

## Action Fiche for Lebanon

### 1. IDENTIFICATION

Title/Number	Support to the Reform of the Judiciary		
Total cost	EU contribution: EUR 5 million		
Aid method / Method of implementation	Project approach – <i>Direct centralised management</i>		
DAC-code	15130	Sector	Legal and Judicial Development

### 2. RATIONALE

#### 2.1. Sector context

In Lebanon, the structure of the judiciary is the result of the historical evolution of its legal institutions and the diversity of its legal sources. Lebanon was largely inspired by the French model for both its civil and administrative courts.

The Lebanese judicial system has to cope with significant problems in terms of efficiency and compatibility with fundamental values, notably the independence of the judiciary. **Efficiency** in the courts has been one of the most pressing issues in the Lebanese judicial system. Delays have resulted in the effective denial of court access, in investors avoiding the judiciary, and in decreasing public confidence. There has been some improvement in the efficiency in the courts, however, a backlog remains. Regarding **Independence**, although the Constitution provides for an independent judiciary, the Lebanese judiciary suffers from violations of the fundamental principle of separation of powers resulting in the lack of independence of the judiciary and undermining the rule of law. Civil society, international organisations and even prominent members of the judiciary have denounced this situation loud and clear.

The project is in line with the EU – Lebanon Action Plan (AP) under the European Neighbourhood Policy that foresees as a priority to develop a comprehensive strategy for judicial reform, including further enhancement of the independence and impartiality.

Furthermore, the recent events in the neighbourhood region reflect the urgent need for greater respect of human rights, pluralism, rule of law and social justice. The recent Joint Communication of the European Commission and High Representative / Vice President "Partnership for Democracy and Shared prosperity with the southern Mediterranean" has been conceived to underpin the process of transition in the region and foresees practical measures to support democracy, human rights, social justice, good governance and the rule of law. The programme proposed by addressing the fundamental issue of the independence of the judiciary is fully in line with these commitments.

## 2.2. Lessons learnt

Up to now, the EU has concentrated its efforts to support the Lebanese Justice in its endeavours for modernisation and to increase the transparency; efficiency, credibility and capacity of the judiciary system by providing support in key specific areas such as automation, training and access to justice.

Regarding automation, the main lesson learnt is that, after having provided the Ministry of Justice with the overall design (IT Master Plan) for the automation and implementation of a first substantive pilot project (Beirut Courts), more ownership and financial responsibility of the Lebanese authorities needs to be fostered if such an important aspect of the judiciary's work is to remain a priority on the agenda. Time has come now to tackle a much needed long neglected fundamental problem of the Lebanese judiciary: its independence.

## 2.3. Complementary actions

The EU has so far supported the Lebanese judiciary in areas that can serve as entry points for broader justice reform. For instance, regarding **training** to the judiciary, EU funded initiatives have reached excellent results in increasing the availability of training for judges, court clerks, recorders, bailiffs and others staff and reinforce the capacities of the Judicial Studies Institute (JSI) and the Beirut Bar Association (over 3.100 judiciary staff trained up to now) .Regarding **automation** of courts, the EU supports efficiency and enhances transparency trough the project “Modernisation of the Lebanese Justice” (EUR 10 million) focusing on the full automation of the Beirut Court.

Other complementary efforts are supported by the EU to improve access to justice (project with United Nations Development Programme (UNDP), EUR 1.1 million) as well as to link its support for the judicial system with the strengthening of the Lebanese security sector and capacity to enforce the rule of law particularly in criminal investigations and the fight against crime (project "Security and Rule of Law", EUR 4 million).

Most of the EU Member States limit their support to punctual specific training programmes and ad hoc expertise exchange with judiciary staff. France has been very active in this sense. Italy has recently funded International Development Law Organisation to put in place a training project (EUR 500,000) targeting improving of case flow management and specialised training in specific areas such as cybercrime. The coordination is already in place to avoid overlaps with the ongoing EU funded project.

The UNDP has placed a unit within the Ministry of Justice to improve access to justice for the citizens, work on the availability to judges of legal documentation, and to support the Ministry of Justice to achieve a more human-rights based administration of justice. United States Agency for International Development until December 2010 has been active in providing support to strengthen the independence of the Judiciary in Lebanon concentrating its efforts on judicial infrastructure.

## 2.4. Donor coordination

The coordination is chaired by the Ministry of Justice and managed by UNDP in order to coordinate the efforts of the donor community and to exchange information about present and previous projects. The EU as major donor acts as an informal coordinator through the implementation of its programmes organising ad hoc meetings ( i.e. training).

## 3. DESCRIPTION

### 3.1. Objectives

The **general objective** is to contribute to a more independent and performing Judiciary system in Lebanon, thus increasing its legitimacy and trust among the Lebanese public.

The **project purpose** is to improve the functioning in line with principles of democracy and good governance.

The project is articulated in 2 components:

- (1) Support the Judiciary Institutions linked to the independence and efficiency of the judiciary to boost the independence **of the judiciary and improve its efficiency.**
- (2) Support to launch a **participatory national debate** fostering the process of reform for an Independent Judiciary in line with best practices and standards and implement its conclusions.

The project also envisages an "**Ad Hoc Justice Support**" to develop emerging windows of opportunity leading to increase the independence and improved the performance of the justice sector.

### 3.2. Expected results and main activities

#### **Component 1 "Support to Judicial Institutions"**

##### **1.1. Support to the High Council for the Judiciary**

Expected result 1.1: The High Judicial Council capacity to perform as an independent body that provides general oversight for the judiciary is improved.

The activities developed under this result will include:

- Drafting of legislative and administrative proposals to consolidate the HCJ as an independent body that provides general oversight for the judiciary, ensures its proper functioning and its independence.
- Develop sound and objective criteria for the selection, transfer and promotion of judges.

- Assessment of possibilities for the improvement of the judicial career systems balancing a merit based approach with sound guarantees of independence.
- Definition of the ethical standards to be respected by the judicial and their implications in terms of liability and disciplinary actions.

## **1.2. Support to the Judicial Inspection**

Expected result 1.2: The Judicial Inspection capacity to be an efficient and independent body able to audit and evaluate the functioning of the Lebanese justice system and its skills to perform verifications efficiently, are improved.

The activities developed under this result will include:

- Drafting of legislative and administrative proposals to consolidate the Judicial Inspection as an independent body that ensures the analysis, verification and control within courts and prosecution offices in an efficient; fair and transparent manner.
- Develop modern practices in conducting judicial investigations.
- Develop a system for the monitoring of the performance of judicial institutions and individual judges.

## **1.3. Support to the State Council**

Expected results 1.3.1: The State Council has an improved regulatory framework.

The activities developed under this support will include:

- Provide support to undertake the complete revision of the statutory act of the State Council.
- Provide support to implement the new mechanisms and that the revised statutory act will entail.

Expected results 1.3.2: The State Council has improved both the advisory role on legislative, regulatory and administrative matters as well as the administrative litigation mandate.

The activities developed under this support will include:

- Identify, develop and support the implementation of measures to improve the advisory and administrative litigation mandate of the Council of State.

## **1.4. Support to the Institute for Judicial Studies**

Expected results 1.4.1: The Institute for Judicial Studies has strengthened its capacity, its autonomy and its sustainability to contribute to ensuring a high standard of judicial knowledge and performance.

The activities developed under this support will include:

- Drafting of legislative and administrative proposals to consolidate the IJ as a sustainable, independent body that can define and implement a training strategy that supports to improve the judicial performance.
- Support to the Judicial Training Institute in the elaboration/implementation of a comprehensive continuous training strategy including support for the development of curricula and drafting a methodology to replicate trainings.
- Drafting a training action plan detailing needs and prioritising trainings within budget constraints.

Expected results 1.4.2: The judiciary staff has increased the professional skills and competences through the provision of highly specialised training.

The activities developed under this support will include:

- Training to members of the legal professions paying particular attention to the so called new fields of law such as environmental law, intellectual property, telecommunications, e-commerce.
- Consolidation of training to trainers methods to ensure the sustainability of the training provided.

## **Component 2 "Participative debate on the reform towards an independent Judiciary"**

Expected results 2.1: The awareness of the need of an independent justice for democracy is increased.

The activities developed under this support will include:

- Launch a national participative debate on the need for the independence of the judiciary through the **organisation of fora** ensuring that all concerned stakeholders within the judiciary, the legislative and executive power and the civil society (including the private sector) are involved. The aim of this debate is to sensitise the Lebanese society on the importance of an independent Judiciary and on the need to reform the judiciary. Among others this debate should target the following fundamental issues regarding the independence of the justice system such as general independence including provision of adequate resources, appointment of judges, guaranteed tenure and conditions of service, freedom of expression and association or confessionalism.

Expected results 2.2 Legislative proposals have been drafted oriented to ensure the independence of the judiciary.

The activities developed under this support will include:

- Support the recommendations of the fora proposing feasible steps and drafting of legislative and administrative proposals towards reforming the legal and institutional framework to better guarantee the independence and the efficiency of the Judiciary.

Expected results 2.3 The civil society is strengthened to be an effective watchdog of the independence of the judiciary.

The activities developed under this support will include:

- Support the civil society to become a vector to monitor the independence, transparency and efficiency of the judiciary.

### **"Ad Hoc Justice Support"**

The Lebanese government collapsed in January 2011 and has plunged the country into a political crisis and a subsequent institutional paralysis. The current caretaker government cannot take any policy decisions or commit future governments launching initiatives or developing programmes on issues that go beyond routine administration such as the independence and the efficiency of the judiciary.

Under the "Ad Hoc Justice Support" the EU Delegation will have the opportunity to support preparatory work such as studies and emerging initiatives to reinforce the independence and effectiveness of the justice during the duration of the programme.

### **3.3. Risks and assumptions**

The assumptions for the success of the project and its implementation include:

- The Lebanese institutions maintain their commitment to reform the Lebanese judiciary and to reinforce the justice sector in Lebanon.
- The Judiciary is willing to embark upon a step-by-step process of reform and independence, and is possibly given the necessary budgetary autonomy and staff to implement its mandate.

The main risk is represented by:

- The unstable security and political situation of the country, in which the delicate balances between the different political forces could create a prolonged governance crisis.

### **3.4. Crosscutting Issues**

Good governance, gender equality and human rights are at the core of this action and will be mainstreamed through the implementation of the project. There is no **good governance** without rule of law and rule of law is based on an effective and independent judiciary. Fostering the independence of the justice system highly contributes to Good Governance, particularly through promoting accountability of **human rights** violations. **Women** play a significant role in the Lebanese judiciary (they account to date for 34% of the body). The activities proposed in this project will consolidate this trend mainstreaming gender equality at all times. Regarding **environment**, a more independent and efficient judiciary will contribute to protect the environment by enforcing the related regulation.

### 3.5. Stakeholders

A stakeholder analysis was undertaken during the identification and formulation phases. The analysis of the institutional framework and the organisational and implementation capacity was assessed thoroughly. The stakeholders concerned are as follows:

- The **High Judicial Council** which represents the Judiciary and is intended to function as an independent body that provides general oversight for the judiciary.
- The **Judicial Inspection** that has an essential mandate to audit and monitor the conduct of judges and is a key player for the independence of the Judiciary in a democratic State.
- The **State Council** which is a key actor for bringing justice closer to the citizens ensuring the legality and accountability of the public institutions.
- The **Judicial Studies Institute** in charge of the training for all judiciary professions.
- The **civil society**, Lebanon has a vibrant civil society, involved in monitoring and reporting on the patterns and trends in the area of human rights, justice and good governance.

## 4. IMPLEMENTATION ISSUES

### 4.1. Method of implementation

Direct centralised management.

The envisaged implementation method for component 1 is twinning. If contracting of twinning for the capacity building operations proves to be infeasible (i.e. repeated unsuccessful calls for proposal), contracting of technical assistance through a service or a grant contracts may be foreseen. The envisaged implementation method for component 2 is grant contracts through call for proposals. As a fall back option, contracting of technical assistance through a service contract may be foreseen.

The "**Ad Hoc Justice Support**" could be implemented through services, supplies or grant contracts.

### 4.2. Procurement and grant award procedures

#### (1) Contracts

All contracts implementing the action must be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

Participation in the award of contracts for the present action shall be open to all natural and legal persons covered by the ENPI Regulation. Further extensions of this

participation to other natural or legal persons by the relevant authorising officer shall be subject to the conditions provided for in Article 21(7) ENPI.

## (2) Specific rules of grants

The essential selection and award criteria for the award of grants are laid down in the Practical Guide to contract procedures for EU external actions. They are established in accordance with the principles set out in Title VI 'Grants' of the Financial Regulation applicable to the general budget. When derogations to these principles are applied, they shall be justified, in particular in the following cases:

- Financing in full (derogation to the principle of co-financing): the maximum possible rate of co-financing for grants is 80%. Full financing may only be applied in the cases provided for in Article 253 of the Commission Regulation (EC, Euratom) N° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Financial Regulation applicable to the general budget.
- Derogation to the principle of non-retroactivity: a grant may be awarded for an action which has already begun only if the applicant can demonstrate the need to start the action before the grant is awarded, in accordance with Article 112 of the Financial Regulation applicable to the general budget.

### 4.3. Indicative budget and calendar

The operational duration of the project will be 48 months. The indicative breakdown of the budget is the following:

<b>Categories</b>	<b>EU contribution (in EUR)</b>
<b>1. "Support to Judicial Institutions" (twining/services/grants)</b>	<b>3,000,000</b>
1.1 -Support to the <b>High Council for the Judiciary</b>	750,000
1.2 -Support to the <b>Judicial Inspection</b>	250,000
1.3 -Support to the <b>State Council</b>	500,000
1.4 -Support to the <b>Institute for Judicial Studies</b>	1,500,000
<b>2 "Participative debate for an independent Judiciary" (Grants/Services)</b>	<b>1,000,000</b>
<b>"Ad Hoc Justice Support" (services/supplies/grants)</b>	<b>500,000</b>
<b>Communication/Visibility</b>	<b>100,000</b>
<b>Monitoring, External Evaluation and Audit</b>	<b>150,000</b>
<b>Contingencies</b>	<b>250,000</b>
<b>TOTAL</b>	<b>5,000,000</b>



#### **4.4. Performance monitoring**

In the Financing Agreement a set of **key monitoring indicators** will be detailed for each activity in the logical frameworks.

The general key indicators for each component will be as follows:

##### **Component 1 "Support to Judicial Institutions"**

- Introduction in the lawmaking process (at either legislative or administrative level) of proposals for the strengthening of the each of the Judiciary Institutions targeted.

##### **Component 2 "Participative debate for an independent Judiciary"**

- Increased awareness on the need to reform the judiciary to enhance its independency and increased skills to catalyse and monitor a reform.

The performance will be monitored and evaluated through predefined milestones, periodic visits and regular reporting. The project will be subject to both internal and external result oriented monitoring. The internal monitoring functions will be carried out by the EU Delegation in Beirut. The external monitoring will be undertaken by external monitors

#### **4.5. Evaluation and audit**

Independent consultants recruited directly by the Commission will conduct one mid-term evaluation mission, one final evaluation and possibly an ex-post evaluation.

The Beneficiary and the Commission shall analyse the conclusions and recommendations of the mid-term evaluation and jointly decide on the follow-up action to be taken and any adjustments necessary, including, if indicated, the reorientation of the project. The reports of the other evaluation and monitoring missions will be given to the Beneficiary, in order to take into account any recommendations that may result from such missions. If necessary ad hoc audits will be contracted by the European Commission.

#### **4.6. Communication and visibility**

The Delegation will put in place a communication strategy to ensure that the support provided by the EU to the justice sector both to the judiciary institutions and other relevant stake holders, in line with its commitments under the European Neighbourhood policy and the recent Communication "Partnership for Democracy and Shared prosperity with the southern Mediterranean", is acknowledged by all parties.

All visibility activities will adhere to the European Union's requirements for visibility on EU funded activities, as described in the published "EU Visibility Guidelines" at [http://ec.europa.eu/europeaid/work/visibility/index\\_en.htm](http://ec.europa.eu/europeaid/work/visibility/index_en.htm).