To strengthen the capacity and the transparency of electoral administration and to increase trust and confidence in the Zimbabwe Electoral Commission (ZEC).

2.2. Context

2.2.1. Country context

Following the suspension of the application of Cotonou Agreement's Article 96 appropriate measures by the European Council Decision of 24 July 2012, Zimbabwe and the European Union (EU) launched the 11th European Development Fund (EDF) programming exercise in August 2012. The related Country Strategy Paper 2014-2020 was approved by the Commission and the European External Action Service (EEAS) in May 2013. It identified three focal sectors of concentration for the 11th EDF in Zimbabwe: health, agriculture based economic development, and governance and Institution building. The National Indicative Plan (NIP) started in July 2013 and while the programming is progressing the NIP can only be signed once and if the measures are lifted or have expired.

2.2.1.1. Economic and social situation and poverty analysis

Following a decade of negative growth, the Zimbabwean economy has been on a positive trajectory since the inception of the Inclusive Government in February 2009 and the adoption of measures to restore economic stability and growth. However, real gross domestic product (GDP) growth decelerated to 6.8% in 2011 and further to 4.4% in 2012, from 9.0% in 2010. The trend has continued in 2013 with estimates ranging from 1.5% (former Finance Minister) to the Government's 3.5%. The slowdown is due to underperformance in the agricultural sector together with other structural challenges such as a huge infrastructure deficit, high external debt burden, liquidity constraints, lack of access to international lines of credit and lack of clarity on the implementation of the indigenization policy. Prospects for 2014 are not good, Zimbabwe's growth forecast of 6.1% for 2014 has already been scaled back to a more modest 3.1%. Agreed on by both the government and IMF, this figure is premised on an improved forthcoming agricultural season. However, there remain considerable uncertainties which continue to affect the investment climate, such as falling international commodity prices, deflationary pressures, and the fragility of the financial sector.

Together with negative economic growth, the period 2000 – 2008 witnessed increased poverty levels, worsened by frequent droughts among other shocks. The recent poverty report on the 2011-2012 PICES Survey¹ reveals that 72.3% of Zimbabweans are poor, whilst 16.2% of the households are in extreme poverty. Poverty is most prevalent in rural areas, where 84.3% of people are deemed poor and 30.4% extremely poor. The 2013 United Nations Human Development Index (HDI) ranks Zimbabwe among low human development countries: 172nd out of 186 countries compared to 1998, when it ranked 130th out of 174 countries. Zimbabwe has had the steepest HDI fall ever. The estimated GDP per capita in 2012 was USD 714.2, which classes Zimbabwe as a low income country.

The downward economic trend has had a negative impact on women and girls in all aspects of life. There are more women eking out a living in the informal sector making them more vulnerable to low wages and poverty. The school dropout rate at secondary school level is higher for girls than for boys, with the main reasons being early pregnancy, marriage and financial constraints. This ensures that girls remain entrapped in the cycle of poverty for the rest of their lives. Although the legal framework is supportive of gender equality with legislation to promote it in place, there are challenges with regards to effective implementation such as attitudes of implementers and inadequate implementation mechanisms due to financial constraints.

Although both GDP and HDI are still low, some of Zimbabwe's social indicators have improved in the last two years. These include indicators pointing to a revitalisation of the health services delivery at district and rural level and to an increase in pupils' early learning in primary schools. However, this is an improvement not mirrored in other key areas for poverty

¹ Poverty, Income, Consumption and Expenditure Survey, ZimStat 2013

reduction. The food security situation is still a matter of particular concern, as the latest analysis shows that 2.2 million Zimbabweans are expected to be food insecure in the 2013/2014 consumption year. This represents 25% of the rural households and is a 6% (32% increase) higher compared to the previous consumption year.

2.2.1.2. National development policy

The Government approved in December 2013 a new economic development blueprint, the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (Zim Asset), which will drive the national development agenda over the next five years. The Zim Asset identifies 4 priority areas of intervention: food security and nutrition, social services and poverty eradication, infrastructure and utilities, and value addition and beneficiation. It is encouraging to note that gender mainstreaming is also prioritised. While Zim Asset's proposed interventions have been positively assessed by international institutions (WB, IMF, UN), its analysis of the causes of the deteriorating economic and social environment that Zimbabwe has experienced since 2000 appears to be quite simplistic as "illegal economic sanctions imposed by Western Countries" are identified as the main and only cause. Also, the feasibility of Zim Asset implementation raises a number of questions, particularly in relation to the Government's ability to raise sufficient resources to fund it in the absence of a major international effort. The proposed selected sectors of concentration for the 11th EDF are aligned to Zim Asset's priorities. Two of the EU selected sectors (health and agriculture based economic development) are aligned to three of the Zim Assets priorities (food and nutrition, social services and value addition), while the EU third sector (Governance and Institutional Building) is aligned to one of the Zim Asset sub-clusters (Public Administration, Governance and Performance Management). The Government has clearly stated that Zim Asset is the basis on which it will engage with donors in the future. Line Ministers have indicated that they will be reviewing sector policies in order to make them consistent with it.

2.2.2. Sector context: policies and challenges

Justice

The Zim Asset mentions under its section 7.2 Social Service Delivery and Poverty Eradication Cluster a justice-related outcome: Improved access to justice by the indigent persons. The related outputs are: 1) Indigents legally aided; 2) Compliant legislation promulgated; 3) Amended and new acts put in place; with the following Strategies identified: 1) Decentralise legal aid services to all Provinces in Zimbabwe; 2) Research and consultation of relevant stakeholders. This is in line also with recommendation 42 of the Universal periodic review accepted by Zimbabwe².

Women in Zimbabwe attained majority status in 1982 after the passing of the Legal Age of Majority act. Although they have equal access to the justice system on paper, in reality access is different as it depends on the individual's financial capacity and women have lesser access to resources than men. Although the legal framework on gender-based violence (GBV) is relatively strong, GBV levels are very high in Zimbabwe with 68% of women having experienced some form of GBV in their lifetime and 46% of men admitting to perpetrating some form of violence against women in their lifetime. Women are reluctant to report GBV for the following reasons: fear of isolation from their families, cultural norms which condone domestic violence, religion, limited knowledge of the law, delays in the legal system and economic dependence on male partners. The Government has taken measures to address the issue of GBV through the adoption of the National Gender Based Violence Strategy and the establishment of the Inter-ministerial Committee to develop mechanisms to address the unprecedented increase in reported cases of rape and sexual abuse of women and girls.

² Recommendation 42: Take all appropriate legal and administrative measures to bring justice for the people, in particular for vulnerable groups living in remote and rural areas

Support to the rule of law has been a critical component of the EU governance interventions in Zimbabwe since 2009, focusing on justice delivery addressing both the demand and supply sides. Regarding the demand side, no support is included in this proposed programme as the EU funded project "Respect for human rights and access to justice" runs until mid-2016. Moreover, the EU has supported over the past 4 years the National Constitutional Process which saw the approval of a new Constitution for Zimbabwe through a referendum in March 2013. Although the coming into force of the Constitution of Zimbabwe (Amendment No. 20) Act of 2013 has been viewed as an important and progressive development in Zimbabwe's history, there has been little progress in aligning the current legislation to the new Constitution, opening the door to a potential 'flood gate' of constitutional cases. Therefore, there is an urgent need for revising policies, legislation, subsidiary law and general administrative practice in a manner that upholds the letter and spirit of the Constitution. The MoJLPA has been tasked with the responsibility of coordinating this process. In this context, the MoJLPA has requested the EU for specific and urgent support, in particular for the alignment of legislation in line with the constitution, the legislative drafting and the Law Development Commission.

The JSC faces equal challenges linked to the courts and profession at large that require technical support to ensure they comply and are fully prepared to deal with the new Constitution's provisions. Before the adoption of the new Constitution, the JSC existed as constitutional body but with limited powers and mandate, without a full time secretary and support staff. The setting up of JSC including its resourcing for effective oversight of the administration of justice requires provision of technical support for full realization of its mandate. While technically the JSC is supposed to have a budget resourced from the consolidated revenue fund for many if not all of its operations, software related issues such as continuous professional development and capacity enhancement are not prioritised due to limited fiscal space.

Parliament

The Zimbabwe Agenda for Sustainable Socio-Economic Transformation (Zim Asset) makes reference to strengthening Parliament's oversight role in public sector performance as a strategy, in order to achieve the cluster outcomes: 1) improved planning in the public sector and 2) improved service delivery. Moreover, in the Social Service Delivery and Poverty Eradication Cluster under the Key Result Area 'Gender and Development', one of the strategies identified to achieve improved gender equality and equity is capacity building of elected women MPs and Councillors.

New provisions of the Constitution pertaining to the Parliament have also marked an important improvement of the democratic functioning. Under the new Constitution, the Parliament's role is 'to legislate, scrutinise policies and activities of the Executive and to hold the Executive to account for its actions as well as act as a forum for democratic participation of all members of society'. With the adoption of the new Constitution in 2013, the Parliament faces a major task in ensuring the 400 pieces of legislation brought about by the new provisions of the Constitution are aligned as a matter of urgency to avoid constitutional challenges and/or vacuum in some instances.

The 8th Parliament of Zimbabwe adopted a new Institutional Strategic Plan for the period 2014-2018 which defines the roadmap to implement the Vision of the 8th Parliament. The Strategy seeks to align outputs and outcomes to the new Constitution of Zimbabwe and Zim Asset. It acknowledges the many challenges faced by the Institution to fulfil its functions. With more than 60% of its MPs being new and 34% of women, the 8th Parliament is not currently able to perform its core functions with regard to the legislative constitutional alignment, consultation, representation, accountability and gender equity. Much needs to be done to support the capacity of both Members of Parliament but also specific Portfolio Committees that are called to play a strategic role in the constitutional alignment process.

Elections Administration

After years of electoral reforms, which progressively saw the establishment of the ZEC independent from the Government, the new Constitution has further improved the legal framework governing elections, adding up new responsibilities within the remit of the ZEC, the Constitutional, Electoral and magistrates Courts in the administration of elections and the resolution of electoral disputes. These reforms are currently being effectively incorporated in the country's legislation through an Electoral Amendment Bill.

Women participate fully as voters but their participation as candidates is low due to their low economic status as well as to the electoral environment in Zimbabwe which in the past was characterised by high levels of violence.

In 2010, ZEC developed a 5-year strategic plan (2010-2015) highlighting priority areas for reform. The introduction of new responsibilities regarding the voter registration that now should be solely in the hands of ZEC will impact on the strategic priorities of the Commission and the strategic plan will have to be reviewed. ZEC has received so far limited financial support from the Government of Zimbabwe and all election observation missions concurred after the 2013 harmonised elections agreed that the limited financial autonomy and capacity of the electoral administration to effectively plan and administer elections undermined the credibility of the process and needed to be addressed ahead of the next harmonised elections, currently foreseen to be taking place in 2018.

Whilst ZEC is currently drawing the lessons learnt from the 2013 elections, in particular with regards to the need for reform to the organisation of special voting, ballot printing, results transmission, results publication and electoral dispute resolution, which were identified as weaknesses by Domestic Observer groups and the African Union Election Observation Mission (AUEOM), it is also exploring options concerning voter registration management. The challenges ahead of ZEC include choosing and managing an appropriate and credible voter registration methodology, accepted by all stakeholders, while at the same time trying to implement necessary improvements to the existing legal and operational framework for elections, as evidenced by the shortcomings of the 2013 elections. This involves developing technical and human resources capacity to effectively reform the institution and, concurrently, conduct voter registration. Presently, in spite of its political willingness to undertake such reforms, ZEC does not have the technical, logistical and financial capacity to effectively carry out these critical activities and responsibilities. There is a level of concern that the lack of capacity of ZEC will further undermine the credibility of future electoral processes and, as pointed out by the AUEOM, it is of paramount importance that "there be greater transparency on and adequate provisions of logistics and resources to the ZEC for organising elections as prescribed in the Organisation of African Unity Declaration on the Principles Governing Democratic Elections in Africa (2002)".

2.3. Lessons learnt

Justice

Since 2009 projects in the sector have been supported under both the European Instrument for Democracy & Human Rights (EIDHR) as well as Ad Hoc EDF facilities (2010 and 2012). These projects provided support to both the supply and demand side of the Justice system.

Whilst EIDHR projects aimed at ensuring better access to justice for the most marginalised, EDF Ad Hoc facilities focused more particularly on provision of legal support to the population and on the promotion of the rule of law by strengthening the independence, impartiality and accountability of the Judiciary. The approach has been focusing on enhancing the technical and organizational capacities of judges, lawyers and prosecutors to improve the delivery of justice as well as dialogue with the JSC. The 2013 ROM (Results Oriented Monitoring) report of the EDF Ad Hoc 2010 Project highlighted positive achievements and

the necessity to continue engaging with the JSC. It specifically states that "the project objectives directly contribute to the essence of the core elements of a democracy - an independent Judiciary that ensures that human rights are observed".

A recent judicial needs assessment undertaken by the International Commission of Jurists (ICJ) on the JSC points at a number of important deficiencies related to legal education, judicial powers, accountability and transparency and efficiency in the sector and the necessity for the JSC to strengthen its administrative structure to comply with its constitutional mandate.

Parliament

Under the Global Political Agreement (GPA), the Parliament of Zimbabwe became an important player in the implementation of the GPA and democratic reforms. Previous support to Parliament through the Southern African Parliamentary Support Trust and the Association of European Parliamentarians with Africa (both funded under the Instrument for Stability (IfS)) has allowed the strengthening of the oversight role of Members of Parliament over the Government towards progressive effective implementation of its mandate. This was done through provision of targeted technical advice to the work of specific portfolio committees. Since the adoption of the new Constitution and elections, the institution is in need of being strengthened to become stronger in its legislative, representative and executive oversight role, to allow for an effective and efficient discharge of its mandate.

Lessons from the 2012 Final Evaluation of the UNDP Parliamentary Support project in Zimbabwe have been taken carefully into account in the crafting of the new Programme of Support, in particular:

- the importance of capacity building of MPs, particularly those elected for the first time, on the functioning of parliament, their roles and responsibilities;
- the need to strengthen skills and capacity in planning and management of Committee's work;
- the need to establish proper operational and administrative procedures to ensure that throughout the core business of parliament (legislation and oversight), gender mainstreaming is fully established;
- the creation of a Budget Office which represents an important step in the further institutional development of parliament;
- the importance of developing parliament's public outreach strategy including the provision of a press room equipped to cover sessions of parliament more regularly, use of social media by parliament, and publishing parliament updates in newspapers.

Electoral Administration

In 2010, based on a request by ZEC and despite initial reluctance to accept assistance before elections by the Government of Zimbabwe, the UNDP with EU, Denmark and Sweden's financial support implemented a project "Support to Strengthening of the Zimbabwe Electoral Commission" between January 2011 and March 2013. With the EU co-funded UNDP implemented support to ZEC, the Commission established permanent offices at the provincial and district levels and improved its technical capacity, especially its IT. While there is still need of capacity building in operations and logistics, ZEC could gain from regional and international best practice particularly in enhancing its independence, improving transparency of its operation, by having full ownership over the voter register, the result transfer and communication process, as well as taking on fully the legally stipulated media monitoring role.

Another, parallel project in support of ZEC which started in 2011 was aimed at increasing the ability of ZEC to liaise with stakeholders (political parties, civil society organisations (CSOs), media, voters) and supporting Multi-Party Liaison Panels and Committees. This project was implemented through Electoral Institute for Sustainable Democracy in Africa (EISA) with the support of Norway, Denmark, Sweden, Switzerland, Canada and the EU.

The overarching outcome of both projects ensured that the institutional capacity of ZEC was enhanced to allow the Commission to effectively and efficiently execute its core responsibilities and deliver on its mandate in a sustainable and inclusive manner. Subsequent evaluation and ROM reports indicated that stakeholders had perceived an improvement in the management of elections in 2013, but that further capacity was still needed.

Experience has shown that for any assistance to ZEC it is key to establish a coordinated programme approach to specify achievable output, avoid duplication and limit the burden on ZEC in dealing with multiple funding partners. Ideally, one lead agency would take on the coordination of the programme on behalf of all funding partners.

2.4. Complementary actions

Justice

Results achieved so far under the 2012 Ad Hoc projects have contributed directly into the design of the new intervention for the Justice Sector and ongoing projects will be acting as complementary actions until 2016, in particular provision of legal aid to the most vulnerable through Legal Resources Foundation and training of magistrate and judges as well as best practices exchanges visits in the region through the ICJ and Law Society Projects.

Whilst the proposed action will benefit primarily the duty bearers responsible for the dissemination (MoJLPA) and enforcement of the new Constitution (JSC and related courts), thematic funds will be used to ensure the empowerment of the rights holders. In particular, part of the 2014 EIDHR Allocation will be dedicated, in full complementarity of this action, to the support of actions related to the implementation and enforcement (i.e. litigations) of the new provisions of the new Constitution such as the Declaration of Rights and socio economic rights.

Parliament

The EU is a long standing partner of the Parliament of Zimbabwe and has over the past few years ensured targeted (but fragmented due to the different financial instruments used) support to the 7th Parliament. The new programme of support therefore aims at a more comprehensive and long term institutional approach in order to enable the Parliament to perform its core function in enacting laws and oversight function over the Executive. Complementary actions will remain in the form of specific projects funded by both the EU and other development partners that target civil society organisations and focus on the Constitution's implementation and enforcement in particular enactment of new laws and public consultations. This action is also designed to fully complement the work that the MoJLPA will undertake with regard to the constitutional alignment process.

Elections

Since its inception, the Electoral Administration in Zimbabwe has struggled to live up to its mandate, due to insufficient resources and support. The UNDP capacity building project came to an end in 2013 and the EISA project was completed in the second quarter of 2014 after lessons learnt exercise and wrap up activities were conducted. A parallel track also enabled to provide support to an improved framework for the administration of elections in Zimbabwe through the funding of election observation missions, which were instrumental in providing targeted analysis and recommendations after the 2013 elections. In particular, the European Commission supported the deployment of the following election observation missions: African Union, Southern African Development Community (SADC), SADC Parliamentary

Forum, SADC Electoral Commission Forum and Zimbabwe Election Support Network. The SADC Parliamentary Forum project (funded under the IfS) and the SADC Electoral Commission Forum project (funded under the EDF) have recently finalised. An EIDHR funded EU Election Expert Mission (EEM) was deployed to Zimbabwe in 2013. Their main assignment, in their capacity as independent electoral experts, was to conduct a technical analysis of the legal framework governing elections and assess it against regional and international obligations and commitments. Furthermore, they were requested to provide recommendations to improve the election framework of Zimbabwe, which would contribute to inform activities of the EU in the field of governance. The report of the EU EEM was shared with the Government of Zimbabwe and the ZEC.

2.5. Donor coordination

Coordination between development partners has been steadily reinforced since 2009 in particular through the Human Rights and Governance Group (HRGG) and various sub groups such as the elections one chaired by Sweden and the Parliamentary sub-group chaired by USAID. The EU is an active member of all of them. Post elections 2013, the HRGG has been particularly pro-active in sharing information and elaboration of possible common strategy vis a vis for example Civil Society. Lately, concerted efforts have also been undertaken in the Justice sector to work more closely in particular with Denmark and Department for International Development, UK (DFID). This is also in view of possible future joint programming in the sector.

3. DETAILED DESCRIPTION

3.1. Objectives

Overall Objective:

The overall objective is to foster good governance, the rule of law, accountability and transparency and to contribute to the consolidation of democracy in the Framework of the New Constitution.

Specific objectives:

- SO1 : To strengthen the capacity of the JSC and the MoJLPA towards the implementation of the new Constitution in order to improve the administration of justice and the observance of the rule of law by all the relevant duty bearers.
- SO2: To strengthen the capacity and the independence of the 8th Parliament to perform effectively its duties under the Constitution in particular in law-making, executive oversight and representation.
- SO3: To strengthen the capacity and the transparency of electoral administration and to increase trust and confidence in the ZEC.

3.2. Expected results and main activities

The expected results of the **Justice** component are:

- R.1.1: Increased capacity of the Law Development Commission and MoJLPA concerned staff to comply with the process of Legislative Constitutional Alignment.
- R.1.2: Strengthened JSC to ensure that the new Constitution is applied in all the courts and observed by all.
- R.1.3 Increased independence, competence, integrity, accountability and professionalism of court officials to ensure a more effective justice delivery system for all the population.

Those results will be achieved through the following indicative activities:

- Technical support in the form of legal research and analysis and training of legislative drafters.
- To facilitate and ensure stakeholders consultations in the constitutional legislative alignment process.
- Revision of the JSC Strategic Plan (2012-2016) to ensure its alignment to the new constitution requirements.
- Development and implementation of a comprehensive training curriculum for continuous professional development which would include training components on human rights, and namely on fair trial rights, economic social and cultural rights and constitutional interpretation.
- Provision of technical support for the revision of all court rules commencing with the revision and adoption of Constitutional Court rules.
- Identification, training and equipping constitutional court clerks for provision of research, drafting support to the constitutional court on key matters and other advisory roles as requested.
- Trainings for continuous professional development for the JSC targeting the entire range of officials under its jurisdiction (judges all courts, clerks).
- Development and implementation of training curriculum for court officials (registrars, clerks and constitutional court clerk and researchers).

The expected results of the **Parliament** component are:

- R.2.1: Parliamentary oversight enhanced to ensure that the provisions of the Constitution are upheld and that the State and all institutions act constitutionally.
- R.2.2: Strengthened capacity and knowledge of specific Committees of Parliament, particularly those that are called to play an important role in the enactment of new legislation in line with the new Constitution.
- R.2.3: Strengthened capacity and knowledge of the Parliament to initiate, prepare, consider or reject any legislation.
- R.2.4: Strengthened and inclusive public involvement in legislative business and in committee's processes.

Those results will be achieved through the following indicative activities:

Under the Indirect Management with an international organisation - UNDP, indicative activities will include:

- Provision of technical support to strengthen the oversight function of Parliament over the executive particularly with regard to management of public resources.
- Conduct gender-responsive budget seminars and meetings.
- Technical support to specific Committees of Parliament.
- Engage consultants to develop fully gender responsive training modules in specific areas such as Human rights and the rule of law; budget analysis; gender mainstreaming, environmental issues, economic literacy, Zim Asset, the Constitution and Conflict.
- Training of Parliament leadership and staff to increase Parliament's performance.
- Development of a monitoring system to maximise parliament's business and committee's work.
- Conduct specific session/module for both male and female legislators on women's specific situation in Parliament.

Under the direct grant with civil society, indicative activities will include:

- Capacity building activities targeting the Women's Caucus in particular on issues related to executive oversight of government policy and legislative policy.
- Facilitation of public hearings in the context of the Constitutional realignment process.
- Technical support to specific Portfolio Committees.
- Specific and targeted training and capacity building activities for legislators related to legislative and policy analysis in sector specific areas.
- Dissemination of information on the new constitution to the public at the level of constituencies in partnership with Parliament and MPs.

The expected results of the **Elections** component are:

- R.3.1 ZECs effectiveness to conduct elections is increased, in line with regional standards for democratic elections.
- R.3.2 ZECs continuous engagement with electoral stakeholders and other confidence enhancing demarches are implemented.

Those results will be achieved through the following indicative activities:

- Technical assistance to ZEC in core electoral management areas as required.
- Support to ZEC in facilitating engagement with all stakeholders (including political parties and CSOs) at national as well as decentralised levels, including organisation of review conferences and workshops towards the adoption of a voter registration system, a voter education policy and a strategic plan.

3.3. Risks and assumptions

Risk/Assumption	Level of Risk	Mitigation Measures
Degradation of political environment prevents/suspends the support to democratic institutions	Low	Close monitoring and enhanced technical policy and political dialogue among authorities, the EU, development partners, civil society and other relevant stakeholders
Public Institutions that should play an essential role in the enactment and enforcement of the new provisions of the Constitution, are not performing and are not held accountable	Medium	
Political pressure and interference from various organs of the state is exerted on the implementing partners that may create a hostile environment, influencing the management of the activity and compromising its independence and quality	Medium	
Current display of willingness by the authorities, institutions and Commissions to engage with development partners remains		
CSOs in the Rule of Law sector operate in a vacuum without proper engagement and dialogue process with the concerned institutions	Medium	Close monitoring, promotion of establishment of forum for dialogue among public institutions and civil society, promotion of government-led coordination mechanisms
Implementing partners, beneficiaries and other stakeholders are able to work effectively along the identified implementation methodology and within an independent, transparent and accountable framework		

3.4. Cross-cutting issues

In the current context in Zimbabwe, gender equality, good governance and human rights are critical issues of any project design. The interventions identified under this action will in particular address issues from a rights-based approach encompassing all human rights with particular focus on the new declaration of rights as well as new socio economic provisions of the Constitution.

Moreover, particular attention will be given to the situation of women and gender-related issues as well as the situation of marginalised groups, including minorities. Gender mainstreaming is recognised as a critical element of all future interventions. Particular attention will be given to participation of women in the Parliament and Justice Component. The Women's Parliamentary Caucus and the Gender Committee will also be specifically supported while capacity building on gender issues will be tackled at the institutional level.

3.5. Stakeholders

Notwithstanding that Article 96 being still in place, even though its application had been suspended, this action document has been formulated in full consultation with the Parliament, the Ministry of Justice, Legal and Parliamentary Affairs, the JSC and the ZEC. The relevance of the proposed interventions was also confirmed by CSOs in the framework of the consultation carried out during the first semester of 2014 in order to prepare the "Roadmap for EU Engagement with Civil Society in Zimbabwe, and most particularly by organisations active in the sector such as the Zimbabwe Human Rights Lawyers, the Centre for Legal Applied Research, the Legal Resources Foundation and others.

The key players in the **Justice** sector are:

Ministry of Justice, Legal and Parliamentary Affairs is the responsible ministry in the sector and has administrative powers over the Acts governing the conduct of the Law Society of Zimbabwe and the JSC. The Judicial College also falls under this ministry.

The Magistrates Association of Zimbabwe is a duly registered voluntary Association.

The Judicial Service Commission (JSC) is the body imbued with the statutory mandate for the appointment, training, discipline and dismissal of judges. The body is also in charge of quality assurance for judges training, judicial training, development of manual on judicial corruption,

Law Society of Zimbabwe is the statutory and professional body for lawyers in Zimbabwe established through the Legal Practitioners Act. The Society is founded on a legal framework that enables it to have full control of the profession from training, admission, member discipline, trust accounting transparency, client compensation as well as independence of the profession.

Zimbabwe Law Officers Association: The prosecutors in Zimbabwe have formed themselves into a voluntary professional association called the Zimbabwe Law Officers Association (ZLOA). The main objective is to have greater professionalisation and independence of the prosecutor as a legal professional given the way in which the legal, policy and administrative architecture in Zimbabwe places the prosecutors under the Attorney General's office

The University of Zimbabwe Law School is the main law school that produces lawyers for Zimbabwe.

The key players for the **Parliament** are:

Administration: The administration of Parliament is one of the most important players as it will now be involved in the revision of the Standing Rules and Orders in order to align them with the new Constitution and parliamentary practices;

Committees: They are the engine of parliamentary work. There are 20 portfolio committees in the National Assembly. The Parliamentary Legal Committee which deals with the constitutionality of all bills and statutory instruments, and the Public Accounts Committee, which review audit reports from the Controller and Auditor General, are critical committees whose work can positively impact on the country's political and economic advancement.

Members of Parliament: New MPs will receive particular attention as well as female parliamentarians given the high number of them elected and appointed under the new constitution. Support shall be provided mainly through the Zimbabwe Parliamentary Women's Caucus. The Caucus brings together all female MPs in Parliament, from all political parties, front-bench and back-bench female MPs alike.

Public: The public is critical as their role and participation in the legislative process is now fully recognised in the constitution.

Civil Society: They will ensure that citizens are mobilized, educated on legislative matters so as to attend hearings and make submissions, particular attention will be paid to marginalised groups of population, including minorities.

The key players in the **Elections Administration** component are:

The Zimbabwe Electoral Commission (ZEC), created in 2005, which used to share the responsibility for the organisation of elections with the Registrar General. With the new Constitution and Electoral Amendment, the ZEC is now the sole custodian of elections in Zimbabwe.

The Ministries of Justice and Finance: According to the Electoral Act, any foreign financial assistance to ZEC has to be approved by the MoJLPA and the Ministry of Finance.

Election observation groups and CSOs, even though they are legally only allowed to play a role after proclamation of elections, ZEC has consistently engaged with them since 2011 and has now agreed to work jointly with a number of organisations in the formulation of various policies and programmes, including the adoption of a voter registration system, voter education plan, strategic plan and other core areas of activity.

4. IMPLEMENTATION ISSUES

4.1. Financing agreement

In order to implement this action, it is not foreseen to conclude a financing agreement with the partner country, referred to in Article 17 of Annex IV to the Cotonou Agreement.

4.2. Indicative operational implementation period

The indicative operational implementation period of this action, during which the activities described in sections 3.2. and 4.3. will be carried out, is 60 months from the date of entry into force of the financing agreement or, where none is concluded, from the adoption of this Action Document, subject to modifications to be agreed by the responsible authorising officer in the relevant agreements. The relevant Committee shall be informed of the extension of the operational implementation period within one month of that extension being granted.

4.3. Implementation components and modules

The action will be implemented through three components by means of 2 modules: by direct award of grants in direct management and by indirect management with an international organisation - UNDP.

4.3.1. Grants: direct award (direct management)

Support to the Ministry of Justice, Legal and Parliamentary Affairs in enacting the new Constitution's provisions (result 1.1).

(a) Objectives of the grants, fields of intervention, priorities of the year and expected results

The objective of this grant is to provide support to the MoJLPA, in particular the Law Development Commission to advance in the process of Legislative Constitutional Alignment. This support will be in the form of legal research and analysis and training of legislative drafters, as well as to provide support to ensure coordination between the MoJLPA and other ministries concerned. Additionally, stakeholders' consultations in the constitutional legislative alignment process will be facilitated.

(b) Justification of a direct grant

Under the responsibility of the authorising officer by delegation, the recourse to an award of a grant without a call for proposals is justified because the country being in a crisis situation referred to in Article 190(2) RAP and benefits from the flexible procedures until 30/06/2015 if the latter are still applicable at the moment of the award.

(c) Eligibility conditions

In order to be eligible for a grant, the applicant must be a legal person and be non-profit-making and be a specific type of organisation such as non-governmental organisation, public sector operator, local authority, international (inter-governmental) organisation as defined by Article 43 of the Rules of application of the EU Financial Regulation. And, as defined by Annex IV to Cotonou Agreement, be established in an eligible country: an ACP State; a Member State of the EU; an official candidate country of the EU or a Member State of the European Economic Area; a Least Developed Country as defined by the United Nations; any other country where reciprocal access to external assistance has been established.

Additionally, applicants must have a permanent presence in Zimbabwe. It would be also highly advisable to have had signed a memorandum of understanding with the beneficiary institution.

(d) Essential selection and award criteria

The essential selection criteria are financial and operational capacity of the applicant. The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

(e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 80%.

The maximum possible rate of co-financing may be up to 100% in accordance with Articles 192 of Regulation (EU, Euratom) No 966/2012 if full funding is essential for the action to be carried out. The essentiality of full funding will be justified by the responsible authorising officer in the award decision, in respect of the principles of equal treatment and sound financial management.

(f) Indicative trimester to contract the potential direct grant beneficiary

4th trimester 2014.

Support to the Judicial Service Commission (JSC) in enforcing the new Constitution (results 1.2 & 1.3)

(a) Objectives of the grants, fields of intervention, priorities of the year and expected results

The objective of this grant is to provide support to the JSC to ensure that it complies with its constitutional mandate and is in a position to enforce the new provisions of the Constitution.

Priorities will be to revise the JSC Strategic Plan (2012-2016) to ensure its alignment to the new constitution requirements. A comprehensive training curriculum for continuous professional development which would include training components on fair trial rights, economic social and cultural rights and constitutional interpretation will be developed, including the developing and implementation of a training curriculum for court officials (registrars, clerks and constitutional court clerk and researchers). Additionally, support will be provided for the revision of all court rules commencing with the revision and adoption of Constitutional Court rules.

(b) Justification of a direct grant

Under the responsibility of the authorising officer by delegation, the recourse to an award of a grant without a call for proposals is justified because the country being in a crisis situation referred to in Article 190(2) RAP and benefits from the flexible procedures until 30/06/2015 if the latter are still applicable at the moment of the award.

(c) Eligibility conditions

In order to be eligible for a grant, the applicant must be a legal person and be non-profit-making and be a specific type of organisation such as non-governmental organisation, public sector operator, local authority, international (inter-governmental) organisation as defined by Article 43 of the Rules of application of the EU Financial Regulation. And, as defined by Annex IV to Cotonou Agreement, be established in an eligible country: an ACP State; a Member State of the EU; an official candidate country of the EU or a Member State of the European Economic Area; a Least Developed Country as defined by the United Nations; any other country where reciprocal access to external assistance has been established.

Additionally, applicants must have a permanent presence in Zimbabwe. It would be also highly advisable to have had signed a memorandum of understanding with the beneficiary institution.

(d) Essential selection and award criteria

The essential selection criteria are financial and operational capacity of the applicant.

The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

(e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 80%.

The maximum possible rate of co-financing may be up to 100% in accordance with Articles 192 of Regulation (EU, Euratom) No 966/2012 if full funding is essential for the action to be carried out. The essentiality of full funding will be justified by the responsible authorising officer in the award decision, in respect of the principles of equal treatment and sound financial management.

(f) Indicative trimester to contract the potential direct grant beneficiary

4th trimester 2014.

Support to specific Parliament portfolio committees and public consultation (results 2.2, 2.3& 2.4)

(a) Objectives of the grants, fields of intervention, priorities of the year and expected results

The objective of the direct grant is to provide targeted support to specific portfolio committees and facilitate and promote public consultation, including with civil society, to ensure in particular that: (i) issues pertaining to gender and constitutional alignment are dealt with strategically and as a matter of priority; (ii) particular technical support is provided for to

issues related to electoral matters and new Constitutional Commission's (National Peace and Reconciliation Commission, Gender Commission).

(b) Justification of a direct grant

Under the responsibility of the authorising officer by delegation, the recourse to an award of a grant without a call for proposals is justified because the country being in a crisis situation referred to in Article 190(2) RAP and benefits from the flexible procedures until 30/06/2015 if the latter are still applicable at the moment of the award.

(c) Eligibility conditions

In order to be eligible for a grant, the applicant must be a legal person and be non-profit-making and be a specific type of organisation such as non-governmental organisation, public sector operator, local authority, international (inter-governmental) organisation as defined by Article 43 of the Rules of application of the EU Financial Regulation. And, as defined by Annex IV to Cotonou Agreement, be established in an eligible country: an ACP State; a Member State of the EU; an official candidate country of the EU or a Member State of the European Economic Area; a Least Developed Country as defined by the United Nations; any other country where reciprocal access to external assistance has been established.

Additionally, applicants must have a permanent presence in Zimbabwe. It would be also highly advisable to have had signed a memorandum of understanding with the beneficiary institution.

(d) Essential selection and award criteria

The essential selection criteria are financial and operational capacity of the applicant.

The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

(e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 80%.

The maximum possible rate of co-financing may be up to 100% in accordance with Articles 192 of Regulation (EU, Euratom) No 966/2012 if full funding is essential for the action to be carried out. The essentiality of full funding will be justified by the responsible authorising officer in the award decision, in respect of the principles of equal treatment and sound financial management.

(f) Indicative trimester to contract the potential direct grant beneficiary

4th trimester 2014.

Support to ZECs effectiveness to conduct elections, in line with regional standards for democratic elections (result 3.1).

(a) Objectives of the grants, fields of intervention, priorities of the year and expected results

The objective of the grant is to increase ZEC's effectiveness to conduct elections, in line with regional standards for democratic elections, having as priority providing support for Capacity building of ZEC in core electoral management areas as required.

(b) Justification of a direct grant

Under the responsibility of the authorising officer by delegation, the recourse to an award of a grant without a call for proposals is justified because the country being in a crisis situation referred to in Article 190(2) RAP and benefits from the flexible procedures until 30/06/2015 if the latter are still applicable at the moment of the award.

(c) Eligibility conditions

In order to be eligible for a grant, the applicant must be a legal person and be non-profit-making and be a specific type of organisation such as non-governmental organisation, public sector operator, local authority, international (inter-governmental) organisation as defined by Article 43 of the Rules of application of the EU Financial Regulation. And, as defined by Annex IV to Cotonou Agreement, be established in an eligible country: an ACP State; a Member State of the EU; an official candidate country of the EU or a Member State of the European Economic Area; a Least Developed Country as defined by the United Nations; any other country where reciprocal access to external assistance has been established.

Additionally, applicants must have a permanent presence in Zimbabwe. It would be also highly advisable to have had signed a memorandum of understanding with the beneficiary institution.

(d) Essential selection and award criteria

The essential selection criteria are financial and operational capacity of the applicant.

The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

(e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 80%.

The maximum possible rate of co-financing may be up to 100% in accordance with Articles 192 of Regulation (EU, Euratom) No 966/2012 if full funding is essential for the action to be carried out. The essentiality of full funding will be justified by the responsible authorising officer in the award decision, in respect of the principles of equal treatment and sound financial management.

(f) Indicative trimester to contract the potential direct grant beneficiary

4th trimester 2014.

Support to ZECs for continuous engagement with electoral stakeholders and other confidence enhancing demarches (result 3.2).

(a) Objectives of the grants, fields of intervention, priorities of the year and expected results

The objective of this grant is to implement ZEC's continuous engagement with electoral stakeholders and other confidence enhancing demarches, including support to ZEC in facilitating engagement with all stakeholders (including political parties and CSOs) at national as well as decentralised levels; organization of review conferences and workshops towards the adoption of a voter registration system, a voter education policy and a strategic plan; study tours and participation in election observation missions.

(b) Justification of a direct grant

Under the responsibility of the authorising officer by delegation, the recourse to an award of a grant without a call for proposals is justified because the country being in a crisis situation referred to in Article 190(2) RAP and benefits from the flexible procedures until 30/06/2015 if the latter are still applicable at the moment of the award.

(c) Eligibility conditions

In order to be eligible for a grant, the applicant must be a legal person and be non-profit-making and be a specific type of organisation such as: non-governmental organisation, public sector operator, local authority, international (inter-governmental) organisation as defined by Article 43 of the Rules of application of the EU Financial Regulation. And, as defined by Annex IV to Cotonou Agreement, be established in an eligible country: an ACP State; a Member State of the EU; an official candidate country of the EU or a Member State of the

European Economic Area; a Least Developed Country as defined by the United Nations; any other country where reciprocal access to external assistance has been established.

Additionally, applicants must have a permanent presence in Zimbabwe. It would be also highly advisable to have had signed a memorandum of understanding with the beneficiary institution.

(d) Essential selection and award criteria

The essential selection criteria are financial and operational capacity of the applicant.

The essential award criteria are relevance of the proposed action to the objectives of the call; design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

(e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 80%.

The maximum possible rate of co-financing may be up to 100% in accordance with Articles 192 of Regulation (EU, Euratom) No 966/2012 if full funding is essential for the action to be carried out. The essentiality of full funding will be justified by the responsible authorising officer in the award decision, in respect of the principles of equal treatment and sound financial management.

(f) Indicative trimester to contract the potential direct grant beneficiary

4th trimester 2014.

4.3.2. Indirect Management with an International Organisation - Component two – Parliament (results 2.1, 2.2, 2.3 & 2.4)

A part of this action with the objective of strengthening the capacity of Parliament to perform effectively its duties under the Constitution in particular in law-making, executive oversight and representation may be implemented in indirect management with UNDP in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012. UNDP has proven expertise in Zimbabwe and all over the world in supporting democratic process and in particular in providing technical, advisory and financial support service. UNDP has also proven expertise in managing basket funds.

The entrusted entity will provide technical support (both capacity and knowledge) to specific Committees of Parliament through concluding service and supply contracts and possibly of grant contracts including for training, workshops, conferences, policy support, technical assistance, and institutional strengthening. UNDP will also seek additional funding from other donors to expand the scope of the actions.

The entrusted entity is currently undergoing the ex-ante assessment in accordance with Article 61(1) of Regulation (EU, Euratom) No 966/2012 EDF applicable by virtue of Article 17 of the Annex to Regulation (EU) No 567/2014. The responsible authorising officer of the Commission deems that, based on the compliance with the ex-ante assessment based on Regulation (EU, Euratom) No 1605/2002 and long-lasting problem-free cooperation, the entity can be entrusted with budget-implementation tasks under indirect management

4.4. Scope of geographical eligibility for procurement and grants

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

4.5. Indicative budget

Module	Amount (EUR)	Third party contribution (EUR)
Component 1 Justice	2 400 000	600 000
4.3.1.1. Direct Grant : Support to the MoJLPA in enacting the new Constitution's provisions (R1.1)	1 200 000	300 000
4.3.1.2. Direct Grant : Support to the JSC in enforcing the new constitution (R1.2 and 1.3)	1 200 000	300 000
Component 2 Parliament	2 400 000	925 000
4.3.1.3. Direct Grant : Support to specific Parliament portfolio committees and public consultation (R2.2 , 2.3 & 2.4)	500 000	125 000
4.3.2. Indirect Management with UN Agency : Support to the 8 th Parliament Support Programme (R 2.1, 2.2, 2.3 & 2.4)	1 900 000	800 000
Component 3 Elections	3 020 000	755 000
4.3.1.4. Direct Grant: Support to ZECs effectiveness to conduct elections, in line with regional standards for democratic elections. (R 3.1)	1 520 000	380 000
4.3.1.5 Direct Grant: Support to ZECs for continuous engagement with electoral stakeholders and other confidence enhancing demarches. (R 3.2)	1 500 000	375 000
4.7. Evaluation and audit	140 000	N.A.
4.8. Communication and visibility	40 000	N.A.
Totals	8 000 000	2 280 000

4.6. Performance monitoring

The overall follow up of the action will be ensured by EU Delegation staff through regular field visits, bilateral meetings, review of reports and coordination meetings. Baseline surveys will be incorporated in grant contracts. Progress will be assessed against indicators identified in projects' logical framework.

The EU is also regularly carrying out Results Oriented Monitoring (ROM) via independent consultants, starting from the sixth month of project activities, which will be finalised at the latest 6 months before the end of the operational implementation phase.

Under component 2, UNDP will be responsible for the project financial management and coordination and monitoring will be carried out both by UNDP and donors. Donors will have an oversight role through the Steering Committee and Project Board meetings.

4.7. Evaluation and audit

A EUR 100 000 budget has been set aside for the evaluation of the overall performance of the action (mid-term or/and final), in order to assess its progress and performance as a whole.

EUR 40 000 has been budgeted for audit. Audits will be carried out in line with the annual risk assessment establish by the EU Delegation in consultation with the Directorate-General for Development and Cooperation - EuropeAid. They will respect specific arrangements with international organisations as relevant.

Subject in generic terms, if possible	Type (works, supplies, services)	Indicative number of contracts	Indicative trimester of launch of the procedure
Evaluations	Services	2	3 rd quarter of 2015
Audits	Services	2	3 rd quarter of 2015

4.8. Communication and visibility

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated before the start of implementation and supported with the budget indicated in section 4.5 above.

The measures shall be implemented either (a) by the Commission, and/or (b) by the partner country, contractors, grant beneficiaries and entrusted entities. Appropriate contractual obligations shall be included in, respectively, financing agreements, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

In addition the Commission will implement additional and specific communication and visibility activities for the amount of EUR 40 000.

Subject in generic terms, if possible	Type (works, supplies, services)	Indicative number of contracts	Indicative trimester of launch of the procedure
Events organisation	Services	2	1 st quarter of 2015
Visibility materials	Supplies	1	1 st quarter of 2015