

FINANCING AGREEMENT SECTOR REFORM CONTRACT SPECIAL CONDITIONS

The European Commission, hereinafter referred to as "**the Commission**", acting on behalf of the European Union, hereinafter referred to as "**the EU**",

of the one part, and

the Government of Georgia, hereinafter referred to as "**the Beneficiary**",

of the other part,

have agreed as follows:

Article 1 – Nature of the action

- 1.1. The EU agrees to finance and the Beneficiary agrees to accept the financing of the following budget support action:

Support to the Justice Sector Reform in Georgia (ENI/ 2014 / 037-376)

This action is financed from the EU Budget under the following basic act: European Neighbourhood Instrument.

- 1.2. The total estimated cost of this action is EUR 51.2 million and the maximum EU contribution to this action is set at EUR 50 million.

This budget support action is composed of:

- (a) a budget support component with a maximum EU contribution of EUR 30 million.
- (b) a complementary support component with a total estimated cost of EUR 21.2 million and a maximum EU contribution of EUR 20 million.

- 1.3. The Beneficiary shall not co-finance the action.

The action is co-financed in joint co-financing by UNICEF, GIZ and grant beneficiaries. The breakdown of this financial contribution is shown in Annex 1 (Technical and Administrative Provisions).

Handwritten signature and initials, possibly 'JL' and 'AS', with a small '1' below.

Article 2 – Execution period

- 2.1. The execution period of this Financing Agreement as defined in Article 15 of Annex II (General Conditions) shall commence on the entry into force of this Financing Agreement and end 84 months after this date.
- 2.2. The duration of the operational implementation phase is fixed at 60 months.
- 2.3. The duration of the closure phase is fixed at 24 months.

Article 3 – Addresses

All communications concerning the implementation of this Financing Agreement shall be in writing, shall refer expressly to this action as identified in Article 1.1 of these Special Conditions and shall be sent to the following addresses:

a) for the Commission

Mr. Janos Herman
Head of EU Delegation to Georgia
38 Nino Chkheidze Street
0102 Tbilisi, Georgia

b) for the Beneficiary

Mr. David Bakradze,
State Minister for European and Euro-Atlantic Integration of Georgia
National Co-ordinator for EU Assistance programmes
7 Ingorokva Street
0134 Tbilisi, Georgia

Article 4 – OLAF contact point

The contact point of the Beneficiary having the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate OLAF's operational activities shall be:

Mr Roman Kakulia
Head of Project Administration Office
State Ministry for European and Euro-Atlantic Integration of Georgia

Article 5 – Annexes

- 5.1. This Financing Agreement is composed of:
 - (a) these Special Conditions;

(b) Annex I: Technical and Administrative Provisions, detailing the objectives, expected results, activities, description of the budget-implementation tasks entrusted and budget of this Action;

(c) Annex II: General Conditions;

(d) Annex III: Reporting Template – not applicable to and not included in this Financing Agreement;

(e) Annex IV: Management Declaration Template – not applicable to and not included in this Financing Agreement.

5.2. In the event of a conflict between, on the one hand, the provisions of the Annexes and, on the other hand, the provisions of these Special Conditions, the latter shall take precedence. In the event of a conflict between, on the one hand, the provisions of Annex I (Technical and Administrative Provisions) and, on the other hand, the provisions of Annex II (General Conditions), the latter shall take precedence.

Article 6 – Provisions derogating from or supplementing Annex II (General Conditions)

The foreign exchange transfers will be accounted for under the value date of the notification of credit to the Treasury account to the National Bank. The exchange rate will be the official exchange rate of the National Bank of Georgia on the value date of the notification of credit.

Article 7 – Entry into force

This Financing Agreement shall enter into force on the date on which it is signed by the last party but not later than 31 December 2015.

Done in two original copies, one copy being handed to the Commission and one to the Beneficiary.

FOR THE BENEFICIARY

David BAKRADZE

State Minister for European and Euro-Atlantic
Integration of Georgia

National Co-ordinator for EU assistance programmes

Signature:

Date:

FOR THE COMMISSION

Gerhard SCHUMANN-HITZLER

Director Neighbourhood East

Directorate-General for Neighbourhood
and Enlargement Negotiations

Signature:

Date:

ANNEX I TO FINANCING AGREEMENT NO ENI/2014/037-376

TECHNICAL AND ADMINISTRATIVE PROVISIONS

PARTNER COUNTRY	Georgia		
BUDGET HEADING	21 03 02 01		
TITLE/CRIS NR	Support to the Justice Sector Reform in Georgia CRIS number: ENI/2014/037-376		
TOTAL COST	Total amount of EU budget contribution EUR 50 million of which EUR 30 million for budget support EUR 20 million for complementary support		
BUDGET SUPPORT			
AID METHOD / MANAGEMENT MODE AND TYPE OF FINANCING	Direct management implemented by the Commission as the Contracting Authority Sector Reform Contract		
DAC CODE	15130	SECTOR	Legal and Judicial Development
COMPLEMENTARY SUPPORT			
AID METHOD/ MANAGEMENT MODE AND TYPE OF FINANCING	Direct management implemented by the Commission as the Contracting Authority <ul style="list-style-type: none">• Grants - calls for proposals (including Twinning)• Grants – Direct award to (1) the United Nations Children's Fund (UNICEF) and (2) the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH• Procurement of services		
DAC CODE	15130	SECTOR	Legal and Judicial Development

1. DESCRIPTION

1.1. Objectives

General objective:

The overall objective of this Programme is to improve the system of administration of justice, consolidate the rule of law and strengthen human rights protection in line with international and European standards.

Specific objectives:

The specific objectives of this Programme have been defined as follows:

1. Consolidate independence, professionalism, impartiality and efficiency of the judiciary, access to justice and right to fair trial;
2. Enhance efficiency and fairness of the criminal justice system; and
3. Improve private and administrative law system.

This Programme will directly contribute to good governance by improving the work of public institutions and management of public resources. It will also directly contribute to ensuring respect for human rights, rule of law and fundamental freedoms. In addition, in preparation of activities, attention will be paid to ensure gender equality and sustainable development.

1.2. Expected results

The list below describes expected results linked to the three specific objectives of the Programme.

Specific Objective 1 - Consolidate independence, professionalism and efficiency of the judiciary and access to justice

Result 1.1: More independent, accountable, effective and efficient judiciary and High School of Justice (HSOJ) through improved governance and management.

Result 1.2: Improved institutional capacities of the Ministry of Justice (MOJ) (including reform coordination and management) and other major justice sector stakeholders and enhanced capacities of higher legal education institutions to train justice sector professionals.

Result 1.3: More accessible justice through more independent and effective legal profession, legal aid system, greater application of Alternative Dispute Resolution mechanisms (ADRs) and improved system of enforcement of court judgments in civil and administrative matters.

Result 1.4: Effective system of justice for children by dedicated regulatory framework and implementation mechanisms.

Specific Objective 2 – Enhance efficiency and fairness of the criminal justice system

Result 2.1: Improved compliance of substantive and procedural criminal and administrative violations legislation /framework (including on Juvenile Justice) with international and European standards.

Result 2.2: Improved effectiveness and efficiency in detection and prevention of crime, including organised crime, by more professional investigation capacities and stronger European and international law-enforcement cooperation; improved capacities for mutual legal assistance in criminal matters.

Result 2.3: Increased independence, accountability, effectiveness and efficiency of Prosecutor's Office (PO).

Result 2.4: Consolidated rehabilitation and re-socialisation policies, and increased use of non-custodial measures, by effective legislative instruments and their implementation mechanisms.

Result 2.5: Improved detention conditions, especially the prison healthcare, based upon policy, legislative and management changes in the penitentiary system, with notable focus on improved standards/conditions for children in the justice sector.

Result 2.6: Greater accountability of the criminal justice system by increased independence and effectiveness of the investigation mechanisms for law-enforcement ill-treatment and other abuse.

Specific Objective 3 – Improved private and administrative law system

Result 3.1: Compliance of legislative initiatives in the area of private (including Civil Code and Company Law) and administrative law with European standards and best practices.

Result 3.2: Improved capacities for European and international judicial cooperation in private and administrative law.

Result 3.3: Greater protection of property rights by more transparent, clear and foreseeable system of registration of titles to land and improved capacities of justice sector stakeholders.

Result 3.4: Improved legal framework on bankruptcy proceedings through promotion of balance between the interests of rehabilitation of businesses and legality.

1.3. Main activities

1.3.1. Budget Support

The main activities to implement the budget support package are ongoing and directed towards policy dialogue, financial transfer against specific performance, ongoing monitoring and periodic assessment of performance against targets and indicators, reporting on progress and issues arising in the implementation of reforms, and Government empowerment and capacity development through the obligation and commitment to fulfil specific reform requirements through compliance with disbursement conditions.

1.3.2. Complementary support

Complementary assistance will include support to strengthen the Government's capacity to implement its justice sector reform policy, to monitor and report on performance and ensure coordination, inclusive policy making and transparency. Complementary support details will be defined in consultation with relevant national authorities following signature of the Financing Agreement.

Key elements are expected to include:

- **Two calls for proposals** to provide grants to Civil Society Organisations (CSOs) and other non-state or public actors to promote: (1) the engagement of CSOs in the justice sector reforms by supporting the development of their capacity for advocacy, networking, policy making and monitoring of reforms; and (2) the provision of services, particularly to the most vulnerable, to broaden access to legal advice and to rehabilitation and re-socialisation programmes, as well as to design and implement crime prevention programmes.
- **Technical assistance** to support achievement of programme objectives with respect to (1) an Independent and Accountable Judiciary; and (2) Capacity building for effective and fair criminal policy development, investigation and prosecution; and (3) Capacity building of the penitentiary and probation System (Ministry of Corrections -MOC).
- **Grant through direct award to UNICEF** to (1) promote an effective system of justice for children by dedicated regulatory framework and implementation mechanisms; (2) to strengthen access to justice by (a) improving the independence and effectiveness of the legal profession and legal aid system; (b) promoting application of Alternative Dispute Resolution mechanisms; Measures related to access to justice will be implemented by UNDP as co-beneficiary of the grant.
- **Grant through direct award to GIZ** to improve (1) the private and administrative law system through greater compliance of legislative initiatives in line with international and European standards; (2) capacities for European and international judicial cooperation; (3) protection of property rights as a result of a more transparent and predictable system for the registration of titles; (4) the legal framework for bankruptcy proceedings; and (5) the Government's capacity for evidence-based policy development, strategic planning, research and analysis; and (6) the system of enforcement of court judgments in civil and administrative matters.
- The project-approach interventions will include contracts for audit, monitoring and evaluation, and visibility.

2. IMPLEMENTATION

2.1. Indicative operational implementation period

The indicative operational implementation period of this action is as specified in Article 2 of the Special Conditions.

2.2. Amounts allocated for budget support

The total amount allocated to the justice sector under the NIP is EUR 50 million of which 60% or EUR 30 million is to be delivered under the present budget support programme.

2.3. Criteria and indicative schedule of disbursement of budget support

2.3.1. Budget Support details

A total of EUR 30 million is allocated for Budget Support in four instalments, to be disbursed on the basis of performance against general and specific conditions detailed in the Appendix 2 of the Technical and Administrative Provisions.

A first fixed instalment of EUR 3 million is to be disbursed on compliance with the general conditions during 2015. Three subsequent mixed (20% fixed and 80% variable) instalments, each of up to EUR 9 million are to be disbursed in 2016, 2017 and 2018 respectively, subject to continuing compliance with the general conditions and an assessment of the extent to which the specific conditions applicable to each tranche have been met.

Budget support is provided as direct untargeted budget support to the national Treasury. The crediting of the euro transfers disbursed into Georgian Lari will be undertaken at the appropriate exchange rates in line with Article 6 of the Special Conditions.

2.3.2. Disbursement criteria

The general conditions for disbursement of all tranches are as follows:

- satisfactory progress in the implementation of the Government's justice sector reform policy (as described in the Criminal Justice Reform Strategy and Action Plan, the Strategy on Justice for Children, and the Human Rights Strategy and Action Plan), and the continued credibility and relevance of that or any other successor policy;
- maintenance of a credible stability-orientated macroeconomic policy;
- satisfactory progress in the implementation of the Government's programme to improve public financial management; and
- satisfactory progress with regard to the public availability of accessible, timely, comprehensive, and sound budgetary information.

The disbursement arrangements and timetable are described in Appendix 2 of these Technical and Administrative Provisions.

Compliance with these general conditions is a precondition for the release of the fixed component of each instalment, and for consideration of compliance with the specific conditions for the release of the variable component of the second, third and fourth instalments. In case of a significant deterioration of fundamental values, budget support disbursements may be formally suspended in line with Article 26.1 of the General Conditions of the financing agreement, or temporarily suspended or reduced.

The specific conditions reflect results listed under Section 1.2 covering improvements in the areas of (1) access to justice; (2) development of child friendly justice system; (3) criminal justice, criminal investigation and prosecution; (4) penitentiary / probation reform; and (5) land registration. The specific conditions and the indicators used for assessing compliance are based upon justice sector strategies and action plans.

The performance indicators used for disbursements are described in Appendix 1 of these Technical and Administrative Provisions. The chosen performance targets and indicators will apply for the duration of the programme. However, in duly justified circumstances, the

Government of Georgia may submit a request to the Commission for the targets and indicators to be changed. The changes agreed to the targets and indicators may be authorized by exchange of letters between the two parties.

2.4. Details on complementary support

2.4.1 Grants: Call for Proposals "Promoting the Role of Civil Society in the protection of Rule of Law, Justice and Human Rights" (direct management implemented by the Commission as the Contracting Authority)

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

The objective of the grants will be to promote the role of CSOs and their engagement in the justice sector reforms by supporting their capacity for policy dialogue, advocacy and monitoring of reforms.

- (b) Eligibility Conditions

Eligibility will be limited to national and international non-governmental organisations with a proven track-record of relevant support to justice sector reforms.

- (c) 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.

- (d) Maximum rate of co-financing

The maximum possible rate of co-financing for grants under this call is 90 %.

The maximum possible rate of co-financing may be up to 100% in accordance with Article 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.

- (e) Indicative trimester to launch the call

Call for Proposals is to be launched in the 3rd trimester of 2015.

2.4.2 Grants: Call for Proposals "Complementary Rehabilitation and Re-socialisation Services in the Criminal Justice Sector"(direct management implemented by the Commission as the Contracting Authority)

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

The objective of the programme will be to promote restorative justice and contribute to rehabilitation and re-socialisation of inmates, former inmates, probationers and children in conflict with the law. The call will aim to increase access of prisoners, former inmates, probationers and children in conflict with the law to vocational training, education and other types of rehabilitation and re-socialisation services as well as to design and implement secondary crime prevention programmes for children and rehabilitation/re-socialisation programmes/services for diverted juveniles.

(b) Eligibility Conditions

Eligibility will be limited to national and international non-governmental organisations, to national public sector operators (legal entities of public law) and to local authorities, with a proven track-record of relevant support to justice sector reforms or provision of services.

(c) 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.

(d) Maximum rate of co-financing

The maximum possible rate of co-financing for grants under this call is 90 %.

The maximum possible rate of co-financing may be up to 100% in accordance with Article 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.

(e) Indicative trimester to launch the call

Call for Proposals is to be launched in the 3rd trimester of 2015.

2.4.3. Grant: Call for proposals for Twinning project (direct management implemented by the Commission as the Contracting Authority)

(a) Objectives

The Twinning calls for proposals modality will be used for implementing activities under specific objective 1 by providing assistance to the High School of Justice of Georgia.

(b) Eligibility conditions

In line with Article 4(10)(b) of Regulation (EU) No 236/2014, participation in Twinning calls for proposals is limited to public administrations of the EU member States, being understood as central or regional authorities of a Member State as well as their bodies and administrative structures and private law bodies entrusted with a public service mission under their control provided they act for the account and under the responsibility of that member State.

(c) Essential selection and award criteria

The essential selection criterion is the operational capacity of the applicant.

The essential award criteria are the technical expertise of the applicant and the relevant methodology and sustainability of the proposed action.

(d) Maximum rate of co-financing

The rate of co-financing for the twinning grant contracts is 100%¹.

(e) Indicative trimester to launch the calls

The call is to be launched in the 3rd trimester of 2015.

(f) Use of lump sums/flat rates/unit costs

Twinning contracts include a system of unit costs and flat rate financing, defined in the Twinning Manual, for the reimbursement of the public sector expertise provided by the selected Member States administrations. This system of unit costs and flat rate financing exceeds the amount of EUR 60 000 per beneficiary of a Twinning contract.

2.4.4 Grant: direct award to UNICEF (direct management implemented by the Commission as the Contracting Authority)

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

This action is to support achievement of the specific objective 1 to consolidate the independence, professionalism and efficiency of the judiciary and strengthen access to justice. This shall be achieved through the creation of a more effective system of justice for children based on a dedicated regulatory framework and implementation mechanism (Result 1.4); improved institutional capacities of MOJ and other major justice sector stakeholders (Result 1.2); and the greater independence and effectiveness of the legal profession and legal aid system with greater application of alternative dispute resolution mechanisms (Result 1.3).

(b) Justification of a direct grant

Under the responsibility of the Commission, the recourse to an award of a grant without a call for proposals is justified because this action has specific characteristics requiring a specific type of beneficiary for its technical competence, specialisation or administrative power, namely UNICEF's strong capacity and experience in the area of justice for children, its mandate to advocate for the protection of children's rights, its engagement in policy developments, demonstrated ability to steer policy-making in the area of justice for children, its track record of cooperation with relevant justice sector stakeholders and its past and ongoing successful actions in Georgia. While UNICEF is expected to take overall management of this action, and specifically deliver the results associated with juvenile justice (Result 1.4, partly also result 1.2 and result 2.1, 2.4 and 2.5), UNICEF is expected to be supported by UNDP as co-applicant for the component on Access to Justice as regards the effectiveness of

¹ As provided for in the Twinning Manual.



legal representation and development of Alternative Dispute Resolution mechanisms (Result 1.3). The choice of UNDP is justified because of its technical (Access to Justice constitutes its core mandate) and administrative capacity as well as its strong coordination capacity and privileged access to the senior decision-makers in Georgia. Therefore, granting a direct award to UNICEF and UNDP (this second as co-beneficiary) is the most expedient way to ensure implementation of the action requiring specialised expertise, needed technical competence and its administrative capacity.

(c) Eligibility conditions

Not applicable.

(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 90% of the eligible costs of the action.

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

Third trimester of 2015.

2.4.5 Grant: *direct award to GIZ (direct management implemented by the Commission as the Contracting Authority)*

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

Objective of the grant is to support achievement of Specific Objective 3 to improve the private and administrative law system through greater compliance of legislative initiatives with European standards and best practices (Result 3.1); improved capacities for European and international judicial cooperation in private and administrative law (Result 3.2); greater protection of property rights by more transparent, clear and foreseeable system of registration of titles and improved capacities of justice sector stakeholders (Result 3.3); an improved legal framework for bankruptcy proceedings (Result 3.4). This action will also contribute to the achievement of specific objective 1.3 through providing assistance and advice to the National Bureau of Enforcement and the Ministry of Justice in further improving the system of enforcement of court judgements in civil and administrative matters.

(b) *Justification of a direct grant*

Under the responsibility of the Commission, the recourse to an award of a grant without a call for proposals is justified because this action has specific characteristics requiring a specific type of beneficiary for its technical competence, specialisation or administrative power, namely GIZ's technical and management capacity, its extensive experience in developing

private¹¹¹ and administrative legal framework in Georgia, the scope of its on-going actions in Georgia and its ability to rapidly mobilise and manage (including financially) high level specialised expertise needed for further development of the sector.

(c) Eligibility conditions

Not applicable

(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 95% of the eligible costs of the action.

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

Third trimester of 2015.

2.4.6 Procurement (direct management implemented by the Commission as the Contracting Authority)

Subject	Type	Indicative number of contracts	Indicative launch of the procedure
<p>Technical assistance to support achievement of programme objectives:</p> <p>(1) Independent and Accountable Judiciary – (Specific Objective 1, Results 1.1 and 1.2) *;</p> <p>(2) Capacity building for effective and fair criminal policy development, criminal justice sector management, investigation and prosecution (Specific Objective 1, Results 1.2 and Objective 2, Results 2.1-2.6); and</p> <p>(3) Capacity Building of Criminal Enforcement System (Specific Objective 2, Results 2.4 and 2.5);</p> <p>(4) External reviews of compliance with Budget Support conditions.</p>	Services/	4	Third quarter 2015

¹¹¹ Georgian Civil Code, adopted in 1997, has been modelled after German Civil Code and has benefitted from extensive technical assistance and expertise from the German Government

Evaluation and audit;	Services	Up to 3	Throughout the duration of the programme
Communication and visibility	Services	Up to 2	Throughout the duration of the programme

* Support to the Judiciary will also be pursued through a Twinning Project to support further development of the High School of Justice.

2.4.7. 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. The responsible authorising officer may extend the geographical eligibility in accordance with Article 9(2)b of Regulation (EU) No. 232/2014 on the basis of urgency or of unavailability of services in the markets of the countries concerned, or other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

2.5. Indicative budget

Module	Amount in EUR thousands	Third party contribution (indicative)
2.2. – Budget Support Sector Reform Contract	30,000	N.A.
Calls for proposals (direct management)	6,000	700
2.4.1 <i>Promoting the Role of Civil Society in the protection of Rule of Law, Justice and Human Rights (EUR 2 million)</i>		
2.4.2 <i>Complementary Rehabilitation and Re-socialisation Services in the Criminal Justice Sector (EUR 4 million)</i>		
2.4.3 – Twinning (direct management)	800	N.A.
2.4.4 – Direct grant to UNICEF (direct management)	3,000	300
2.4.5 – Direct grant to GIZ (direct management)	2000	100
2.4.6 – Procurement (direct management)	7,200	N.A.
4.7 – Evaluation and audit	500	N.A.
4.8 – Communication and visibility	500	N.A.
Total	50,000	1,100

2.6. Performance monitoring and donor coordination

Review (verification) missions will take place at the end of each financial year to review the progress of the reform, and the achievement of compliance with the conditions for disbursement specified in the Appendix 2 of these Technical and Administrative Provisions. Independent reviews for the second, third and fourth instalments will make recommendations on the level of disbursement in line with conclusions on the extent to which compliance with the general and specific conditions has been achieved. For the first instalment, assessment will be made by the EU Delegation.

Independent consultants recruited directly by the Commission will carry out external Result Oriented Monitoring (ROM) missions on specifically established terms of reference. The missions are expected to start from the sixth month of the Programme activities, and end, at the latest, 6 months before the end of the operational implementation phase.

Coordination of donor activities in the justice sector takes place at several levels. Donors are intimately incorporated by Government in the various policy-setting coordination and monitoring bodies (and their working groups) covering specific sector and subsector issues, including the Criminal Justice Reform Interagency Council (CJRC), Consultative Council on Private Law (CCPL) and MoJ, as well as through the dedicated donor coordination unit within the State Chancellery of the Government of Georgia which covers all sectors. The EU also periodically hosts a Rule of Law roundtable that includes local and international CSOs and agencies involved in the justice sector.

Coordination between EU Member States is ensured through bi-monthly development counsellors meetings and *ad hoc* working groups. Some EU Member States also directly participate in the wider policy dialogue, including through annual meetings with donors and CSOs organised by CJRC, in Rule of Law roundtables, and EU human rights focal point meetings. Several EU Member States have also contributed to the development of this and earlier EU justice programmes

2.7. Evaluation and audit

Day-to-day technical and financial monitoring will be responsibility of the Government, and a continuous process. To this aim, the Government shall ensure a monitoring and reporting system for regular reporting on implementation of reforms specified in the Government's sector policy and, *inter alia*, compliance with EU policy reform (Sector Reform Contract) disbursement conditions.

The Programme will undergo mid-term and final evaluation. The evaluation will cover all interventions under this programme. The European Commission may also launch a full ex-post evaluation at a later date.

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.

Complementary support activities may be subject to external audit by the Commission, financed according to Section 2.5.

2.8. Communication and visibility

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

The 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 the implementation and supported inter alia with the budget indicated in section 2.5.

The measures shall be implemented either (a) by the Commission, and/or (b) by the partner country, contractors, 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.

As part of the Financing Agreement, the Government undertakes to ensure that the visibility of the EU contribution to the state reform contract is given appropriate coverage in the various publicity media. The Action will endeavour to further enhance the positive image of EU in the context of its work in Georgia. Public diplomacy and awareness-raising actions are crucial to advance human rights in the prioritised areas. The intervention activities and public diplomacy actions will feed into the communication campaign on AA/ DCFTA/VLAP and serve to mitigate potential socio-economic imbalances which might be caused in the short or medium term by the implementation of agreements, especially affecting groups in more vulnerable situations (e.g. victims of domestic violence or children in extreme poverty).

At appropriate milestones during the Programme and after appropriate events, press releases will be issued, in co-operation with the EU Delegation.

Appendices

1. Performance indicators used for disbursements
2. Disbursement arrangements and timetable

Appendix 1: Performance indicators

The Programme foresees four instalments in 2015, 2016, 2017 and 2018..

The **first instalment** is planned to be disbursed as **fixed tranche** in 2015 following the signature of the Financing Agreement and the fulfilment of the four General Conditions, outlined in Table B, Appendix 2 of these Technical and Administrative Provisions. The **subsequent three instalments** will be composed of **fixed and variable tranches** and are planned to be disbursed in the first quarter of 2016, 2017 and 2018 Georgian fiscal years, subject to the continued compliance with the four General Conditions and the fulfilment of the 2015, 2016 and 2017 Special Conditions outlined in detail in Appendix 2 of these Technical and Administrative Provisions (TAPs).

Compliance with all four General Conditions will result in the release of the fixed tranche of each instalment. Compliance with the General Conditions is also a pre-requisite for the assessment of compliance with the Specific Conditions, which shall result in the disbursement of the variable tranche of each instalment. Failure to fulfil the General Conditions will result in the irrevocable loss of the entire instalment, including its variable component.

Specific Conditions are outlined in Table C, Appendix 2 of these TAPs and are based on achievable and objectively verifiable indicators, selected from the Government's own strategic documents. They reflect, therefore, commitments the Government itself has undertaken as part of its reform programme. These conditions also reflect the EU political and development cooperation priorities in the reform of the justice sector in Georgia.

Appendix 2: Disbursement arrangements and timetable

1. Responsibilities

On the basis of the disbursement conditions stipulated in the Financing Agreement, the Ministry of Justice of Georgia will send a formal request to the European Union Delegation for the disbursement of each tranche in accordance with the timetable specified in Table A below. The request must include: (i) a full analysis and justification for payment of the funds, with the required supporting documents attached; and (ii) a financial information form, duly signed, to facilitate the corresponding payment.

2. Indicative disbursement timetable

The indicative schedule for disbursement of each instalment is shown in the Table A below. Fiscal and calendar years are the same in Georgia. Disbursement follows assessment of Government's compliance with the various conditions for release of each instalment. Such assessment is to be undertaken by an external Review team, which is complemented by the Commission analysis of compliance. Assessment for each tranche must follow the order of instalment - i.e. First before Second, and Second before Third. Fulfilment of the General Conditions must be satisfied before any consideration is given to compliance with the Specific Conditions for variable tranche release.

Table A: Indicative Disbursement Timetable (in EUR million)

Fiscal Year	2015	2016				2017				2018				
	Q2	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Total
Type of Tranche														
Fixed	3	1.8				1.8				1.8				8.4
Variables		7.2				7.2				7.2				21.6
Total														30

3. General conditions for the disbursement of each tranche

The General Conditions for tranche release are set out in Table B. Compliance with these General Conditions is a precondition for the disbursement of all tranches and for consideration of compliance with the Specific Conditions set out in Table C. Each fixed tranche represent 20% of each instalment with the exception of the first tranche that represents 80% of the instalment.

Table B: General conditions for the release of tranches

Area	Conditions	Verification source
Public Policy	<p>Satisfactory progress in the implementation of Georgia's national justice sector policy and strategy (Criminal Justice Reform Strategy and Action Plan, the Strategy on Justice for Children, Human Rights Strategy and Action Plan) and continued credibility and relevance of them or any successor strategies.</p> <p><u>In addition, for the first fixed tranche:</u></p> <p>Action Plans for Prosecutor's Office, Legal Aid Service, Justice for Children, Penitentiary, Probation and Police Reform for 2015-2019 as well as Land Registration Pilot Strategy approved / adopted by relevant authorities. For the subsequent variable tranches, satisfactory progress in the implementation of these Action Plans / Strategies.</p>	<ul style="list-style-type: none"> • Annual progress report(s) by the Government on the implementation of relevant strategies / action plans • Minutes/ participant list of the meetings of CJRC, Human Rights Council and their working groups (engaging CSOs, academia, professional associations and international actors) • Criminal justice Statistical data sheets published monthly • Land registration statistical data • Annual budgets of all concerned sector institutions, draft budget and BDD
Macroeconomic stability	<p>Implementation of a credible stability-oriented macroeconomic policy, as evidenced, <i>inter alia</i> by positive assessment by IMF and EU of the Government's macro-economic policy and Georgia's macro-economic performance.</p> <p>Where the review of IMF programme is delayed or temporarily suspended or lapses, the Commission may still take the decision to disburse budget support if it judges that stability-oriented macroeconomic policy is being implemented, following communications as appropriate with the Government and the IMF reports/reviews.</p>	<ul style="list-style-type: none"> • IMF, WB and EU reports
Public financial management	<p>Satisfactory progress in the implementation of the Government's programme to improve public financial management (PFM), as evidenced, <i>inter alia</i> by PFM/PEFA assessments.</p>	<ul style="list-style-type: none"> • Government's PFM annual reports • IMF, WB, EU PFM related reports
Budget Transparency	<p>Satisfactory progress with regard to the public availability of accessible, timely, comprehensive, and sound budget information.</p>	<ul style="list-style-type: none"> • OBI website; • IMF, WB and EU reports

4. Specific conditions for the disbursement of instalments

The specific conditions for the disbursement set out in Table C and D shall apply to the disbursement of a specific tranche. Tranche release requests must be accompanied by all appropriate information and documents on the specific conditions.

Table C: Specific Conditions for variable tranche release: 80% of the second, third, and fourth instalments

<i>Reform Area</i>	<i>Conditions/Criteria/Verification Indicators</i>		
	<i>Second Instalment</i>	<i>Third Instalment</i>	<i>Fourth Instalment</i>
	<i>Indicative disbursement 2016</i>	<i>Indicative disbursement 2017</i>	<i>Indicative disbursement 2018</i>
<i>Value</i>	<i>Up to EUR 7.2 million</i>	<i>Up to EUR 7.2 million</i>	<i>Up to EUR 7.2 million</i>
1. Access to Justice			
Condition	1. Improved access to justice through independent and effective legal aid system and human rights institutions		
<i>Value</i>	<i>Up to EUR 1 million</i>	<i>Up to EUR 1 million</i>	<i>Up to EUR 1 million</i>
<i>Indicator</i>	<ul style="list-style-type: none"> State funding of the Legal Aid Service (LAS) in 2016 increased by at least 20% compared with the budget of 2015 	<ul style="list-style-type: none"> The total number of beneficiaries of legal aid in civil and administrative cases increased by at least 10% compared with 2014²; at least 40% of legal aid beneficiaries are female³ At least 5% increase⁴ of the state funding for 2017 for the National Preventive Mechanism (NPM) and the anti-discrimination mechanism under Public Defender's Office (PDO) compared with state funding in 2016 	<ul style="list-style-type: none"> State funding of the Legal Aid Service in 2018 increased by at least 10% compared with 2016 budget The total number of people benefiting of legal aid in civil and administrative cases increase by at least 5% compared with 2016; at least 40% of legal aid beneficiaries are female

² In 2014, 14 310 persons benefited of legal consultation provided by LAS in civil and administrative cases

³ Baseline – in 2014, 58% of consultations were rendered to women; 6% of beneficiaries for court representation service were women

⁴ Increase shall refer to cumulated budget of NPM and the anti-discrimination mechanism under PDO

Sources of verification:	<ul style="list-style-type: none">• State Budget• Statistical information from the LAS• LAS annual implementation (monitoring) report• LAS Strategy and Action Plan• Court statistics• PDO annual and periodic Reports• Annual report of the anti-discrimination mechanism			
2. Development of Child-friendly Justice System				
Condition	2. Application of child friendly justice system through improved legal framework and better capacities of justice institutions and professionals			
Value	Up to EUR 1.3 million			
Indicators:	<ul style="list-style-type: none">• At least 30% of first time offender boys and girls charged with less grave or grave crime from January to December 2015 diverted• Application of pre-trial detention to juveniles from January to December 2015 decreased by at least 5% compared with 2014⁵• Concept and design specifications for a separate penitentiary establishment for pre-trial and convicted juveniles and young offenders (aged 18-21) ensuring separation of different age groups and pre-trial and convicted prisoners is	<ul style="list-style-type: none">• At least 35% of first time offender boys and girls charged with less grave or grave crime from January to December 2016 diverted• Juveniles⁶ in pre-trial detention are engaged in at least 4 hrs a day of constructive out of cell activity (education, Vocational Education and Training (VET), sports, rehabilitation programmes, etc.) throughout 2016	<ul style="list-style-type: none">• At least 40% of first time offender boys and girls charged with less grave or grave crime from January to December 2017 diverted• Application of pre-trial detention to juveniles from January to December 2017 decreased by at least 5% compared with 2015• Refurbishment work on schedule to the degree that a Juvenile facility is operational within 2018; internal regulations drafted and approved, staff recruited and trained	

⁵ Pre-trial detention applied in 20.7% of juvenile cases during 2014 (Statistics of the Chief Prosecutor's Office)

⁶ The engagement in rehabilitation activities is voluntary, but shall be promoted by prison administration

	approved by the Criminal Justice Reform Council, construction site identified and respective budgetary allocations in the state budget of 2016 made		
Sources of verification:	<ul style="list-style-type: none">• Court statistics• Statistics from the prosecutor's office• State budget• Reports of the Ministry of Justice Crime Prevention Centre on implementation of diversion and mediation programme• Reports by penitentiary department, probation agency• Relevant reports by Civil Society Organisations (CSOs)• Concept, design and other relevant documents from CJR Council		
3. Criminal Justice, Criminal Investigation and Prosecution			
Condition	3. Improved accountability, transparency, fairness and efficiency of criminal justice system in line with European Human Rights standards		
Value	Up to EUR 1.4 million	Up to EUR 1.4 million	Up to EUR 1.4 million
Indicators:	<ul style="list-style-type: none">• Set of laws/ amendments to the Criminal Procedural Code and/or other laws and secondary legislation on the (independent) effective mechanism for investigation of serious human rights violations by law enforcement officials adopted; necessary budgetary allocations for launching of the mechanism in 2016 made⁷	<ul style="list-style-type: none">• Effective (independent) mechanism for investigation of serious human rights violations by law enforcement officials established inclusive of staff transparently recruited and functional• Each case/allegation of ill-treatment/torture by law enforcement officials noted by the Public Defender	<ul style="list-style-type: none">• All incidents indicative of serious human rights violations by law enforcement officials handled by the (independent) mechanism• Application of pre-trial detention throughout 2017 decreased by at least 5% compared with 2015

⁷ relevant allocations in the budget/Basic Data and Directions envisaged

	<ul style="list-style-type: none"> • Application of pre-trial detention throughout 2015 decreased by at least 5% compared with 2014⁸ • Prosecution Reform legal strategy, Action Plan and respective amendments to the Law on Prosecutor's Office adopted improving (i) guarantees for the independence of the PO from political influence and (ii) transparency and accountability of the PO by taking into consideration relevant recommendations of Council of Europe⁹ 	<p>is promptly and effectively investigated</p> <ul style="list-style-type: none"> • Approval and introduction of a performance appraisal system for prosecutors based on qualitative criteria and rewarding prosecutors who safeguard essential procedural rights of defendants and/or counteract procedural violations¹⁰ 	<ul style="list-style-type: none"> • Prosecution Council – composed in a balanced way and dealing with appointment, promotion and discipline (including removal) is established¹¹
Sources of verification:	<ul style="list-style-type: none"> • <i>PDO annual and ad-hoc reports, press releases and letters</i> • <i>NPM reports</i> • <i>Prosecutor's Office Human Rights Report</i> • <i>Relevant reports by CSOs and international organisations (Venice Commission, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), etc.)</i> • <i>Official court and prosecutor's office statistics</i> • <i>Laws, draft laws, concepts, action plans and regulations</i> • <i>Number of incidents investigated/ handled</i> 		

⁸ Pre-trial detention was applied to 32% of defendants in 2014 – statistical data published by Supreme Court at <http://www.supremecourt.ge>

⁹ Notably: EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) REPORT ON EUROPEAN STANDARDS AS REGARDS THE INDEPENDENCE OF THE JUDICIAL SYSTEM: PART II – THE PROSECUTION SERVICE Adopted by the Venice Commission at its 85th plenary session (Venice, 17-18 December 2010)

¹⁰ Eastern Partnership-Council of Europe Facility Project on “Good Governance and Fight against Corruption” Technical Paper: Country risk assessment – Georgia “Prosecution Services”, December 2013

¹¹ EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) REPORT ON EUROPEAN STANDARDS AS REGARDS THE INDEPENDENCE OF THE JUDICIAL SYSTEM: PART II – THE PROSECUTION SERVICE Adopted by the Venice Commission at its 85th plenary session (Venice, 17-18 December 2010)

4. Penitentiary/Probation Reform			
Condition	4. Improved healthcare conditions in prisons and reduced reoffending through effective application of rehabilitation policies in penitentiaries and probation		
Value	Up to EUR 2 million		
Indicators:	Up to EUR 2 million	Up to EUR 2 million	Up to EUR 2 million
	<ul style="list-style-type: none"> At least 100 inmates graduate from vocational education programmes from January to December 2015; among them the number of women corresponds to the ratio of women in the total prison population As of 2015 Halfway House(s) used only as a conditional release facility and resettlement programme for inmates At least 200 probationers finalise mandatory components of rehabilitation programmes¹² provided inter alia in partnership with CSOs from January to December 2015; among them number of female beneficiaries corresponds to the ratio of women in the total number of probationers¹³ 	<ul style="list-style-type: none"> At least 200 male and female inmates graduate from vocational education programmes from January to December 2016 (among them the number of women corresponds to the ratio of women in the total prison population); at least 40 inmates fulfil a VET programme authorised by the MoES Mechanism of early conditional release from prison is reformed to allow for in-depth review of cases based on the reports by probation on behaviour/risks/ support in community, substantiation of parole decisions and transparency of procedures At least 300 probationers finalise mandatory components of rehabilitation programmes¹⁴ provided 	<ul style="list-style-type: none"> Risk assessment and Individual sentence planning methodology introduced in all penitentiary establishments for sentenced prisoners; At least 260 male and female inmates graduate from vocational education programmes from January to December 2017 (among them the number of women corresponds to the ratio of women in the total prison population); at least 60 inmates fulfil a VET programme authorised by the MoES Annual prison mortality rate \leq 30 per 10 000 prisoners Incidence and prevalence rates of infectious diseases stabilize or decrease in number of TB cases \leq 100 total per 10 000 prisoners¹⁵ and

¹² In line with the Order of the Minister of Corrections of 30 May 2014 concerning the approval of the Mandatory Rehabilitation Courses for Probationers

¹³ As of February 2015 the National Probation Agency has 12 668 beneficiaries, among them 728 are female

¹⁴ In line with the Order of the Minister of Corrections of 30 May 2014 concerning the approval of the Mandatory Rehabilitation Courses for Probationers

¹⁵ Ca.235 in 2013

		inter alia in partnership with CSOs from January to December 2016; among them number of female beneficiaries corresponds to the ratio of women in the total number of probationers	<p>Hepatitis C cases¹⁶ = / < 50 total per 100 prisoners</p> <ul style="list-style-type: none"> • Increase by at least 10% of cases of early conditional release compared with the figures of 2014¹⁷ based on in-depth review of cases, substantiation of decisions and transparency of procedures
Sources of verification:	<ul style="list-style-type: none"> • <i>Penitentiary statistics</i> • <i>Relevant reports by PDO, CSOs and international organisations</i> • <i>Prison Medical files</i> • <i>Interviews with inmates, medical personnel, prison administration and MC staff</i> • <i>Inspection and audit reports</i> • <i>Probation bi-annual reports</i> • <i>Halfway House statistics</i> • <i>New assessment tool with Risk of Harm</i> • <i>Parole procedures revised and published</i> • <i>High Risk of harm protocol with Police/Prisons in place</i> 		

¹⁶ 48% of inmates are infected as of December 2014 with high risk of spreading, thus the objective is to minimise contamination
¹⁷ 781 persons conditionally released in 2014

5. Land Registration			
Condition			
4. Transparent, clear and reliable systems of land registration launched			
Value	Up to EUR 1.5 million	Up to EUR 1.5 million	Up to EUR 1.5 million
Indicators:	<ul style="list-style-type: none"> All land plots within the first pilot 'Sakrebulo',¹⁸ (Manglisi) surveyed and recorded 	<ul style="list-style-type: none"> At least 18 000 land plots registered within the second phase of the pilot project 	<ul style="list-style-type: none"> Pilot project in 11 'Sakrebulos' implemented, all land plots¹⁹ surveyed and registered Country-wide implementation strategy and action plan approved by Government of Georgia and implementation launched
Sources of verification:	<ul style="list-style-type: none"> Laws/legislative amendments on land registration Strategy on pilot project for land registration Land registration data/statistics Annual statistical analysis on land dispute cases Practical Guide and Methodology for the nationwide land registration project 		

¹⁸ 'Sakrebulo' is an administrative-territorial unit under the legislation of Georgia

¹⁹ 48 000 land plots including those to be registered in 2016

5. Variable tranche calculation

The programme foresees the payment of four annual instalments. For each instalment, a fixed tranche can be paid upon compliance with the General Conditions (as detailed in section above). Once compliance with the General Conditions has been positively assessed by the Commission, the variable tranche will be assessed and paid according to the level of compliance with each of the Specific Conditions.

There are three possible levels of compliance with each specific condition:

- i) Full compliance, which will result in a disbursement decision of the Commission amounting to the full corresponding quota;
- ii) Partial but significant compliance, which will result in a disbursement decision of the Commission amounting to half of the corresponding quota;
- iii) Insufficient or no compliance, which will result in a no disbursement decision of the Commission.

For each specific condition, compliance corresponds to all indicators under respective condition being met. Partial compliance corresponds to more than half of the indicators being met. Non-compliance corresponds to half or less than half of the indicators being met.

In duly justified cases and following a duly-substantiated request submitted by the competent authorities to the European Commission, compliance might be re-assessed during the review of the immediately subsequent annual tranche, possibly allowing for the payment of the corresponding unpaid amount(s). Funds withheld for lack of compliance will be lost at the end of the Programme. In any case, the final decision on the degree of compliance and on any type of tranche disbursement rests with the European Commission.

The potential amounts for disbursement of associated with each Condition for each variable instalment are set out in Table D. The actual amounts will vary with the level of compliance as indicated above.

Table D: Potential Variable Instalment Disbursement (in EUR million)

	1 st Instalment		2 nd Instalment		3 rd Instalment		4 th Instalment		Total
	% of total instalment	Maximum amount	% of total instalment	Maximum amount	% of total instalment	Maximum amount	% of total instalment	Maximum amount	
Percentage and maximum Amounts									
TOTAL	100%	3.0	100%	9.0	100%	9.0	100%	9.0	30.0
Fixed tranche	100%	3.0	20%	1.8	20%	1.8	20%	1.8	8.4
Variable tranche	0	0	80%	7.2	80%	7.2	80%	7.2	21.6
1. Access to Justice				1.0		1.0		1.0	3.0
2. Development of Child-friendly Justice System				1.3		1.3		1.3	3.9
3. Criminal Justice, Criminal Investigation and Prosecution				1.4		1.4		1.4	4.2
4. Penitentiary/Probation Reform				2.0		2.0		2.0	6.0
5. Land Registration				1.5		1.5		1.5	4.5