This action is funded by the European Union

**ANNEX 2**

in favour of the Republic of Fiji

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<tbody>
<tr>
<td>2. Zone benefiting from the action/location</td>
<td>The Republic of Fiji</td>
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<tr>
<td>4. Sector of concentration/thematic area</td>
<td>Governance Sector: Justice development and access to justice</td>
</tr>
</tbody>
</table>
| 5. Amounts concerned | Total estimated cost: EUR 8.250 million  
Total amount of EDF contribution: EUR 7.5 million.  
This Action is co-financed in joint co-financing by UNDP for an amount of EUR 0.75 million. |
| 6. Aid modality(ies) and implementation modality(ies) | Project modality.  
Indirect Management with UNDP |
| 7. DAC code(s) | Legal and Judicial Development: 15130 |
| 8. Markers (from CRIS DAC form) | General policy objective | Not targeted | Significant objective | Main objective |
| participation development/good governance | ☐ | ☐ | ☒ |
| Aid to environment | ☒ | ☐ | ☐ |
| Gender equality (including Women In Development) | ☐ | ☐ | ☒ |
| Trade Development | ☒ | ☐ | ☐ |
| Reproductive, Maternal, New born and child health | ☒ | ☐ | ☐ |
| RIO Convention markers | Not targeted | Significant objective | Main objective |
The Access to Justice Programme responds to the National Indicative Programme's (NIP) focal area 2 with an allocation of EUR7.5 million. Following Fiji's return to democracy in 2014, the Action will contribute to fostering democracy, governance and political stability. Within the overall framework of public administration and governance reform, the Action will focus on improving the functioning of the justice system and facilitating better access to justice for the underprivileged. The Legal Aid Commission (LAC), the Judiciary and other relevant institutions will benefit from substantial capacity building efforts through training, technical assistance and provision of basic equipment. Non-Governmental Organisations will be supported to assist the Legal Aid Commission in reaching out to Fijian citizens. They will assist with public communication efforts and deliver legal and social accompaniment services, with a particular focus on vulnerable population, women, youth and people in informal settlement areas. The Action will be implemented by UNDP through a Delegation Agreement.

While needs of the justice sector are numerous, the Action will only cover specific technical assistance and capacity building of selected public institutions and provide support to the NGOs to implement communication and accompaniment services. The LAC and the Judiciary will be the entry points through which other legal and judicial institutions will benefit from the Action. NGOs will be selected by UNDP and the LAC based on relevant expertise and implementation records. Cooperation with international organisations (e.g. ILO, UNWOMEN) will be sought for specific legal aspects and with private organisations for specific procurement (e.g. Lexis Nexis for the Law reports)

The Action will not resort to supplementation (i.e. supporting recruitment of additional personnel in public institutions) will not pay salaries of officials nor contribute to the construction of physical infrastructure.

### 1.1 Sector/Country/Regional context/Thematic area

Fiji is an independent sovereign state comprising of some 322 islands. The two main islands are Viti Levu (south) and Vanua Levu (north). It is a middle income country with a population of around 900,000. The population comprises principally of indigenous Fijians and Indo-Fijians forming respectively approximately 60% and 40% of the population. Following the independence from UK in 1970, there has been a history of ethnic divisions since independence. The country has been subject to 4 coups d'état and was under military regime from 2006 to 2014. Cotonou Article 96 cooperation restriction, in force since 2007, was lifted in March 2015 following the adoption of a new Constitution in 2013 and parliamentary elections in September 2014.

Good governance, including a functioning justice system, is a fundamental element of a stable society and of particular relevance in Fiji following almost three decades of political instability. The Fiji Roadmap for Strategic development (RDSSED) 2010-2014 recognises this and identifies governance as
a strategic pillar, whilst prioritising the strengthening of law and justice\(^1\). Government acknowledges as well that the capacity of the Public Sector must be strengthened if it is to improve its efficiency, effectiveness and overall service delivery.

The Fijian legal system is based on the Common Law model. It is defined in the 2013 Constitution which is the supreme law of the State. The Constitution must be upheld and respected by all persons holding a public office and is to be enforced through the courts. The document foresees an “independent, impartial, competent and accessible” system of justice and “equality for all” as key values. Access to justice in Fiji is open to everybody: it is a constitutional right and there is no discrimination in practice. Those who cannot afford a lawyer can generally benefit from free assistance from the Legal Aid Commission. The Constitution also includes fundamental values such as the respect for the rule of law, freedom and human rights. In that respect, Fiji has ratified a number of relevant conventions and treaties\(^2\) in relation to the rights of women, children and persons with disabilities. Survey on Corruption perception\(^3\) shows that progress has been made since 2007, with the judiciary corruption perception index being average, slightly above NGOs and the military but well below Political parties and the private sector.

The justice sector is well established and functioning, and the Courts are seen to be serving the Fijian population in a fair and transparent manner.

Women across the different communities in Fiji are recognised as a vulnerable group in a society which remains patriarchal and traditional, with discrimination practices deeply rooted within the society. Women are often absent from high level decision-making processes and are underrepresented in local governance system. Young women and girls are also particularly marginalised with the effect of gender discrimination compounded at times by ethnicity, sexual orientation and socio-economic status. Violence against women, and children, in Fiji is a concern. Women generally lack basic understanding of their own rights and do not resort to the Courts for redress as such approach would be discouraged by their community. Fiji has made commitments to several major international agreements, including Convention on the Elimination of Discrimination Against Women, and has encouraged programmes of action on gender equality and the advancement of women.

Concerning access to justice for children/juveniles, there has been little support to the judiciary and the various independent judicial institutions despite efforts toward the police (measures that are tailored to address the needs of children in conflict with the law as well as children who are victims of crime). Cases of commercial and sexual exploitation of minors and trafficking have been noted in the past and efforts by the Ministry of Women to improve the situation are on-going.

Similarly, people living in informal settlements are migrants from remote rural areas of Fiji, with limited financial means and only basic education. These pockets of poverty, with poor access to running water, sanitation or electricity at times, are growing throughout Fiji. Some 100 settlements are acknowledged today, with population ranging from a few dozen to a few hundreds. People in settlements have limited opportunities to understand their legal rights, to exercise those rights and to access justice.

Fiji’s justice system faces a range of challenges (e.g. updating of laws, limited capacities and resources, limited awareness and access to justice for the poor), which can be addressed only methodically over a

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\(^1\) A new national strategy will be developed in 2015 and is expected to maintain priorities stated in the RDSSED.

\(^2\) CEDAW (Convention on the elimination of all forms of discrimination against women) ratified in 1995. 5\(^{th}\) periodic review was due on July 2014; CRC (Convention on the Rights of the Child) was ratified in 1993 and 2005; CERD (Convention on the elimination of racial discrimination) in 1973; CRPD (Convention on the rights of persons living with disabilities) in 2010.

\(^3\) 2013 Transparency International
multi-generational period. Yet opportunities exist for progress which this Action will support over the next five years (see section 1.1.3).

1.1.1 **Assessment and EU Policy Framework**

EU support for the governance and justice sector all over the world is rooted in the fundamental principles driving European Union development cooperation. It is one of the main avenues for promoting democratic governance, the rule of law, citizen security, gender equality and respect for human rights, and thereby achieves sustainable socio-economic development. Such approach is of even more relevance in countries like Fiji which have a long history of political instability.

The EU’s ‘Support to Justice and the Rule of Law’ review document of 2012 includes recommendations for an increased problem solving and service delivery approach in support to the justice sector. A combination of support including institutional development, legal empowerment of people and provision of assistance to the people to access justice is considered the best approach to achieve concrete results. All these elements are supported in this Action Document.

1.1.2 **Stakeholder Analysis**

According to the 2013 Constitution, the Justice Sector is composed of multiple actors of which the most relevant to the Action are identified below.

**The Executive:** The main stakeholders from Executive branch are the Government of Fiji (GoF), including the Police and Correction services. In this context, the Attorney General (AG) (also Minister of Justice) is a key actor for the sector. He is a Member of Parliament, appointed by the President on the recommendation of the Justice Services Commission. The AG is currently the Minister of Justice and the Minister of Finance. As Attorney General, he is the chief legal adviser to the GoF. His office takes care of legal reforms, revision law reforms, the law library and the Board of Legal Education. Of particular relevance to the Action is the Board of Legal Education which defines the area of trainings and the contents of curricula for all lawyers in Fiji. The Board of Legal Education is headed by the Solicitor General and representatives of academics, lawyers and CSOs members are part of it as well.

**The Judiciary:** This is the core of Justice System and the main beneficiary of this Action. The Judiciary is independent and includes the main Courts of the justice system and the judicial officers. It composes of 60 Magistrates and Judges in Fiji (around 45 Magistrates and 15 judges), and approximately 250 lawyers. Judiciary Institutions include the Chief Justice, the Judicial Service Commission and Chief Registrar. The Chief Justice is central for this Action. He is the Chairperson of the Judicial Services Commission, whose role is to ensure efficient functioning of the Judiciary, and also part of the Executive branch perform functions in the absence of the President. Chief Registrar is the secretary of the Judicial Services Commission and provides operational support to the magistrates and judges. Through the Chief Justice and the Chief Registrar, the Action will reach out to the entire Judiciary.

The main **Courts of Fiji** are the Supreme Court, the Court of Appeal, the High Court, all three based in Suva, and sixteen Magistrates' Courts based in the main towns of Viti Levu (14) and Vanua Levu (2). Lower courts include a.o. the Family Courts, Small Claims Tribunal, with jurisdiction on cases inferior or equal to FJ $5,000 (circa EUR2,200), and Tax Courts and Tribunal. Employment relations tribunal and mobile tribunal for which sittings take place at schedule times throughout the country complete the picture of the Court System in Fiji.

The **Magistrates' Courts** are an important partner for this Action. These Courts mainly have jurisdiction on criminal traffic court cases, civil jurisdiction, civil court procedures, law enforcement but also Small Claims tribunal appeals, Juvenile Court and Domestic Violence Restraining Order.
Family Courts are also important to this Action. They are located in the main cities of Viti Levu (8) and Vanua Levu (2). Family Courts have under their jurisdictions cases related to Children custody, dissolution of marriage, property settlement, abuses and violence, as well as counselling services.

Independent Judicial and Legal Institutions include the Solicitor General, the Legal Aid Commission, the Director of Public Prosecution (DPP) and the Fiji Law Society. The Solicitor General (SG) is a key actor. He is responsible for providing independent legal advice to Government and for preparing draft laws on the request of Cabinet, maintaining a publicly accessible register of all written laws and representing the State in Court. He is also the Chairman of the Board of the Legal Aid Commission (LAC).

The Legal Aid Commission will be a central partner in this Action. It was established in 1996 but only officially recognised in the 2013 Constitution. The LAC is mandated to provide free legal representation and advice to Fijians who earn less than 15,000 FJD per year (circa EUR6500). The LAC is independent and has control of its own budget (EUR2M in 2014). It is composed of 50 lawyers (for a total of 130 staff) and has offices throughout the country. The LAC is used by many Fijians to access criminal justice (95% of criminal cases are handled by LAC) and family justice, as well as non-contested estates and probate. The LAC provided legal advice in 11,145 cases in 2014, 2523 on criminal matters, 4622 on family matters and 4000 on civil matters (the LAC has recently started to handle civil matters, such as the wills, probate and eviction). Furthermore, the LAC’s duty solicitors provided assistance in a further 2478 cases in 2014 (the duty solicitors provide assistance in cases of immediate need, such as where clients ask for the LAC’s help with handling hearings scheduled for the same day, or with issues such as Domestic Violence Restraining Orders that need to be issued on the same day). The LAC has been significantly strengthened to allow for the opening of new offices in outer islands and remote areas (Rotuma, Taveuni, Kadavu, Levuka, Nabouwalu), hiring of more staff and expanding its responsibilities into aspects of civil law to clients with matters that do not require legal advice or legal representation by practicing lawyers. It is estimated that the LAC assisted at least upwards of 20,000 people in 2014. In the future, the LAC expansion is expected to plateau and efforts to consolidate recent progress will be needed so as to continue delivering services for the most vulnerable.

Other stakeholders for the Action include Constitutional bodies of the Republic of Fiji which contribute to improve access to justice for the people of Fiji on a complementary basis. These are the Fiji Elections office and Election Commission, who may challenge in court decisions affecting disenfranchised citizens, the Human Rights and Anti-Discrimination Commission, whose role is to support citizens whose human rights have been violated, the Transparency and Accountability Commission which, although not established yet, is expected to assist Fijians in their dealing with maladministration and, the Fiji Independent Commission against Corruption which focus on prevention of corruption, education, investigation and prosecution. These bodies play an important role in ensuring that the justice sector delivers appropriately for Fijian people. Support from this Action will help ensure stronger impact of redress mechanisms in Fiji.

Finally a small number of NGOs and other bodies provide legal advice and assistance in particular areas: The Consumer Council, on consumers issues, the University of South Pacific which runs a law clinic, Transparency International which provide legal advice to those affected by corruption, Fiji Women' Crisis Center which provides legal support to female survivors of domestic violence. Some of them are expected to be associated with the implementation of the Action.

Target Group and Beneficiaries

Target groups of the Action will be the citizens of Fiji and in particular the poorest and most vulnerable populations (women, children and people in informal settlements).
The Legal Aid Commission, the Judiciary and selected NGOs will be the main partners of the initiative through which the support will be channeled to enable reaching target groups. The direct beneficiaries will be the justice sector, the justice profession in general and additionally, the NGOs involved in the Action. Other institutions (Fiji Elections office and Election Commission, the Human Rights and Anti-Discrimination Commission, Transparency and Accountability Commission, Fiji Independent Commission against Corruption) will benefit from the Action, in relation to their role in facilitating Access to Justice for the people.

1.1.3 Priority areas for support/problem analysis

Fiji’s justice system faces a range of challenges, which can be addressed only methodically over a multi-generational period.

a. Legal Challenges: this includes the need to consolidate applicable laws, notably through amendment of pre-2014 decrees which are still in force until expressly abrogated (official compilation of the laws of Fiji has not been issued since 1985). In addition, the Fiji Law Report is an important source of law in a common law system, and has not been published since 20024.

b. Limited Capacities across Justice Institutions: The justice sector is small with an estimated 400 people running the sector in Fiji (including judges, magistrates, lawyers and administrative staff). As a result backlogs exist across the justice system. Qualification and experience of judges and magistrates are not always sufficient and, as a consequence, they need additional training across the spectrum of legal topics, from decision-writing and courtroom management to more technical issues of jurisprudence. Private lawyers, estimated at 250 in Fiji, are in short supply as many good lawyers can easily find better paid positions abroad. Lawyers have only limited opportunities to be trained or even informed about the most recent developments in their field. Administrative staff (e.g. clerks, librarians) have only limited access to training opportunities and lack of official and certified translators affect the quality of justice.

c. Limited Physical Infrastructure: Court houses are in limited numbers in Fiji and courtrooms, and equipment are much needed in various locations throughout the country. In remote areas, where some 50% of the population live, access to court justice is limited.

d. Limited Legal Resources: Legal resources are also in limited supply, such as online subscriptions to contemporary case law, Fiji Law Reports, legal reference books, and an updated and official compilation of Fijian law. The Law library also needs to be upgraded.

e. Limited Public Information: Fijians generally lack basic understanding of the legal framework and systems mainly due to the limited capacities of relevant institutions to promote such understanding. Generally, Fijians are neither aware of their rights nor informed about mechanisms to exercise those rights.

f. Limited Access for Poor and Vulnerable people. With some 50% of the Fijian population living in rural areas, and 43% of them living under the minimum annual wage, many people in Fiji do not have the financial means to resort to the law to solve their problems. The most marginalised of the poor, such as women, children and people in informal settlements, are even more affected. The poverty effect is compounded by the traditions in Fiji which often discourages the victims to resort to the modern courts for justice.

4 The “2012 Fiji Law Report” has been issued in 2015.
As Access to Justice for the poor is the mandate of the Legal Aid Commission, the Action will primarily focus at supporting the LAC. The **Legal Aid Commission** is the main entry point for poor citizens to be able to effectively exercise their rights. However, LAC's capacities are limited and request for assistance by the people on the increase. Support is therefore required to ensure that the institutions manage its limited resources efficiently, both, human and financial. Training of lawyers and LAC staff will contribute to the improvement of the efficiency of the LAC and further assist the institution manage the increasing demand, thus improving the quality of services provided and helping reduce backlog case rates. Support to the LAC will contribute to address challenge b, e and f above.

While Access to Justice is a priority for the Government of Fiji, citizens need to be provided with high quality justice services. As capacity constraints are important in the Justice sector, efforts are needed to ensure that the **Judiciary** (judges, magistrates, lawyers and support staff) is efficiently managed and staffs are well trained to deliver the best justice services. The Action will help build capacities of the Judiciary notably through training, technical assistance and access to updated legal information (e.g. Law Report). The Court system will be provided with technical support (e.g. small equipment, court transcribers). Better quality of justice will contribute to reinforce the independence of the Judiciary and entrench the rule of law in Fiji. Support to the Judiciary support will contribute to address a,b,d and e.

To complement the work of the LAC in Family Law, capacity building and technical assistance will be provided to selected institutions: **Fiji Elections office and Election Commission, the Human Rights and Anti-Discrimination Commission, Transparency and Accountability Commission, Fiji Independent Commission against Corruption.** These institutions are central to the democratization process and will complement the work of the LAC on Access to Justice through specific purposes. Support to these institutions will contribute to addressing challenges b and f above.

Finally, NGOs will be instrumental in supporting the efforts of the LAC on Access to Justice, notably addressing issues related to limited public information and access to justice for the most vulnerable. NGOs are important partners that form a natural bridge between official institutions and marginalised populations. They will help increase public awareness about citizens' rights, and mechanisms to exercise them, by developing and implementing communication strategies and tools. They will empower victims to approach the justice system by providing immediate social and legal accompaniment thus addressing the social pressure on the victims which often result in incidents being silenced. Support to NGOS will contribute to address challenges e and f above.

## 2 RISKS AND ASSUMPTIONS

<table>
<thead>
<tr>
<th>Risks</th>
<th>Risk Level</th>
<th>Mitigating Measures</th>
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<tbody>
<tr>
<td>1. Political instability and challenges to the independence of the judiciary and other institutions;</td>
<td>M</td>
<td>1. Continuous political dialogue; modalities of implementation (UNDP); implementation of the Action.</td>
</tr>
<tr>
<td>2. Backlog within the LAC and the judiciary;</td>
<td>M</td>
<td>2. Action efforts to reduce backlog of cases (e.g. case management system).</td>
</tr>
<tr>
<td>3. Lack of Sector Policy and Medium Term Expenditure Framework;</td>
<td>M</td>
<td>3. Government, donors and implementing partners provide support for the definition of a costed sector policy; sector coordination</td>
</tr>
</tbody>
</table>
4. LAC and Fiji Courts not being able to cope with inflow of demands for support, continuous demand for traditional justice;

5. Lack of adequate GoF budgetary allocation and disbursements to meet rising demand;

6. Lack of engagement of NGOs with the GoF and, conversely, lack of engagement of the GoF with NGOs;

7. Lack of awareness and buy-in on the part of GoF, as well as NGOs, of the EU’s support and

8. Lack of measures to ensure sustainability

Assumptions

It is assumed that the GoF will continue to promote the rule of law and seek to strengthen access to justice of all Fijians, as it consolidates and furthers the democratisation process. Furthermore, it is assumed that the GoF will also continue to appreciate the importance of NGOs in relation to access to justice and that NGOs will continue to recognise the GoF’s intentions to work with them productively.

3 LESSONS LEARNT, COMPLEMENTARITY AND CROSS-CUTTING ISSUES

3.1 Lessons learnt

With regards to Fiji, there are few lessons learnt, given the absence of EU-GoF cooperation for the last eight years and limited cooperation in the Justice Sector by other donors. However, evidence from the sugar sector mitigation programme since 2006, as well as the civil society support projects undertaken during the constitutional and election processes in 2013 and 2014, shows that close collaboration between government institutions and NGOs bring positive results for development interventions aiming at the most vulnerable people.

The lessons learned from the recent portfolio evaluations of British, Australian, and European Commission’s justice and security programming are deemed to be broadly applicable. According to the most recent of these portfolio evaluations, the Independent Commission of Aid Impact (ICAI 2015), which reviewed DFID’s security and justice portfolio, capacity building is often an important mechanism by which a donor and country receiving assistance can promote effective development. Capacity building can assist other types of justice programme, particularly access to justice centred upon
local communities and their needs. The ICAI Report also highlights accompaniment as a pivotal variable in access to justice for vulnerable groups.

Lessons learnt can also be harnessed from a global study on legal aid being conducted by UNDP and UNODC to inform the development of integrated plans for the provision of legal aid. The recent completion of the five year Pacific Judicial Development Programme, funded by New Zealand to support fourteen Pacific countries (Fiji not included), provides some key lessons learnt in relation to capacity development of judicial and courts officers. In this context South-South and Triangular Cooperation approach will be adopted where appropriate.

Finally, UNICEF and ILO have implemented minor justice programmes in relation to protection of children and legal awareness/access to justice and trafficking in children respectively. Lessons learnt notably in terms of community involvement and inclusiveness of consultation process will be integrated into the implementation of this Action.

3.2 Complementarity, synergy and donor coordination

With the initiation of this Action, the EU will be the principal donor engaged in justice development. None of the major donors are currently active in broad-scoped justice development initiatives. There is no established coordination mechanism for the justice sector but informal donor meetings take place regularly since 2014 to discuss development aid in Fiji (attended by UNDP, DFAT, New Zealand and US mainly). The implementation of the initiative through UNDP will allow for sector coordination to be initiated thus improving implementation of activities as well as providing space for other donors to step in.

This Action complements existing and anticipated donor efforts. Australia is currently investigating the possibility of initiating a commercial justice project in order to strengthen the rule of law and the enforcement of commercial contracts in Fiji. Singapore is reported to be planning to assist the GoF to establish a Mediation Centre and UNDP, through Japanese funding, will support the Ministry of Women, Children, and Poverty Alleviation on mobile justice through the purchase of three buses by which staff will conduct outreach. UN Women is currently working on a Gender Justice for the Pacific. A number of donors (DFAT, New Zealand, USA, EU) also support NGOs working on legal matters (see section 11.2) or providing advice and shelters for survivors of violence.

3.3 Cross-cutting issues

A central element of the intended Action is to enhance the ability of women, girls and the youth to exercise their rights, notably through the accompaniment component. Other vulnerable groups, such as informal settlements and urban poor, are to be included as targeted groups. Elderly and disabled persons who cannot easily access the justice system will also be considered. It is anticipated that activities proposed in this Action will have minimal negative impact on the environment. Finally, democratic consolidation, cross-institutional cooperation and trust-building between GoF and NGOs will be encouraged by the Action.

4. Description of the action

4.1 Objectives/results

The overall objective of the Action is to contribute to the enhancement of governance systems in Fiji, with a particular focus on facilitating better access to justice for all citizens.

The specific objectives are to improve access to justice in Fiji, particularly for poor and vulnerable citizens; to increase the efficiency and quality of justice provided by the LAC, courts and other institutions; to increase the capacity of the LAC, courts and other institutions.
The main activities of this support are divided into two components: institutional capacity-building for key institutions and support to access to justice through communication and accompaniment for vulnerable groups facilitated through local NGOs.

Component I: Institutional Capacity Building

Capacity building will occur across principal institutions and agencies of Fiji’s justice systems, including (1) the Legal Aid Commission and (2) the Judiciary and, on an ad-hoc basis, selected other institutions (the Fiji Elections Office and Election Commission, the Human Rights and Anti-Discrimination Commission, the Transparency and Accountability Commission, Fiji Independent Commission against Corruption). Component I comprises approximately 80% of the total Action budget.

Component I.1 Legal Aid Commission

The first part of component I will focus on strengthening the capacity and the delivery of services of the LAC. The Action will work to improve LAC’s case management database in order to enable it to analyse a.o. bottlenecks in the legal system, what legislation may be most in need of amending, which groups of the population are lacking in legal awareness etc. The database will also allow the LAC to accurately measure the results of its work.

As the LAC does not currently have policies and procedures in place that would enable it to measure the quality of its work as an organisation, the project will help introduce quality-monitoring procedures in the LAC.5

The Action will also assist the LAC in strategizing and developing its priorities for the forthcoming period and implement a number of capacity-building initiatives, beginning with training for its lawyers and administrative staff. A training needs assessment will be conducted as the basis from which a training programme will be initiated. Thereafter, the Action will execute that plan with annual programmes prepared to ensure that justice continue to be served while training is gradually implemented. Training plans will mainly include capacity building in human resources and technical assistance but will also include specific procurement of small equipment required to ensure full use of the training provided and sustainability of the capacity building initiatives supported.

The Action will further build the capacity of the LAC by obtaining further sets of law reports from jurisdictions whose case law is often invoked by Fijian judges (such as Australia or England) and will also enable the LAC to build its capacities through regional and international exchange.

Further, the Action will assist the LAC in providing a better quality of justice for an increased number of beneficiaries: it will support the LAC in opening 5 new offices in remote areas of Fiji and will assist with the establishing a toll-free hotline, through training and procurement of small equipment. Similar hotlines are operated by other institutions in Fiji, including FICAC, and they have proven to be a success in allowing citizens in remote areas to access difficult-to-reach institutions.

Finally, two important elements of LAC’s work are its outreach programming to inform the Fijian public of their rights and its cooperation with NGOs. The LAC will work in tandem with NGOs in realising these elements under component II of this Action. Specific assistance for this crucial activity will be provided by the Action.

5 For instance, comparative legal systems utilise tools such as: random audits of legal aid providers’ case files by experienced practicing lawyers, interviews with clients and other parties to the case (including the sitting judge and the other party’s lawyer), and others.
Component 1.2 Judiciary and other institutions
The second part of component I will focus on strengthening the capacity and the delivery of services of the judiciary and other institutions. Its first result will be to introduce an automated case management database in order to enable the judiciary to accurately measure the results of its work thus allowing evidence based policy and legislative changes to take place if required.

Further, the Action will assist the judiciary and other institutions in strategizing and developing its priorities for the forthcoming period. The Action will also implement a number of capacity-building initiatives for the judiciary and other institutions, beginning with training for judges and other staff. A training needs assessment will be conducted as the basis from which a training programme will be initiated. Thereafter, the Action will execute that plan with annual programmes prepared to ensure that justice continue to be served while training is gradually implemented, using the same approach proposed for the LAC. The training needs assessment will be accompanied by a feasibility study on whether and how a more permanent judicial training institute can be set up.

The Action will further build the capacity of the judiciary by supporting it in producing Fiji Law Reports (FLR) which will be made available widely to judges and clerks in courts across Suva, either in hardback or electronically. As with the LAC, the Action will also procure for the judiciary a further sets of law reports from jurisdictions whose case law is often invoked by Fijian judges.

Moreover, the Action will assist the judiciary in providing a better quality of justice for an increased number of beneficiaries and support the opening three information centres in courthouses (in Suva, Lautoka and Labasa) which will be manned by trained staff able carry out basic notarial services for the public. Finally, as the Action implementation progresses, attention may also be paid to alternative justice through the development of alternative dispute resolution mechanism.

To ensure sustainability of the activities, supported institutions will present a strategic plan that will demonstrate that supported activities will contribute to the achievement of the institutions' objectives by the end of the Action implementation (2020).

The following results are to be achieved as part of component 1:

Result 1: Enhanced functioning of LAC, courts and other institutions by improving their professionalism, management competences and technical capacities for effective and efficient delivery of justice.

Indicators may include: Case management databases operational for LAC and courts within 18 months of the start of the project; Quality monitoring policies and procedures adopted by LAC within two years of the start of the project; The production of strategies for a five-year period for LAC, courts and relevant institutions after 12 months of the start of the project; The creation and implementation of key management and human resources policies and procedures in LAC within two years of the start of the project; The production of a training needs assessment and a training plan within 6 months of implementation and the beginning of its realisation in LAC, judiciary and institutions; The participation of LAC, courts and institutions in at least three international exchanges over the duration of the project. Availability of other countries law reports within 18 months of the start of the project and production of Fiji Law Reports over the duration of the project, the first one published within the first 12 months of the start of the project.

Result 2: Better quality of justice for an increased number of beneficiaries delivered by LAC and courts.
**Indicators** may include: Five LAC offices, three information centres in courts and a hotline opened and operational, with increasing numbers of users over the duration of the project; Court users’ perception and general public perception of LAC and court efficiency and quality improved by at least 20% nationwide (compared to the baseline survey of relevant stakeholders).

The baseline survey of relevant stakeholders will be followed by regular measurement of key findings (knowledge, impact of training etc.) This indicator is relevant for results 1 and 3 as well.

**Component II - Accompaniment and Access to Justice**

This component will provide support to improving access to justice through a collaboration between NGOs and justice institutions generally, and the LAC in particular. NGOs will deliver accompaniment services to ensure citizens, including the poor and vulnerable, get full access to justice services. NGOs will also assist in communication efforts to promote access to the justice system. The NGOs will be organised in a consortium and will cooperate closely with the LAC by referring members of the public in need of legal assistance. This component of the Action comprises approximately 20% of the total budget.

Component II will feature the creation of a network of community advocates. They will serve as a point of contact to access to justice for the community and will be able to provide its members with accompaniment – in other words, serving as a point of contact to access to justice. Accompaniment is primarily conceived as providing help to vulnerable citizens by trained lawyers and/or through the establishment of community advocate teams, helping to inform about the role of the justice system, and providing access to emotional and psychological support. The community advocates’ network will be created out of existing community advocates that the NGOs have previously worked with. Finally, assistance may also be available through the NGOs to ensure that transport, accommodation and day care for children, sheltering of victims for women and children are met.

However, the community advocates have differing levels of experience and ability and are thus in need of capacity building. More specifically, the NGOs will conduct a scoping study to refine the needs of the community and of the advocates and how they can best help to fulfil the goals of the project. 4 areas will be selected in which this model of accompaniment should be piloted.

NGOs will be provided with appropriate technical assistance and training to develop communication strategies to raise awareness towards access to justice. They will be assisted in developing and implementing the accompaniment scheme in the areas designated for piloting, in establishing clear criteria for vulnerable people to access the services and protocols to be followed. Access to justice in relation to child justice will also be an area of focus. This could include work with youth groups and the education system (e.g. civic education classes, organizing young councils at school) and organising annual Child Justice Forum gathering various actors from the justice system, universities, research centres etc.

**The following result is to be achieved by component II:**

**Result 3: Accompaniment services delivered to poor and vulnerable citizens**

The project will gauge the capacity of community advocates and tailor capacity-building activities accordingly. The training will be provided in at least 4 communities picked for piloting this initiative. The project will assist the community advocates in providing accompaniment services and in raising awareness.

**Indicators** may include: The realization of accompaniment services in at least 4 communities used for piloting this initiative within the timeframe of the implementation's period of the project; The realisation of awareness raising activities, including campaigns, local media outreach and community information...
sessions, in cooperation with the LAC.

4.2 Main activities

Component I

Result 1: Enhanced functioning of LAC, courts and other institutions by improving their professionalism, management competences and technical capacities for effective and efficient delivery of justice

The main activities that should be undertaken to achieve this result may include:

- The procurement, installation and training for the utilisation of two servers to bolster LAC’s ICT infrastructure.
- The creation of case management databases for LAC and the judiciary and training for their utilisation, including on data analysis.
- Assistance in the production of reports and recommendations based on the analysis of the data with a view to generating evidence-based policy making and legislation.
- The provision of technical support to LAC to develop quality monitoring policies and procedures, criteria for evaluating the quality of assistance provided and other tools.
- The execution of a baseline survey to evaluate issues such as the knowledge of staff, the quality of assistance provided by LAC, the judiciary and other institutions and the subsequent execution of follow up surveys to gauge the impact the project has had on the quality of their work;
- The provision of technical support to support the LAC and the judiciary in the production of their strategies for a five-year period;
- Support to the LAC, the judiciary and other institutions in accessing international and regional knowledge networks.
- Support to the LAC, the judiciary and other institutions for the production and execution of a training plan, and the evaluation of its subsequent impact;
- The provision of technical support to support the judiciary in carrying out a Feasibility Study on the founding of a judicial training institute;
- Obtaining and making available at least two major law reports from countries used as comparative sources of law by Fijian lawyers and courts (such as Australia, New Zealand and England and Wales).
- The provision of technical support to produce all outstanding Fiji Law Reports (for the years 2003-2011 and 2013-onwards);

Result 2: Better quality of justice for an increased number of beneficiaries delivered by LAC and courts

The main activities that should be undertaken to achieve this result may include:

- Procurement of furniture and equipment to support the functioning of legal aid offices opened in remote areas and outer-islands including Kandavu, Levuka, Taveuni, Rotuma, and Nabouwalu, the functioning of a hotline and the functioning of three information offices in courthouses;
- Procurement of necessary equipment and services for the establishment of a hotline;
- Training of LAC lawyers to operate the hotline and of lawyers manning information centers in courthouses on handling clients’ needs.
• Baseline survey in 2016 on citizens’: (i) knowledge of court mandate and procedures; (ii) rights before the court; and (iii) opinion of court effectiveness and quality
• The realisation of an awareness-raising campaign by the judiciary on the role of courts, citizens’ rights under the Constitution and in court and on how to access justice in the judicial system.

Component II
Result 3: Accompaniment services delivered to poor and vulnerable citizens

The main activities that should be undertaken to achieve this result may include:
• Support to NGOs in carrying out community consultations and community information sessions that will feed into a Scoping Study on the capacity-building needs of community advocates;
• Training of community advocates and a baseline study on their knowledge;
• Support to NGOs in carrying out a mid-term and a final evaluation of the impact of training after two years of the realisation of the project.
• Support to NGOs in providing accompaniment services to victims of domestic violence and other clients;
• The realisation of awareness raising activities, including campaigns, local media outreach and community information sessions, in cooperation with the LAC
• A baseline study on the legal knowledge and awareness of citizens;

5 IMPLEMENTATION

5.1 Financing agreement
In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 17 of Annex IV to the ACP-EU Partnership 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 60 months from the date of entry into force of the financing agreement.

Extensions of the implementation period may be agreed by the Commission’s authorising officer responsible by amending this decision and the relevant contracts and agreements; such amendments to this decision constitute non-substantial amendment in the sense of Article 9(4) of the Annex to Regulation (EU) No 322/2015.

5.3 Implementation modalities: Indirect management with UNDP
This action may be implemented in indirect management with the United Nations for Development (UNDP) in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012, applicable by virtue of Article 17 of the Annex to Regulation (EU) No 567/2014.

This implementation is justified because UNDP has a well-established presence in Fiji (with around 100 staff and long-term experts). Moreover, UNDP has a unique mandate to assist Fiji on governance matters and has had extensive experience in support to Fiji institutions in the past (e.g. Parliament programme recently, with EU support). The organisation has an access to justice related programme ongoing with the Ministry of Women, as well as experience in managing civil society programmes, for the EU and other donors, providing excellent visibility to development partners. UNDP will also be in position to establish the basis for sector coordination and possibly a sector wide programme approach in the medium term, thus contributing to attract more development partners to the sector.
Indirect management through UNDP is the best option to ensure a fully integrated and coherent implementation of the Action while also ensuring EU participation in policy dialogue.

Moreover, this mode of implementation is justified for the following reasons:
1. Harmonisation between Development Partners with UNDP providing a single conduit for implementation of UNDP support, EU support and potentially other donor support as they may come in the future.
2. Improved and coordinated policy dialogue led by the EU together with UNDP providing the space for improved policy dialogue in the justice sector.
3. Effective and efficient use of joint resources allowing the EU to focus on substantive sector policy dialogue rather than administrative programme management.
4. Complementarities between the EU and UNDP by putting together their experience in access to justice for the benefits of the citizens of Fiji.

The entrusted entity would carry out all the budget-implementation tasks under this action consisting of carrying out procurement and grant award procedures, and awarding, signing and executing the resulting Procurement Contracts and Grant contracts, notably accepting deliverables, carrying out payments and recovering the funds unduly paid.

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 subject to the following provisions.

In accordance with Article 22(1)(a) of Annex IV to the ACP-EU Partnership Agreement Article 89(2)(f)(i) of Council Decision 2013/755/EU; the Commission decides that natural and legal persons from the following countries having traditional economic, trade or geographical links with neighbouring partner countries shall be eligible for participating in procurement and grant award procedures: New Zealand, Australia, Singapore. The supplies originating there shall also be eligible.

The Commission’s authorising officer responsible may extend the geographical eligibility in accordance with Article 22(1)(b) of Annex IV to the ACP-EU Partnership Agreement 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**

The total of the Action amounts EUR 8 250 000. The EU will contribute EUR 7 500 000 through the 11th EDF, UNDP has planned to co-finance up to EUR 750 000.

The indicative budget is as follows:

<table>
<thead>
<tr>
<th><strong>Fiji Access to Justice Integrated Technical Assistance Support Programme</strong></th>
<th>EU contribution- 11th EDF</th>
<th>Indicative contribution</th>
<th>UNDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3 Indirect management with UNDP</td>
<td>EUR 7 380 000</td>
<td>EUR 750 000</td>
<td></td>
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<tr>
<td>5.8 Evaluation and 5.9 Audit</td>
<td>EUR 120 000</td>
<td>NA</td>
<td></td>
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<tr>
<td>5.10 Communication and visibility</td>
<td>Communication and visibility action will be incorporated</td>
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</tbody>
</table>
5.6 Organisational set-up and responsibilities

UNDP will be responsible for the overall management of the action.

A Steering committee will be established to provide guidance and orientation throughout the duration of the Action. The Steering Committee will be composed of the NAO/Ministry of Finance, the EU Delegation, the UNDP as implementing partner as well as representatives of the Legal Aid Commission, the Chief Justice and NGOs involved in the Action. Relevant justice sector stakeholders involved in the implementation of the Action and other donors may be invited on an ad-hoc basis.

5.7 Performance 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. 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 and the nature of the action, a mid-term and a final evaluation(s) will be carried out for this action via independent consultants contracted by the commission.

The mid-term evaluation will be carried out to measure progress in implementation, identify shortcomings and suggest new orientations for the reminder of the programme.

A final evaluation is also foreseen: it will be carried out for accountability and learning purposes at various levels, with a view to improve the programming of future support to justice system, taking into account in particular the context of Fiji.

The Commission shall inform the Beneficiary at least 3 months in advance of the dates foreseen for the external missions. The Beneficiary shall collaborate efficiently and effectively with the monitoring and/or evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the programme.
Indicatively, two evaluation missions will be conducted in late 2017 and early 2020.

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.

Indicatively, one contract for audit services shall be concluded in 2021.

5.10 Communication and visibility

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

This Action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation and supported with the budget indicated in section 5.6 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 Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

These measures will be implemented by UNDP within the activities of the Delegation Agreement for an estimated amount of a minimum of EUR 100 000 for the duration of the programme.

6 Pre-conditions

There is no pre-condition for this Action.

Indicative Log frame attached.
<table>
<thead>
<tr>
<th>Overall objective: Impact</th>
<th>Indicators</th>
<th>Baselines (incl. reference year)</th>
<th>Targets (incl. reference year)</th>
<th>Sources and means of verification</th>
</tr>
</thead>
<tbody>
<tr>
<td>To strengthen the rule of law and improve access to justice in Fiji, particularly for poor and vulnerable citizens</td>
<td>Practitioners’ and court users’ perception of the capacity, efficiency and quality of judiciary and other institutions (particularly the LAC) improved; Capacity, efficiency and quality of judiciary and other institutions (particularly the LAC) improved according to EU/Delegation Reports</td>
<td>Practitioners’ and court users’ perception to be established; EU/Fiji reports on the efficiency, quality and capacity of the judiciary and of other institutions (particularly the LAC) Number of beneficiaries receiving legal advice, assistance and information by 20%</td>
<td>Total Fijian population (est. 990,000) (2015); - EU/Fiji cooperation</td>
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<tr>
<td>To improve access of justice in Fiji, to increase the efficiency and quality of justice provided by the LAC, courts and other institutions; to increase the capacity of the LAC, courts and other institutions.</td>
<td>Increased availability of free legal and to poor and vulnerable citizens by 50% Increased quality of legal representation and court proceedings Increased competence (skills and knowledge) of judges, prosecutors and practicing lawyers Improved strategic planning and administrative systems of courts and of other institutions</td>
<td>- 15,000 free legal aid clients/year (2015) - Practitioners (judges, prosecutors and lawyers) surveys to establish baseline from 2016 - Public and practitioners (court staff and LAC staff) surveys, relevant documents (databases, reports), to establish baseline from 2016</td>
<td>- 22,500 free legal aid clients/year - All lawyers and judicial officials and court users</td>
<td></td>
</tr>
<tr>
<td>Component I: Institutional capacity building &amp; service delivery</td>
<td>Result 1: Enhanced functioning of LAC, courts and other institutions</td>
<td>- Case management databases operational for LAC and courts. Quality monitoring policies and procedures adopted by LAC. The production of strategies for a five-year period for relevant institutions. The creation and implementation of key management and human resources policies and procedures in LAC. The production of a training needs assessment, and a training plan. A baseline survey of relevant stakeholders. The participation to international exchanges. Availability of other countries law reports within 18 months of the start of the project and production of Fiji Law Reports over the duration of the project, the first one published within the first 12 months of the start of the project.</td>
<td>- Current case management database (2015) - Zero – currently no quality monitoring procedures in place (2015) - Zero – currently no strategies in place for forthcoming period (2015) - Current job descriptions, staffing tables - Current training plan; additional training for non-lawyers - Measurements are not being conducted (2015) - International exchanges (2015) - No law report since 2002 (except 2013). No law reports from other countries.</td>
<td>- Case management database by end of 2017 with database analysis reports (2018); - Quality monitoring policies and procedures adopted an applied (2018) - LAC, judicial strategies (2016);</td>
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<td></td>
<td>Result 2: Better quality of justice for an increased number of beneficiaries delivered by LAC and courts</td>
<td>- Five LAC offices supported; three information centres opened in courts; and the opening of an operational hotline, with an increasing number of users. Court users’ perception and general public perception of LAC and court efficiency, with quality improved by 20% over the duration of the project.</td>
<td>- No LAC offices; no information centres in these areas; no hotline (2015) - No baseline available – no measurements conducted (2015) - N/A - No baseline available – no measurements conducted (2015) - N/A</td>
<td>- LAC reports; - LAC reports; - LAC reports; - Training needs assessment (2016) and Training plans implemented annually; - Baseline survey conducted (2016) - First international exchange (2016) - Other countries’ law reports accessible in LAC and courts (2017); Fiji Law Reports printed (by 2020, with Reports released annually from 2016)</td>
</tr>
<tr>
<td>Component II: Accompaniment services delivered to poor and vulnerable citizens</td>
<td>Result 3: Accompaniment services delivered to at least 4 communities used for piloting this initiative. The realisation of awareness raising activities in cooperation with the LAC annually; Baseline Survey conducted and monitoring of progress.</td>
<td>- No LAC offices; no information centres in these areas; no hotline (2015) - No baseline available – no measurements conducted (2015) - N/A</td>
<td>- 5 offices supported (by 2020); three information centres opened (2016 and 2017); hotline established (2017). - Baseline survey (2016) with quality improved by 20% by 2020</td>
<td>- LAC reports; - Count surveys, NGO reports and Annual programme reports;</td>
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<td></td>
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<td>Implementing partner reports</td>
</tr>
</tbody>
</table>

**Outputs**

- Practitioners' and court users' perception of the capacity, efficiency and quality of judiciary and other institutions (particularly the LAC) improved.
- Capacity, efficiency and quality of judiciary and other institutions (particularly the LAC) improved according to EU/Delegation Reports.
- Increased number of beneficiaries receiving legal advice, assistance and information by 20%.
- EU/Fiji reports on the efficiency, quality and capacity of the judiciary and of other institutions (particularly the LAC).
- Number of beneficiaries receiving legal advice, assistance and information by 20%.
- Practitioners (judges, prosecutors and lawyers) surveys to establish baseline from 2016.
- Public and practitioners (court staff and LAC staff) surveys, relevant documents (databases, reports), to establish baseline from 2016.
- No baseline available.
- No baseline available – no measurements conducted (2015).
- - No baseline available – no measurements conducted (2015).
- Baseline survey conducted (2016) with quality improved by 20% by 2020.
- At least 4 pilot areas covered by 2018.
- 1 LAC/NGO awareness campaign annually (2016).
- Baseline survey (2016).