



Brussels, 10.8.2018  
C(2018) 5142 final

**COMMISSION IMPLEMENTING DECISION**

**of 10.8.2018**

**on the Preparatory Action for Support to EU Neighbours to Implement Asset Recovery  
to be financed from the general budget of the Union**

## COMMISSION IMPLEMENTING DECISION

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### on the Preparatory Action for Support to EU Neighbours to Implement Asset Recovery to be financed from the general budget of the Union

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>1</sup>, and in particular Articles 54(2)(b) 84(2) thereof,

Whereas:

- (1) This action builds on successful practices implemented under the EU funded Preparatory Action to Support Arab Spring Countries to Implement Asset Recovery (hereafter the 'PA'). The PA focussed on supporting Egypt, Libya and Tunisia in furthering asset recovery cases resulting from the 2011 revolutions that toppled their former leaders, in particular with respect to bilateral judicial cooperation with EU Member States and other countries. This has resulted in, among other achievements, strengthened coordination between Arab Spring countries and EU Member States on asset recovery. In light of the above, officials from EU Member States and high-level officials of the original beneficiary States, including the Prime Minister of Libya, the Prosecutor General of Egypt and the Minister of State Property for Tunisia, have indicated a strong interest in seeing a broader, more permanent, EU Programme to Implement Asset Recovery.
- (2) Given the value of asset recovery work in contributing to stabilisation among EU neighbours, the ownership taken up by national counterparts and the results achieved thus far through the expertise provided through the preliminary PA, this action will be highly relevant to Tunisia and Libya. It is expected to produce additional good practices that will assist the European Union in creating a more permanent programme for its neighbours in the recovery (and effective management) of stolen assets linked to corruption and other forms of organised criminal activity. Egypt, for which a separate Financing Decision was approved in 2017<sup>2</sup>, will be involved in region-wide activities. The action, while distinct in scope to other pending or planned projects, will also serve to reinforce and complement such efforts to assist these countries in combating corruption, money laundering, the financing of terrorism and other forms of organised crime.
- (3) The action entitled 'Preparatory Action for Support to EU Neighbours to Implement Asset Recovery' will contribute to the effective recovery of assets linked to corruption or other forms of organized criminal activity, in Libya and Tunisia. More specifically, it will support the implementation of efficient mechanisms in Libya and Tunisia for

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<sup>1</sup> OJ L 298, 26.10.2012, p. 1.

<sup>2</sup> ENI/2017/040-688: "Support to Accountability and Democratic Governance"

tracing, freezing, seizure and recovery of stolen assets. This action may be implemented in indirect management with UNICRI (United Nations Interregional Crime and Justice Research Institute), in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012.

- (4) It is necessary to adopt a financing Decision the detailed rules of which are set out in Article 94 of Commission Delegated Regulation (EU) No 1268/2012<sup>3</sup>.
- (5) The envisaged assistance is deemed to follow the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU.
- (6) It is necessary to allow for the payment of interest due for late payment on the basis of Article 92 of Regulation (EU, Euratom) No 966/2012 and Article 111(4) of Delegated Regulation (EU) No 1268/2012.
- (7) Pursuant to Article 94(4) of Delegated Regulation (EU) No 1268/2012, any substantial change to a financing decision that has already been adopted should follow the same procedure as the initial decision. It is therefore appropriate that the Commission defines the changes to this Decision that are considered non-substantial in order to ensure that any such changes can be adopted by the authorising officer responsible.

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### **Adoption of the measure**

The ‘Preparatory Action for Support to EU Neighbours to Implement Asset Recovery’ set out in the Annex, is adopted.

#### *Article 2*

##### **Financial contribution**

The maximum contribution of the European Union for the implementation of the measure referred to in Article 1 is set at EUR 650,000 and shall be financed from budget line 22 04 77 07 of the general budget of the European Union for 2018.

The financial contribution provided for in the first paragraph may also cover interest due for late payment.

#### *Article 3*

##### **Methods of implementation**

Budget-implementation tasks under indirect management may be entrusted to the entity identified in the Annex, subject to the conclusion of the relevant agreement.

The elements required by Article 94(2) of Delegated Regulation (EU) No 1268/2012 are set out in the Annex to this Decision.

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<sup>3</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

*Article 4*

**Non-substantial changes**

Increases or decreases not exceeding 20 % of the contribution set in the first paragraph of Article 2 as well as extensions of the implementation period shall not be considered substantial within the meaning of Article 94(4) of Delegated Regulation (EU) No 1268/2012 provided that they do not significantly affect the nature and objectives of the action.

The authorising officer responsible may adopt such non-substantial changes in accordance with the principles of sound financial management and proportionality.

Done at Brussels, 10.8.2018

*For the Commission*  
*Johannes HAHN*  
*Member of the Commission*



This action is funded by the European Union

**ANNEX**

of the Commission Implementing Decision on the Preparatory Action for Support to EU Neighbours to Implement Asset Recovery to be financed from the general budget of the Union

**Action Document for Support to EU Neighbours to Implement Asset Recovery**

<b>1. Title/basic act/ CRIS number</b>	Preparatory Action for Support to EU Neighbours to Implement Asset Recovery, CRIS number: ENI/2018/397-481, financed under the Budget in the sense of Article 54(2) of the Financial Regulation.			
<b>2. Zone benefiting from the action/location</b>	The action shall be carried out at the following location: Tunisia and Libya complemented with Egypt for regional activities. The project team will be based in Brussels.			
<b>3. Programming document</b>	Not applicable			
<b>4. Sector of concentration/ thematic area</b>	Not applicable	DEV. Aid: YES		
<b>5. Amounts concerned</b>	Total estimated cost: EUR 650 000 Total amount of EU budget contribution EUR 650 000 from the general budget of the European Union for 2018.			
<b>6. Aid modality(ies) and implementation modality(ies)</b>	Project Modality Indirect management with an International Organisation			
<b>7 a) DAC code(s)</b>	15130 – Legal and judicial development			
<b>b) Main Delivery Channel</b>	52000 - Other			
<b>8. Markers (from CRIS DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>
	Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	X
	Aid to environment	X	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality (including Women In Development)	X	<input type="checkbox"/>	<input type="checkbox"/>
	Trade Development	X	<input type="checkbox"/>	<input type="checkbox"/>

	Reproductive, Maternal, New born and child health	X	<input type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>
	Biological diversity	X	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	X	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	X	<input type="checkbox"/>	<input type="checkbox"/>
<b>9. Global Public Goods and Challenges (GPGC) thematic flagships</b>	Not applicable.			
<b>10. SDGs</b>	Primarily The Sustainable Development Goal (SDG) Target 16 " <i>Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels</i> "			

## SUMMARY

This Action builds on successful practices implemented under the EU funded Preparatory Action to Support Arab Spring Countries to Implement Asset Recovery (hereafter the 'PA'). The PA focussed on supporting Egypt, Libya and Tunisia in furthering asset recovery cases resulting from the 2011 revolutions that toppled their former leaders, in particular with respect to bilateral judicial co-operation with EU Member States and other countries. This has resulted in, among other achievements, strengthened co-ordination between Arab Spring countries and EU Member States on asset recovery, and in facilitating the recovery and return of over 300 million US dollars. In light of the above, officials from EU Member States and high-level officials of the original beneficiary States, including the Prime Minister of Libya, the Prosecutor General of Egypt and the Minister of State Property for Tunisia, have indicated a strong interest in seeing a broader, more permanent, EU Programme to Implement Asset Recovery.

Given the value of asset recovery work in contributing to stabilisation among EU neighbours, the ownership taken up by national counterparts and the results achieved thus far through the expertise provided through the preliminary PA, this Action will be highly relevant to Tunisia and Libya. It is expected to produce additional good practices that will assist the European Union in creating a more permanent programme for its neighbours in the recovery (and effective management) of stolen assets linked to corruption and other forms of organised criminal activity. Egypt, for which a separate financing Decision was approved in 2017<sup>1</sup>, will be involved in region-wide activities. The Action, while distinct in scope to other pending or planned projects, will also serve to reinforce and complement such efforts to assist these countries in combating corruption, money laundering, the financing of terrorism and other forms of organised crime.

<sup>1</sup>. ENI/2017/040-688: "Support to Accountability and Democratic Governance".

## 1 CONTEXT

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

Synopsis of the situation in Libya and Tunisia.

#### The case of Libya:

Among the countries that went through the Arab Spring, Libya remains a significant challenge with respect to fighting corruption, and the recovery of stolen assets linked to acts of corruption. The country's public coffers had been extensively looted during the Gaddafi regime, and well over USD 40 billion in assets remain outside of Libya. Militias rule many parts of the country, and the UN-backed Government of National Accord has struggled significantly to restore the rule of law. Political disagreements, particularly among officials in the East and those in the West, still prevent the country from being unified, and there are numerous power struggles at all levels.

In light of this, even officials with the best of intentions, and seeking to improve the everyday lives of the Libyan people, recommend that, until there is greater stability in the country, any stolen assets which are the product of corruption or other forms of serious crime, and which are located outside of the country, should indeed be frozen or seized, but should also remain outside of the country; returning such assets in the current political climate might be construed among warring factions as favouring the interests of one side over another. Officials also express a high level of concern that, given the prevalence of corruption within most State institutions, returning such assets means risking that they could be corruptly misused again.

Notwithstanding the above, the EU-funded Preparatory Action to Implement Asset Recovery for Arab Spring Countries has worked closely with key officials within the UN-backed Government of National Accord, to help the country establish a new Asset Recovery and Management Office (established by Presidential Decree in November 2017). They have also assisted the Government of National Accord in tracing a large number of stolen assets, and in assisting the Government in further understanding the location and legal state of such assets (e.g., whether some assets in foreign countries are simply sitting there, frozen and perhaps deteriorating; and/or whether some of these assets are currently the subject of litigation, for which the Libyan Government needs to assert its interests in order to recover them).

Still, extensive work needs to be done in conjunction with the Libyan Government in order to effectively map (and understand the status of) many assets – such as real estate, aircraft, bank accounts and complicated trusts created by corrupt individuals) – located outside of the country. Like Tunisia, the Government of Libya also needs technical advice on, when it becomes possible, the effective and transparent distribution of recovered assets – this is all the more important in the context of ongoing and dire humanitarian needs throughout the country, particularly in the health and education sectors. Additional technical advice is also needed to assist the Libyan Government in taking the necessary steps to ensure that any Government assets located outside the country (including assets belonging to the Libyan Investment Authority and related sovereign wealth funds) are effectively managed, until a decision is made for their return. By some estimates, the poor management of these assets is producing an average annual loss of some USD 1 billion.

#### The case of Tunisia:

Since the 2011 revolution, Tunisia has launched several legal and institutional reforms to combat corruption.. This includes the promulgation of laws and regulations with respect to public procurement contracts. The Government of Tunisia has also established several institutional mechanisms to facilitate the tracing of assets, as well as the management and/or liquidation of recovered assets.

The Tunisian government has made valuable re-use of recovered physical assets; this includes the repurposing of office buildings (once used by the former regime). Such office space is now used by the Ministry of State Property and its anti-corruption divisions. The Tunisian government is also reviewing its mechanisms and structures to further streamline the effective management of recovered assets. In the immediate aftermath of the Arab Spring, mechanisms had been set up to recover assets, but many of these assets (such as boats and vehicles) were not being adequately maintained.

While most corruption-related cases within the criminal court system have been slow to advance, several judicial decisions have been handed down, along with orders for confiscation of assets stolen by officials from the former regime. To date, and since the Arab Spring, Tunisia has recovered assets valued at over USD 29 million. The political and social climate, during the immediate years after the Arab Spring, did not permit the Government to reach “reconciliation agreements” with those accused of high-level corruption – e.g., allowing such individuals to return assets in return for no jail time – the atmosphere in 2017 and 2018 have seen greater public acceptance of this as a means of administering justice.

Tunisia is also finalising a draft law for non-penal confiscation of assets; promulgation of this law (and training on its application) would accelerate the government’s overall efficiency in seizing and recovering assets linked to cases involving corruption and other forms of serious crime.

Notwithstanding the above, assets valued at some USD 60 million remain frozen in Swiss bank accounts and have yet to be returned, as do several properties in France, among other countries. EU-imposed sanctions against specific individuals linked to the former regime are aging, and it is becoming increasingly difficult for the EU to keep these sanctions in place without strong evidence from Tunisia that sufficient progress is being made in criminal cases. It may happen that these sanctions could be lifted and the frozen assets allowed to be returned to the individuals linked to the former regime.

Aside from technical and expert advice, as well as training, needed to further strengthen Tunisia’s non-penal confiscation legal and operational framework, Tunisia continues to need technical advice on effective asset management (what to seize, what not to seize, effective inventorying of seized assets, and proper methodologies for liquidation of seized and/or confiscated assets). Criminal justice officials also need continued technical advice on formulating mutual legal assistance requests, as well as prioritizing such requests – e.g., given that sanctions imposed at the EU level on specific individuals of the former regime might soon be lifted, technical advice is needed to assist Tunisia in making requests, to specific EU Member States, to freeze such assets (at a bilateral, rather than EU-wide level).

Finally, and as a means of improving transparency with respect to the distribution of recovered assets, greater specificity is needed within Tunisian law to ensure that such

recovered assets are properly used, and that civil society is consulted with respect to how such assets are used – this would include directing such assets to high-priority development needs (e.g., needs within the health and education sectors).

#### Recommendations:

Key Middle East and North Africa countries (including Libya and Tunisia) have seen moderate success in either, the freezing, seizure or confiscation of assets linked to major acts of corruption. Notwithstanding this, and understanding that asset recovery is traditionally a slow process, continued high-level political will does exist and will be needed to make the structural (legal and operational frameworks) changes needed in order to systematise efficient asset recovery practices.

As a result of a previous EU-supported initiative, with UNICRI as the implementing organisation, Libya now has established an Asset Recovery and Management Office (taking advantage of the good practices established in many EU countries). Through the same EU-funded initiative, UNICRI has assisted Arab Spring countries in recovering assets valued at over USD 300 million and has assisted Libya in tracing and identifying more than USD 40 billion located outside of that country.

Given the lengthy process of assisting countries in manoeuvring through the labyrinth of legal processes to seize and recover stolen assets, particularly those located abroad, continued effort needs to be placed on solidifying working relationships between officials in Tunisia and Libya (countries that have lost a significant amount of assets due to major acts of corruption) and officials in other countries in which those stolen assets (or the fruit of those stolen assets) have been placed. The overall goal in this context would be to assist Requesting States in streamlining their requests to Requested States and to ensure that such requests steadily obtain more favourable and timely, responses.

Increased emphasis needs to be placed on developing the above-mentioned working relationships, as well as, through this Action, more highly specialised expertise in the tracing of assets linked to acts of corruption and other forms of organised criminal activity. More effective mapping of assets will bring the countries that are the focus of this Action a significant step closer to more effective recovery of assets.

Notwithstanding the above, Libya of course still needs many internal changes, as well as multiple forms of international assistance, to overcome instability and to achieve even the most basic environment needed for the rule of law to take hold. More efficient asset recovery mechanisms are just one part of the puzzle, albeit a highly useful one for a country that has lost a significant amount of wealth due to corruption.

Tunisia has shown a high level of political will, and is making positive strides in (1) the adoption of new laws or other policies that streamline the asset recovery process, (2) introducing institutional changes that place greater priority and operational expertise on the recovery of assets, and (3) building stronger working relationships with other countries where stolen Tunisian assets have been located. The country still needs expert advice on multiple cases so as to develop sustainable autonomy in handling the complexity of tracing, freezing, seizing and confiscation of assets (located both abroad and within Tunisia). The country also needs continued expert advice on new legal frameworks for non-penal confiscation of assets linked to acts of

corruption, and advice on working closely with its European counterparts to ensure either continued EU-level sanctions stay in place, or to ensure that sanctions at a bi-lateral level (e.g., between Tunisia and specific EU Member States) are put in place against individuals accused of high-level acts of corruption.

## 2 RISKS AND ASSUMPTIONS

Risks	Risk level (H/M/L)	Mitigating measures
<p><b>Tunisia-Libya:</b> EU-imposed sanctions against specific individuals linked to the former regimes are aging. The sanctions are being challenged before the Court of Justice, and it is becoming increasingly difficult for the EU to keep these sanctions in place without strong evidence that sufficient progress is being made in criminal cases against the individuals targeted by the sanctions. It is possible that in the coming year or two, maintaining these sanctions could no longer be justified. They would then be lifted and the frozen assets allowed to be returned to the individuals linked to the former regimes.</p>	H	<p>The project will work with Tunisian and Libyan authorities, as well as with Requested States, on specific cases allowing to show progress. The immediate objective of this approach is to have the assets seized under domestic procedures in individual member states where they are located.</p> <p>This approach has proven valuable in the previous preparatory action.</p> <p>The project will also advocate introducing non-penal procedures, which lead to quicker results and may provide arguments for not lifting the sanctions.</p>
<p>For assets that have high managing costs (i.e. fixed assets), the executing country may not be willing to sustain the related management costs indefinitely and may decide to release the assets without the freezing order being lifted.</p>	M/H	<p>UNICRI's asset recovery experts will work closely with both the Requesting and Requested States to identify specific solutions tailored to such assets, so as to limit any losses to the Requesting State, to limit or eliminate management costs (e.g., by liquidating the asset) on behalf of the Requested State, and to ensure that assets are not released in a manner inconsistent with UN and EU freezing regimes that are in place.</p>
<p><b>Libya:</b> The uncertainty about the future political leadership of the country could result in national AR stakeholders operating in an overall</p>	H	<p>Whilst keeping track of the ongoing international efforts to reach a new political agreement in Libya, the project will support the operations of the newly created Asset Recovery and Management</p>

weakened institutional environment, with conflicting priorities and strategies imposed by various individuals or factions, and expose those stakeholders to increased insecurity.		Office. It will ensure that frozen and stolen assets located in third countries remain held in those countries, until the political and security situation allow for their return to their legitimate owners, i.e. that they serve the interests of the Libyan people.
<b>Libya:</b> Returning stolen assets may be construed among warring factions and run the risk of being claimed illegitimately by certain individuals or companies and of being corruptibly misused again.	H	Stolen assets located outside the country will not be returned to Libya but remain in the country in which they are frozen or seized, at least for the time being. Technical advice will be provided on, when it becomes possible, the effective and transparent distribution of recovered assets for the benefit of the Libyan people.
Poor management of assets located out of the country, which can easily result in substantial depreciation of those assets. It is estimated that the frozen Libyan assets are losing up to 1bio USD in value annually.	H	Additional technical advice is needed to assist the Libyan Government in taking the necessary steps to ensure that any Government assets located outside the country (including assets belonging to the Libyan Investment Authority and related sovereign wealth funds, and interests generated by those assets) are effectively managed, until a decision is made for their return.
<b>Tunisia:</b> Difficulty to reach “reconciliation agreements” or settlements with those accused of high-level corruption, allowing such individuals to return assets in return for no jail time.	M	The project works on all possible methods for problem-resolution and favours rapid procedures leading to faster results. Since Arab spring only 29 million \$ have been recovered.
Legal obstacles in executing recent convictions and asset confiscation that were ruled in absentia, and that could not be formally notified to the convicted individuals, i.e. the former president of Tunisia and his close relatives who fled the country.	M	The project works on conceiving innovative mechanisms to make those convictions and related asset confiscations executable in countries where assets are held, by elaborating legally acceptable mechanisms for their notification in those countries.
<b>Assumptions</b>		
The political willingness is still there to proceed with further asset recovery;		
Key institutions co-operate among each other at the domestic level in supporting coherent asset recovery strategies, and in tracing, seizing, confiscating and recovering assets linked to corruption and other organised crime activity;		
Continued commitment with Requested States to facilitating international co-operation and to adopting innovative approaches to asset recovery, in particular non-penal mechanisms.		

### **3 LESSONS LEARNT, COMPLEMENTARITY AND CROSS-CUTTING ISSUES**

#### **3.1 Lessons learnt**

International support and expertise on asset recovery has evolved significantly over the past decade, and the nature of the advice provided to each country has also diversified, depending on the specific dynamics of legal and operational structures within each country.

Principally, the clear trend in asset recovery over the past several years has been to assist countries in developing stronger non-penal measures to capture assets linked to acts of corruption and other forms of organised criminal activity. Once legal and operational mechanisms are in place, and adequate capacity building is provided, non-penal confiscation of assets speeds up the judicial process (months rather than years) of capturing illicitly-obtained assets – this benefits public perception that the justice system is more agile and responsive to criminality, and also deprives criminals of the fruits or their crimes. In many cases, more rapid capture of illicitly-obtained assets also deprives criminals of the means to continue funding their illicit activity (including the smuggling of migrants, human trafficking, high-level corruption and the financing of terrorism).

Additionally, an essential part of asset recovery is effective dialogue between officials of Requesting and Requested States. Experience has shown that the stronger the working relationship among officials in a Requesting State with those in a Requested State, the greater the likelihood of recovery of assets. In light of this, strong emphasis must be placed in encouraging peer-to-peer missions, and in encouraging greater participation in existing networks of police, prosecutors and other officials, to foster bridges and to build relationships. Such emphasis is particularly needed in the MENA region (the focus of this Action) where officials from MENA countries traditionally have not engaged as frequently as needed with their European counterparts in order to understand each other's needs, and to more fully appreciate the differences in their respective legal frameworks.

Civil society also plays a valuable role on the issue of asset recovery. In States where there have been massive levels of corruption, many entities from civil society play a role in trying to track down where stolen assets have gone, and linking these entities with public institutions charged with investigating acts or corruption can be vital to the success of such investigations. Additionally, and increasingly, civil society can, and should, play a role in helping public institutions to identify high-priority development needs, to which recovered assets should be directed. This strengthens public perceptions that the government is responsive to such needs and also demonstrates greater transparency in the distribution of recovered assets.

#### **3.2 Complementarity, synergy and donor co-ordination**

The Action will be carried out in synergy with a separate bilateral EU-funded action in Egypt to support officials on similar issues in that country. The initiative is fully in line with the priorities set out in the decisions and guidelines of the Parliament of the European Union, the Arab Forum on Asset Recovery, the Global Forum on Asset Recovery, the G8, and the Deauville Partnership with Arab Countries in Transition, as well as assessments of the World Bank and the International Monetary Fund.

The Action further contributes to ensuring that key EU Southern Neighbours establish greater harmonisation with specific provisions of the United Nations Convention against Corruption (UNCAC), Recommendations of the Financial Action Task Force (FATF), Guidelines of the MENA FATF, and law enforcement objectives of both Libya and Tunisia.

Complementarity and synergies will be established with all existing and future initiatives in this sector conducted by relevant national, regional and international actors, including:

- Bilateral or regional projects promoting the implementation of the United Nations Convention against Corruption (UNCAC) or the UN Convention against Transnational Organized Crime (UNTOC) and projects to build national institutions for their implementation, such as "Countering the finance of Terrorism-Anti Money Laundering MENA+Asia" (CRIS number: 386-953).
- Programmes to build law enforcement and judicial capacity such as the programme Euromed Police IV and Justice IV (CRIS numbers 362-126 and 365-025), and the EU Border Assistance Mission (EUBAM) in Libya.
- Broader initiatives in which efforts are being undertaken to strengthen the rule of law and democracy, such as "The EU Emergency Trust Fund for Africa", including a component on good governance and fight against corruption as well as money laundering.

Partnerships and close co-operation will be established with all national stakeholders (including Non-Governmental Organisations, academics and anti-corruption political activists) and relevant regional and international actors involved in this sector, in particular:

- Relevant European Union (EU)-level entities and institutions, especially the EU Delegations in Libya, Tunisia and Egypt, the EU Asset Recovery Offices' Platform, the Camden Asset Recovery Inter-Agency Network (CARIN), the European External Action Service (EEAS), EUROJUST, EUROPOL, CEPOL, the Euro-Arab Judicial Training Network and members of the European Judicial Training Network (EJTN);
- United Nations entities, including UNODC and UNDP;
- International financial institutions, particularly the World Bank and IMF, and international initiatives such as the G8, the Deauville Partnership with Arab Countries in Transition, the Stolen Asset Recovery (StAR) Initiative; and
- National competent authorities in Libya and Tunisia.

### **3.3 Cross-cutting issues**

**Rule of Law:** This Action facilitates improved rule of law in countries that need it; by strengthening mechanisms and institutions in their efficient tracing, freezing, seizing and recovery of assets linked to acts of corruption (and other forms of organised crime), this reinforces public perceptions that the justice system is working and that there is no impunity for such criminal activity.

Promoting Gender Equality: While not mentioned as a specific activity, it is the policy of the United Nations to encourage all state institutions to which training or other capacity building is provided, to strengthen gender parity in the identification of personnel who receive such training, and to thus bolster gender parity in terms of skills in the workplace. This policy will be emphasised by project experts in the organisation of all training and other support provided through the project.

## **4 DESCRIPTION OF THE ACTION**

### **4.1 Objectives/results**

The overall objective of this action is to contribute to the effective recovery of assets linked to corruption or other forms of organised criminal activity, in Libya and Tunisia.

Specific objective: To support the implementation of efficient mechanisms in Libya and Tunisia for tracing, freezing, seizure and recovery of stolen assets.

Result 1: Operational means and procedures for Asset Recovery and Asset Management Offices are defined.

Result 2: Dialogue and mutual understanding between requesting and requested states is strengthened.

Result 3: Mapping of assets located outside the countries is improved.

Result 4: National capacity to implement penal and non-penal mechanisms is strengthened.

Result 5: Evidence-based good practices and proposals for future asset recovery and asset management work are disseminated.

This programme is relevant for the Agenda 2030. It contributes primarily to the progressive achievement of SDG Goal(s) Target 16 "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels". This does not imply a commitment by the countries benefiting from this programme.

### **4.2 Main activities**

Below indicative and non-exhaustive activities will be deployed to reach the objectives and expected results:

- Technical advice on efficient co-ordination with asset recovery practitioners, including members of the Camden Asset Recovery Inter-Agency Network;
- Peer-to-peer missions to share good practices and strengthen working relationships;
- Regional meetings to strengthen MENA-level co-ordination and sharing of good practices;
- Advice for policy makers to bring national legislation in line with international and EU guidelines on the creation of management of asset recovery and asset management offices;
- Advice on legal and regulatory frameworks needed for penal and non-penal confiscation of stolen assets;

- Advice on effective operational practices for penal and non-penal confiscation of assets linked to criminal activity;
- Workshops to strengthen capacity to trace, freeze, seize and recover stolen assets;
- Meetings with national authorities, civil society and parliaments, to identify high priority development needs to which recovered assets should be directed and to explain the transparency of the mechanisms for recovery and asset management;
- Review of national legislation and regulatory frameworks with respect to ultimate destination of recovered assets, and recommendations for adjusting such frameworks;
- Peer-to-peer missions to observe good practices on distribution of recovered assets and/or their social re-use.
- Dissemination of evidence-based research on effective distribution and use of recovered assets.

### **4.3 Intervention logic**

This Action builds on successful practices implemented under the EU funded Preparatory Action to Support Arab Spring Countries to Implement Asset Recovery (PA). The PA focussed on supporting Egypt, Libya and Tunisia in furthering asset recovery cases resulting from the 2011 revolutions that toppled their former leaders, in particular with respect to bilateral judicial co-operation with EU Member States and other countries. This has resulted in, among other achievements, strengthened co-ordination between Arab Spring countries and EU Member States on asset recovery, and in facilitating the recovery and return of over 300 million US dollars.

The action will continue providing high quality technical guidance and facilitate peer-to-peer expert missions focusing on pending cases to achieve concrete results.

The action aims at strengthening the mechanisms for the recovery of stolen assets linked to acts of corruption and other serious crimes, as well as strengthening mechanisms for effective and transparent use of seized and confiscated assets and establishing processes for their transparent management and distribution, including in particular for use in the health and education sectors.

The action also focusses on penal and non-penal confiscation of stolen assets.

The action focusses on Libya and Tunisia, but Egypt will be involved in regional activities.

A separate financing Decision has been proposed and approved for Egypt aiming to supporting the fight against corruption, and strengthening asset recovery and asset management.

## **5 IMPLEMENTATION**

### **5.1 Financing agreement**

In order to implement this action, it is not foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of Regulation (EU, Euratom) No 966/2012.

## 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 24 months from the date of adoption by the Commission of this Action Document.

Extensions of the implementation period may be agreed by the Commission's authorising officer responsible by amending this decision and the relevant contracts and agreements; such amendments to this decision constitute technical amendments in the sense of point (i) of Article 2(3)(c) of Regulation (EU) No 236/2014.

## 5.3 Implementation modalities

The envisaged assistance to Tunisia and Libya is deemed to follow the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU<sup>2</sup>.

### 5.3.1 Indirect management with an international organisation

This action may be implemented in indirect management with the pillar assessed, international organisation UNICRI (United Nations Interregional Crime and Justice Research Institute), in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012. This implementation entails support for the establishment of dedicated Asset Recovery and Asset Management Offices, support for efficient implementation of penal and non-penal mechanisms for tracing, freezing, seizure and recovery of stolen assets and identification and diffusion of good practices in the field of asset recovery and asset management. This implementation is justified because UNICRI assists governments and the international community in tackling the threats that crime poses to peace, security and sustainable development, by fostering just and efficient criminal justice systems, the formulation and implementation of improved policies, and the promotion of national self-reliance through the development of institutional capacity. UNICRI is implementing the previous Preparatory Action focussing on supporting Egypt, Libya and Tunisia in furthering asset recovery cases resulting from the 2011 revolutions that toppled their former leaders. UNICRI will also implement the component on asset recovery within the bilateral programme with Egypt on Support to Accountability and Democratic Governance.

The entrusted entity would carry out the following budget-implementation tasks consisting of carrying out procurement and grant award procedures, and awarding, signing and executing the resulting procurement and grant contracts, notably accepting deliverables, carrying out payments and recovering the funds unduly paid, where works, services, supplies and other benefits are not for the own use of the Organisation.

## 5.4 Indicative budget

	<b>EU contribution (amount in</b>	<b>Indicative third party contribution, in currency</b>

<sup>2</sup>. [https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_en).

	<b>EUR)</b>	<b>identified</b>
Indirect management with UNCRI	650 000	N.A.
Total	650 000	N.A.

## **5.5 Organisational set-up and responsibilities**

This programme will be directly implemented by the UNICRI. The European Commission will supervise the agreement in close liaison with the EU Delegations of Tunisia, Libya and Egypt. A Steering Committee will be established with the participation of the relevant Commission Services and the Sanctions Division European External Action Service.

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

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

## **5.7 Evaluation**

Having regard to the nature of the action, an evaluation will not be carried out for this action or its components.

In case an evaluation is not foreseen, the Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision or on the initiative of the partner.

The Commission shall inform the implementing partner at least 3 months in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the 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 project.

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

## **5.8 Audit**

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

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

## **5.9 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 5.4 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.

## APPENDIX - INDICATIVE LOGFRAME MATRIX

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

	Results chain	Indicators	Baselines (incl. reference year)	Targets (incl. reference year)	Sources and means of verification	Assumptions
Over all	To increase the recovery of assets linked to corruption or other forms of organised criminal activity, in Libya and Tunisia.	Total value of recovered assets or ready to be recovered	To be identified during inception	Significant increase	Press reviews	
Specific objective(s): Outcome(s)	To support the implementation of efficient mechanisms in Libya and Tunisia for tracing, freezing, seizure and recovery of stolen assets.	Progress on ongoing cases for tracing, freezing, seizure and recovery of stolen assets, and initiation of new cases	To be identified during inception	Significant increase of the number and quality of cases;	Reports from national and international organisations;  Official statistics.	The political willingness is still there to proceed with further asset recovery;  Continued commitment with Requested States to facilitating international co-operation.
Outputs	R1: Operational means and procedures for Asset Recovery and Asset Management Offices are defined;  R2: Support to the dialogue and mutual understanding between requesting and requested states;  R3: Improved mapping of assets located	1: number of deployed officials  2: number of peer to peer missions and study visits  3: value of new assets identified and number of jurisdictions identified and	To be identified during inception	Significant increase	Activity reports of the competent authorities;  Activity reports of the project; Unicri web-statistics.	Key institutions co-operate among each other at the domestic level in supporting coherent asset recovery strategies, and

	<p>outside the countries;</p> <p>R4: Strengthened capacity to implement penal and non-penal mechanisms;</p> <p>R5: Dissemination of evidence-based good practices and proposals for future asset recovery and asset management work.</p>	<p>approached;</p> <p>4: number of penal and non-penal procedures initiated and/or completed by the Asset Recovery and Asset Management Offices;</p> <p>5: number of hits and/or downloads of publications on Unicri web-page</p>				<p>in tracing, seizing, confiscating and recovering assets linked to corruption and other organised crime activity.</p>
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