Concept Note

**Indirect Management of the EU Programme Support to Combating
Corruption in Ukraine (2017-2019) implemented by Denmark**

August 2016

Introduction and summary
Corruption remains endemic in Ukraine and is an impediment for democratic development in the country, which is one of the major objectives of Danish Neighbourhood strategy. Thus, anti-corruption in Ukraine is a high political priority for Denmark, and the rest of the EU, and supporting efforts to combat corruption is a foundation for other ongoing Danish and EU support to the country. By combatting corruption Denmark and EU will contribute to the future economic growth and trade between Ukraine, Denmark and the rest of the EU.

To support anti-corruption efforts EU have allocated EUR 15 million to this cause. Based on the substantial experience Denmark has with governance and civil society in Ukraine and solid experience with the implementation of large programmes in this field, the EU has decided to award the implementation of the EUR 15 million "EU Anti-Corruption Initiative in Ukraine" 2017-2019 to Denmark using the indirect implementation modality. Denmark has allocated DKK 10 million (app. EUR 1.34m) to the programme.[1] Implementation of the programme is an opportunity for Denmark to significantly enhance its engagement in support of the Ukrainian reform agenda, to promote a platform for donor coordination and to increase the visibility of EU and Danish support in line with the Danish foreign minister's Ukraine initiative at the EU Foreign Affairs Council in January 2016.

This concept note is drafted within the framework of the EU Action Document for the anti-corruption in Ukraine (Annex A). The overall objective of the support is to improve the implementation of anti-corruption policy in Ukraine, thereby ultimately contributing to a reduction in corruption. This will be achieved by enhancing (1) institutional capacity of anti-corruption institutions, (2) parliamentary oversight of the reforms and (3) civil society, media and local government in the fight against corruption.

National context
Since the Maidan uprising Ukraine has been on a path of enhanced reform towards improved democratic development and increased ties with the European Union (EU). However, the country is still challenged by weak internal accountability mechanisms. Corruption remains a major spoiler for the democratic development and economic growth of Ukraine, which in 2015 ranked 130 out of 168 countries on Transparency international's Corruption Perception Index. Corruption permeates society from political party financing, to business licenses and taxation, to media, the judicial system, to service delivery and procurement at the local government level.

To combat the widespread corruption Ukraine has adopted extensive legislation and the introduction of a new anti-corruption policy in 2015. The policy establishes a range of new institutions across the anti-corruption work chain within prevention, investigation, prosecution, asset registration and recovery, and specialised courts (for details of established institutions see Annex C). This was partly a consequence of the strong pressure from civil society and strong international engagement, including the policy dialogue conducted by the EU in the framework of the Visa Liberalisation Action Plan (VLAP). The continued emphasis on fighting corruption is expressed in the Ukraine Government Plan for 2016, which explicit include the following three goals: 1) Efficient implementation of the legislation and functioning of anti-corruption institutions organised after the Revolution of Dignity; 2) Further progress in liberalisation and deregulation of the economy, privatisation and improvement of transparency of public administration; and 3) Cooperation between all branches of the power with a view to reformation of the judicial system.

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[1] This concept note concerns the total amount of funds EUR 16.34 million implemented by the Ministry of Foreign Affairs of Denmark. The DKK 10 million allocated by Denmark for the programme has been approved with an appropriation note by Head of Department June 2016.

The new legislation has resulted in change in public attitude with a new belief in some of these institutions. As an example the National Anti-Corruption Bureau (NABU) now receives 2-3,000 complaints a day. Similarly, new alliances are developed between actors within the state apparatus and among civil society and media to jointly combat corruption.

This change in attitude will need to be sustained by enabling the institutions to operate, prosecute and convict perpetrators. However, the institutions remain weak with only a few fully operational, while others are yet to be established. So far only a very limited number of criminal acts have been targeted, and there are actors within and outside the state structures that actively work to undermine the mandate and functions of the new institutions. Consequently, there is an urgent need to, on the one hand, enable the new and existing institutions to perform their tasks through capacity development efforts, while at the same time maintaining the pressure on the Government of Ukraine and state institutions to perform by empowering civil society and media and keeping up the policy dialogue by Denmark, EU and EU member states vis-à-vis the Government of Ukraine.

The thematic programme

The overall objective of the EU and Danish funding for anti-corruption in Ukraine is to improve the implementation of the anti-corruption policy in Ukraine by supporting the relevant anti-corruption institutions; ensuring proper oversight by Parliament; and strengthening civil society and media at regional and local level to demand for improved performance of the duty bearers in the fight against corruption.

The programme builds on the Ukrainian strategies and the reform agenda and is in line with policies of the EU and Denmark for working in Ukraine. Specifically, for the EU, the support is a national engagement following the Ukraine membership of GRECO (Council of Europe's Group of States against Corruption) in 2006, and not least as a follow-up to the joint commitment of Ukraine and EU as part of the Visa Liberalisation Action Plan (VLAP). For Denmark in particular, the programme aligns with and builds on the Neighbourhood Programme supporting the first major objective of the same focusing on human rights and democracy, including good governance, as well as strengthening of civil society and independent media.

Basing the programme on lessons learned

The programme design reflects the substantial lessons learned from previous EU and Danish funding to anti-corruption, justice sector reform, and media support in Ukraine. This support first and foremost identified a need for a balanced approach to support the fight against corruption, where the support to duty bearers for reform processes and institutional development is complemented by support to right holders and the demand side, to enable external oversight and sustain the pressure for continued reform.

This pressure for reform is what has motivated the recent trends towards improved anti-corruption measures. As evident from the past, there is a need to engage and support such positive trends. In Ukraine, this means working with institutions that have already shown that they are willing to make a difference such as the National Anti-Corruption Bureau (NABU), utilising the faith that the people have in the institution to drive the anti-corruption reform forward. In this process, however, it is also important to ensure that all the institutions in the chain of justice and anti-corruption efforts are supported, and that no entity in this chain is left behind. The programme will thus complement other donor initiatives and provide support for aid-orphaned institutions such as the State Financial Management Service (SFMS).

From a substance perspective, lessons learned from previous programmes, and reconfirmed in the scoping mission for this new programme, show that capacity development in the justice and anti-corruption sector in Ukraine is effective when a strategic institutional approach is applied.

This requires a level of trust and understanding, which is best achieved through the close cooperation between the targeted institutions in Ukraine and similar entities in EU member states. This is most significant when the support builds on existing experience between these institutions or where the mentor institution has gone through a similar process in the not too distant past, as is the case with most Eastern European countries.

Another key lesson learned is the need to communicate results to create trust in the anti-corruption institutions and ensure that progress made is appreciated by the population of Ukraine. The preliminary success of NABU is partly also a consequence of the strong communication of the organisation and communication approach, which other anti-corruption institutions in the country are still to comprehend and implement. A key element in the future EU and Danish anti-corruption support will thus be targeted capacity development on communication to the state, local government, and civil society and media institutions involved in the programme.

The existing donor landscape is challenged with fragmented donor support. Various donors support the field of anti-corruption primarily EU including EU Advisory Mission, the USA, United Kingdom, the World Bank, OECD but also minor donors as Poland (see Annex A). While donor information sharing does take place there is no coordinated effort of institutional capacity development and no leadership to sustain this by the institutions supported. A key opportunity for the EU and Danish programme will thus be to assist with the development of institutional strategies followed by capacity development plans.

<u>The theory of change</u>
Based on these lessons learned, the theory of change of the programme can be described as: *if…* Denmark, on behalf of the EU, provides relevant capacity development support to Ukrainian anti-corruption institutions by drawing on the expertise of EU member state institutions. *Then…* new as well as existing anti-corruption institutions will gain the capacity needed to develop and implement institutional strategies and thus perform their operations according to their mandate. *If…* Denmark, on behalf of the EU, furthermore provides technical and financial support to civil society and media for their work towards anti-corruption. *Then…* civil society and media will have the capacity to monitor the performance of the Government of Ukraine, advocate for reform implementation, and undertake awareness raising on corruption.

These combined change processes will lead the anti-corruption institutions to enhance their performance. This improved performance will be further motivated by the pressure generated by civil society and the media for moving the reform processes forward and combat corruption. Through this process, the programme is expected to provide a significant contribution to the alleviation of corruption in Ukraine.
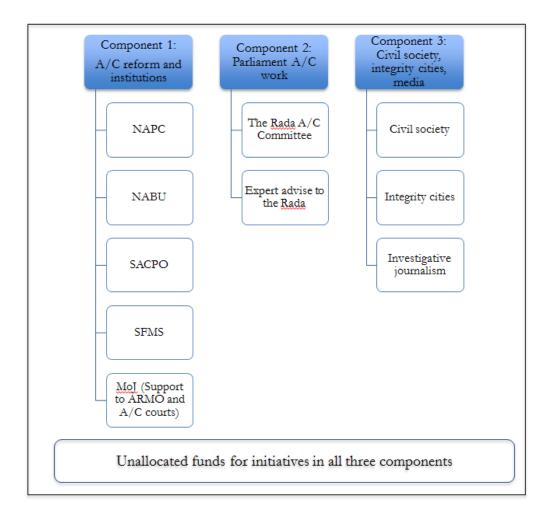
The EU Programme will, however, not be able to make this change in isolation. The success of the support builds on a number of **assumptions**. First, and most important, the programme has been designed so that it is complemented by the engagement and policy dialogue of the EU, Denmark, and the other EU member states. Through this dialogue the EU and Denmark will emphasise the need for continuing the ongoing reform process and work with the Government of Ukraine providing advice and financial support.

Similarly, the programme has been designed on the assumptions that the willingness to continue the reform process will be sustained and that the targeted institutions are open to support this process and receive advice and support from the programme. It is anticipated that this willingness to reform will – over time – result in enhanced cooperation and coordination across the anti-corruption sub-sector.

Finally, a major assumption is that other development partners are willing to move beyond the current less harmonised approach to capacity development in the sub-sector towards a higher level of harmonisation of the support and enhanced alignment with the strategies of the institutions supported.

The programme design
As per the EU Action Document, the programme has been designed with three separate, but mutually supportive, components as illustrated in the figure below.

Component 1: Strengthening the operational and policy-making capacities of state institutions dealing with the prevention and fight against corruption
Component 1 focuses on supporting the institutional structures and processes as outlined in the Ukraine anti-corruption policy. The support will thus be provided to the institutions that work towards prevention, investigation, prosecution, asset registration and recovery, as well as judicial institutions once established.

The EU action document and the recent scoping mission identified a strong need for organisational development support for all the institutions in the chain of justice and anti-corruption. None of the institutions have clear annual or multi-annual strategies and for most the needs articulated are immediate without a strong link to longer-term results. Piecemeal donor support is provided to some of the institutions but all institutions lack comprehensive capacity development strategies, which they and the donors can rally behind. One of the first tasks of the programme implementation team will thus be to support the development of institutional strategies and capacity development plans covering the full institutional setup.

The capacity development support is expected to include substantial IT support. Only a few of the targeted institutions have basic IT equipment in place to undertake regular work processes. The lack of IT is further compounded by the poor data security of the institutions, which risk compromising investigations and obstructing their work. In addition, more advance IT data processing is expected to be part of the support package, including close-circuit cases management systems, which will allow for the quick and secure exchange of information between key institutions.

Based on the capacity development plans and upcoming needs emerging during the course of the programme, the sister institutions in EU member states will be invited by the programme to provide short- and long-term advisers as well as large capacity development packages, which may include mentoring programmes, long-term courses and study tours. Through this process the Ukraine institutions will be able to draw extensively on the best practices from across Europe, not least from Eastern European countries, which have solid experience in building new institutions in the field of anti-corruption as well as in the application of new IT systems. Engagement of relevant EU structures and non-EU countries in the region (e.g. Moldova and Georgia) may also be considered.

Denmark and the EU will support the established and upcoming institutions, and a development engagement will be designed for each of these. Thus, five development engagements are foreseen under component 1 in the programme inception phase. Having a development engagement for each institution allows for strategic support and enhanced flexibility across the component. The five engagements include:

1) The National Agency for the Prevention of Corruption (NAPC). NAPC was established in late 2015 and is responsible for development and implementation of the anti-corruption policy by the Executive as well as the declaration of assets of public officials, assessing conflicts of interest, and controlling political party funding. NAPC is in the process staff and acquiring equipment.

2) The National Anti-Corruption Bureau (NABU). NABU is an independent law enforcement agency launched spring 2015 dealing with the investigation of high-level as well as local level corruption cases. NABU is close to fully operational but still short of staff and IT equipment, as well as training in best parties for investigation on anti-corruption.

3) The Specialised Anti-Corruption Prosecution Office (SACPO). SACPO is responsible for prosecution of corruption cases opened by NABU. It was established in late 2015 and is fully operational, but in need of short- and long-term advice for organisational development as well as specific thematic capacity development related to the prosecution of corruption cases.

4) The State Financial Monitoring Service (SFMS). The SFMS is the Ukraine financial intelligence unit responsible for collecting, analysing and disseminating information regarding potential money laundering and suspected proceeds of crime. Unlike the other institutions the SFMS was established in 2002, and the needs are thus primarily concerned with upgrading the IT equipment as well as shorter-term advice from EU member states.

5) The Ministry of Justice (MoJ). MoJ will be tasked with initiating the establishment of two new institutions. This includes the National Asset Recovery and Management Office (ARMO) tasked with the identification, tracing, and management of assets derived from corruption, as well as the planned specialised anti-corruption courts or special chambers for dealing with anti-corruption within the existing court system. Support will be provided to the MoJ to help with the initial establishment of the institutions focusing on advice and the provision of IT equipment.[2]

In addition to these five engagements, it is expected that the unallocated funds of the programme that primarily will be used within the mentioned engagements also will be used to allocate

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[2] A further description of the institutions is provided in Annex C.

funding for upcoming institutions in terms of capacity development assistance and IT support. Minor support may also be provided to anti-corruption coordination mechanisms such as the National Reform Council.

<u>Component 2: Strengthening the Parliament's oversight of the reform implementation and its capacity to scrutinise and improve the strategic legislative framework</u>
To improve legislation and the capacity to oversee the reform implementation including anti-corruption, the programme will provide support to Parliament (the Verkhovna Rada or the Rada) as a separate development engagement with a minor budget. Firstly, the support will provide support to the Rada Anti-Corruption Committee, which is tasked with examination and processing anti-corruption legislation. Support provided will primarily relate to short-term advisers from other EU member states. In addition, the programme foresees to facilitate the engagement of international institutions (possibly the Council of Europe) to assist the Rada Anti-Corruption Committee by providing assessments and statements of proposed legislation. Secondly, it is envisioned to establish an International Advisory Council that provides technical advice to the Rada. The Chairman of the Council should be an internationally renowned person participation in Council meetings regularly. Meetings are intended to cover focal topics and also take factual stock of developments between sessions. The design of this component is still being discussed between the EU and the Rada and will be further developed during the formulation mission.

<u>Component 3: Enhance the capacity of local government, civil society, and media to contribute to the fight against corruption</u>
The component will focus on the rights holders by strengthening the demand-side's push for reform implementation. There is a need to keep up the pressure on duty bearers to perform with integrity not least at local level. At the national level there is an ample amount of donors engaged in demand-side support. However, at the regional and local level, where the levels of corruption are equally high, there is only limited international attention. The programme will thus emphasise demand-side anti-corruption efforts at the local and regional level aimed at minimising opportunities for or actual corruption practices. The three foreseen engagments will be mutually supportive by being geographically anchored in the same regions in Ukraine, thus contributing to combatting corruption and improving the performance of the local governments through mutual effort. In practice this will support the component 1 efforts. This in particular includes the regional work of NABU and SACPO to investigate and prosecute local level corruption cases.

Support to regional and local level civil society to monitor, advocate and raise awareness on corruption. There are strong civil society organisations at national level that work to combat large scale corruption, but few regional and local level civil society organisations that has the capacity or integrity to do the same. The programme will support national civil society organisations to build the capacity of local level organisations to enable these to monitor corruption, advocate for changes, and raise awareness of corruption at regional and local level.

Support to Integrity Cities to serve as examples of cities where a genuine effort is made to combat corruption. The programme will work with three to four proactive medium-sized pilot cities across Ukraine and with civil society to motivate these to jointly combat corruption at the local level. In practice the programme will provide smaller capacity development packages to cities that are interested in bidding for these (and thus show real commitment). Functional analysis will be made of the city systems to reveal possible weak links and based on this local reform processes will be initiated supported by a broad range of anti-corruption tools made available by the programme. Short-term advisory support will be provided to cooperating cities in support of this. In parallel, civil society will assist in monitoring progress on anti-corruption reform and enhance local level awareness of the same. Together the city and civil society will use the cooperation to show other cities in Ukraine that they can make a difference. Depending on

the expressed interests, budget availability and lessons learnt from the pilot cities, these activities may be extended to other cities.

Support to investigative journalism to uncover and report on corrupt practices. The media plays another key role in uncovering corruption and putting pressure on duty bearers to perform with integrity. Thus, to support the civil society and integrity city efforts, investigative journalism will be supported at local level. This is likely to include hiring of media organisations to build the capacity of a selected number of local journalists to engage in investigative journalism in the geographical areas where the programme has concentrated its support (1 and 2 above).

The three mutually supportive engagements should set an example for other regions and cities and serve as a basis for communicating stories of the fight against corruption for both local and national level. The component provides a unique opportunity by demonstrating by example. The integrity cities will give the EU and Denmark a position to show to the Ukrainian and EU constituency that the programme is making a difference. Communication will be a key element in component three with the testing of innovative approaches for enhancing awareness. Further consideration should be given to developing visibility measures.

The third component is still being developed and will be fleshed out in detail during the formulation mission as well as the exact number of partners, which will be kept to a minimum.

Unallocated funds

To ensure flexibility of the programme to respond to arising needs related to implementation of the anti-corruption policy, 25% of the programme budget has been reserved as unallocated funds. This level of unallocated funds allows the programme to allocate funding to existing and new institutions according to the priorities in Ukraine. The unallocated funds are expected to be used within the components of the programme. Lessons learned from the past have shown substantial variation in progress within anti-corruption institutions and thus the need for a programme, which is sufficiently flexible to allocate funding to institutions and areas where there is a desired momentum and the need is greatest. Allocation of the funds will be based on criteria that will be developed, it is envisioned that the allocation is approved by Denmark and the EU based on the recommendations from the programme steering committee.

Communication

Communication is key in the fight against corruption in Ukraine. First and foremost there is a need to enhance the awareness of corruption and integrity in the population, including an understanding of the need to eradicate issues of conflict of interest and misuse of office. Secondly, there are examples of good practices, which need to be communicated to the population to show that there is progress in combatting corruption and that the reforms are having an effect. Finally, communication is needed to make people aware, in Ukraine and in the EU of the efforts made by the EU and Denmark in combatting corruption in Ukraine and the results achieved.

Consequently, communication will be included in the strategic documents development with the beneficiary institutions to ensure that this is mainstreamed in their work; it will be included as elements of the support to integrity cities and civil society; and the management arrangement of the programme are designed so that there is in-house expertise in advice on corruption for the targeted institutions. These will also be used to advice on strategic communication of the programme and in the support of visibility of and public diplomacy for the programme through relevant media platforms. Short-term communication adviser may also be provided to the institutions. A specific communication and visibility plan will be elaborated at the start of the program implementation.

Human Rights Based Approach and gender equality

The programme is designed to ensure that a human rights based approach is applied in the implementation. The programme will target duty bearers (the anti-corruption institutions) by capacitating them to ensure that they can deliver their services to the rights holders. This will include capacity development that focuses on developing institutional strategies and capacity development with an emphasis on serving rights holders. The strategies will also include reflections on internal human resource management and providing equal opportunities for women and men in recruitment and promotion.

Similarly, the support to civil society will include capacity development activities aimed at enhancing the capacity of rights holders in voicing their opinion and holding the duty bearers to account. The programme furthermore expects to promote gender disaggregated reporting on corruption cases, human resource management in the institutions supported as well as for the overall programme.

During the formulation the team will seek to more specifically include measures, which enhance gender equality and women's empowerment. This is expected to include gender inputs to the strategic and capacity development planning processes. An even distribution of capacity development efforts for women and men will be ensured. Similarly gender and ethnicity will be taken into consideration in the civil society granting processes and media support.

Link to other EU and Danish initiatives

The programme is complementary to other EU and Danish initiatives in the country. The strongest link is with the EU Advisory Mission (EUAM), which provides advise from long-term advisers to the component 1 institutions. To optimise the use of this expertise, the programme will be collocated with the EUAM. Furthermore, a Memorandum of Understanding will be developed to ensure optimal complementarity between the two initiatives.

Similarly, the component 1 support will be linked to the EU justice sector reform programme as well as the Danish support to anti-corruption through the UNDP. The programme will specifically take over the support to the SACPO and NABU and build on the lessons learned from the UNDP support to NAPC. The same applies with the support to the Rada, which will build on the lessons learned from the EU support to the Rada through the UNDP with a clear division of labour allowing the anti-corruption programme to focus explicitly on anti-corruption legislation screening.

For component 3, the support will build on the lessons learned from the Danish support to civil society and media in the past and it will complement the upcoming Danish media and civil society programme. Similarly, the EU and Danish support to decentralisation will complement the cooperation with local governments ensuring that the anti-corruption efforts also contribute to improved local level service delivery.

Summary of risk management framework

Implementing an anti-corruption programme in Ukraine is not without risk. There is in the political realm, elements within the state, as well as among selected powerful businesses an interest in limiting the success of anti-corruption efforts. This may include attempts to undermine the newly established institutions or limit cooperation with the international community. The programme will thus need substantial political support from donors within anti-corruption.

Risk may however also come from within as the relatively weak institutions may be challenged in absorbing the capacity development provided, which thus means that the approach must be anchored in real demand from the institutions to ensure ownership of the support. Similarly, the fragmented donor support may stretch the recipient institutions beyond their capacity. A

coordinated and harmonised donor approach will thus have to be sought. Here the programme can play a strong role in facilitating this.

Finally, working with corruption may unveil substantial corruption cases or discredit some of the institutions supported, which carries a considerable reputational risk for the EU and Denmark as well as the other EU member states providing support. This is one of the reasons why a substantial presence of experts will be needed on the ground to guide and oversee the implementation. For a full overview of risks identified at this stage, see Annex G.

Management arrangements

The programme is implemented by Denmark for the EU through the indirect management mechanism. Denmark will thus be fully responsible for the budgets and results of the programme according to Danida guidelines. The decision on awarding the implementation to Denmark builds on Denmark's long experience with governance, media, and civil society in Ukraine as well as its extensive experience with one-stop-shop solutions.

The programme will be implemented through a 'one-stop-shop' principle where the partners supported as well as the funding donors can receive advice and assistance on a demand basis. The one-stop-shop will oversee the full implementation of the project including technical dialogue with beneficiary partners, hiring and fielding short- and long-term advisers and launching calls for proposals for service and grant making for e.g. civil society.

The one-stop-shop will legally be a project implementation unit working as an extended arm of the European Neighbourhood Department of the Ministry of Foreign Affairs of Denmark and operating in accordance with Danish laws and regulations.

The one-stop-shop, co-located with the EU Advisory Mission in Kiev (EUAM), will provide services as requested by the beneficiaries in component 1 (national anti-corruption institutions) and 2 parliament) of the programme and 3 (civil society, local governments, media). The one-stop-shop will have full oversight of the programme budget on a day-to-day basis. For components 1 and 2 no financial transfers will be made to the targeted institutions. Instead, the one-stop-shop will procure external support including: a) IT equipment; b) short-term technical assistance; c) long-term technical assistance; d) training and workshops; e) exchange visits and study tours and f) other (non-hardware) capacity development activities.[3]

A key element in the support will be for the one-stop-shop to draw on the expertise of the EU member states. Thus, the following procurement modalities are foreseen:
1) Recruitment of short-term experts from a roster of experts mostly from EU Member State (MS) anti-corruption institutions (e.g. Romanian Anti-Corruption Agency, the Danish Ombudsman function, or the Special Investigation Service of the Republic of Lithuania). In accordance with procurement legislation this will in principle be open to all candidates with substantial experience from working in anti-corruption institutions.
2) Framework contracts arrangement with European member state institutions where they can bid for more comprehensive assignments, which will constitute capacity development packages. This may include the provision of IT procurement to Ukrainian institutions as well.
3) Grant provisions for:
   a. Local level civil society organisations working specifically on anti-corruption in the integrity cities targeted by the programme;
   b. Civil society organisations, for the management and implementation capacity development for regional and local civil society organisations;

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[3] The one-stop-shop setup is further described in Annex D.

c. Media organisations for capacity development of journalists at regional and national level in investigative journalism.

The programme will have a Steering Committee with representation of the main beneficiary institutions, Denmark and EU. The allocation and reallocation of funding will be sanctioned by an executive committee under the Steering Committee comprising Denmark and the EU.

To support the Steering Committee, an overall anti-corruption Advisory Committee will advise the programme on the implementation. The design of the Advisory Committee is still being discussed, but it is expected that the Committee will be co-chaired by Denmark and the Ministry of Justice in Ukraine and hold membership of all relevant anti-corruption institutions, Ministry of Justice, civil society and media representatives, as well as representatives of EU member states. The one-stop-shop office will serve as secretary for both committees.

The one-stop-shop will also play a key role in uniting donors in Ukraine in a combined effort in the anti-corruption sub-sector. It will serve as a secretariat for donor coordination and with the support of EU and Denmark to push for a joint and coordinated strategy, which will allow for concerted efforts to combat corruption. Specific resources in the one-stop-shop will be assigned to this task.

Monitoring and evaluation will also fall under the one-stop-shop mandate. Progress on activities, outputs and outcomes will be monitored based on the reports of the implementing institutions and civil society organisations combined with field monitoring and reviews conducted by the one-stop-shop. In addition the one-stop-shop will procure external assistance for mid- and end-term evaluation of the programme. The one-stop-shop will report on progress on a quarterly basis to the programme steering committee.

In accordance with the EU Action Document, the one-stop-shop will comprise three international and six national experts in the fields of anti-corruption, asset management, prosecution, IT, communication as well as programme management. The team will be led by a senior level manager with substantial expertise in development and politics in Eastern Europe and with the ability to promote the anti-corruption agenda in a challenging political environment.

Tentative Budget
The tentative budget below has been developed based on initial needs identification and will be adjusted during the formulation mission. The short- and long-term expertise provisions will be distributed indicatively by organisation during the formulation mission.

Budget item	2017	2018	2019	Total (EUR)
Component 1*	1.870.000	1.880.000	1.880.000	**5.630.000**
Component 2**	150.000	160.000	160.000	**470.000**
Component 3	1.250.000	1.250.000	1.250.000	**3.750.000**
One-stop-shop advisers	725.000	725.000	725.000	**2.175.000**
Office rent	70.000	70.000	70.000	**210.000**
Evaluation and audit	50.000	50.000	150.000	**250.000**
Unallocated***	1.250.000	1.250.000	1.250.000	**3.750.000**
Implementation fee (7% of EUR 15m)	35.000	35.000	35.000	**105.000**
Total (EUR)	**5.400.000**	**5.420.000**	**5.520.000**	**16.340.000**

* Capacity development packages, short-term advise, IT equipment
** Same as 1 as well as support to international advisory board
*** Cross-component but emphasis on component 1

Annexes

Annex A: EU Action Document

of the Commission Implementing Decision on the Special Measure 2016 for Anti-Corruption and Support to Key Reforms in favour of Ukraine

Action Document for EU Anti-Corruption Initiative in Ukraine

1. Title/basic act/ CRIS number	**EU Anti-Corruption Initiative in Ukraine** CRIS number: ENI/2016/039-504 financed under European Neighbourhood Instrument			
2. Zone benefiting from the action/location	Ukraine The action shall be carried out at the following location: Ukraine – nationwide, the project team will be based in Kyiv			
3. Programming document	Not applicable (It is a Special Measure)			
4. Sector of concentration/ thematic area	Good Governance, Rule of Law, Fight against Corruption	DEV. Aid: NO		
5. Amounts concerned	Total estimated cost: EUR 16.34 million Total amount of EU budget contribution EUR 15 million This action is co-financed in joint co-financing by Denmark for an amount of EUR 1.34 million			
6. Aid modality(ies) and implementation modality(ies)	Project Modality Indirect management with the Ministry of Foreign Affairs of Denmark (DANIDA) Direct management – procurement of services			
7 a) DAC code(s)	15113, 25010			
b) Main Delivery Channel	1.10000 PUBLIC SECTOR INSTITUTIONS			
8. Markers (from CRIS DAC form)	**General policy objective**	**Not targeted**	**Significant objective**	**Main objective**
	Participation development/good governance	☐	☐	**x**
	Aid to environment	**x**	☐	☐

	Gender equality (including Women In Development)	x	☐	☐
	Trade Development	☐	x	☐
	Reproductive, Maternal, New born and child health	x	☐	☐
	RIO Convention markers	**Not targeted**	**Significant objective**	**Main objective**
	Biological diversity	x	☐	☐
	Combat desertification	x	☐	☐
	Climate change mitigation	x	☐	☐
	Climate change adaptation	x	☐	☐
9. Global Public Goods and Challenges (GPGC) thematic flagships	N/A			

SUMMARY

Two years ago the fight against corruption was declared to be one of the key political priorities of the new Ukrainian Government but has so far produced only limited tangible results. Since 2014, a comprehensive legal framework in line with European Standards has been adopted which notably foresees the creation of new anti-corruption institutions. However, the actual implementation of that framework and the establishment of the new institutions proved to be more difficult than expected due to resistance from vested interests, scarce financial allocations from the Central Government and limited experience. Parliamentary oversight is weak. Civil Society and the media play an important role but have limited resources.

The continued pervasiveness of corruption is detrimental to the investment climate, hinders the economic recovery of the country and erodes public trust in the state institutions and the political leadership. Moreover, the Ukrainian population is increasingly frustrated because it perceives that the fundamentals facets of the corrupt old system have not changed. In order to help translate the political priorities into tangible results, it is necessary to provide substantial technical and financial support to empower the new anti-corruption institutions and other relevant stakeholders to effectively carry out their work and to strengthen the external oversight over the reform process by Parliament, civil society and the media.

The proposed initiative will build on the successful features of the EU's existing support while significantly stepping up EU assistance to anti-corruption reforms. It intends to establish a visible "one stop shop" support centre for a wide range of stakeholders involved in the fight against corruption in Ukraine. It will be able to provide a large variety of support – expertise, training, testing of personnel, IT supplies and equipment as well as additional funding opportunities for civil society – from a single source in a flexible and speedy manner. It will enhance donor coordination in the sector and increase synergies within the international donor community. Such increased EU support will not only contribute to the fight against corruption but also be an important signal to civil society and the Ukrainian public at large that the EU stands behind its demands for real reforms in this area.

Three areas of support are envisaged:
- **strengthening capacity to prevent and fight corrupti**on and bring corruption cases to justice. Direct beneficiaries are the newly created anti-corruption bodies (National Anti-Corruption Bureau, Specialised Anti-Corruption Prosecution Office, National Agency for

Corruption Prevention, Asset Recovery and Management Office) and other relevant stakeholders;

- **enhancing parliamentary oversight** over reform implementation and parliamentary capacity to scrutinise and improve the strategic and legislative framework, including, as appropriate, the creation of an international advisory council to the Rada's Anti-Corruption Committee;

- **strengthening the involvement of civil society and the media in anti-corruption initiatives**, in particular by supporting awareness-raising and advocacy campaigns, analysis and research, monitoring of anti-corruption policies, media scrutiny into corruption cases, and investigative journalism. The programme will also implement, ideally with Civil Society Organisations, a number of anti-corruption pilot projects at local level ("Clean city projects"). These pilot projects would implement a broad range of anti-corruption tools and measures in a concentrated fashion and in a limited geographical area – towns or cities where local authorities are politically backing real change, thereby demonstrating that change is possible if conditions are right. Successful elements of these pilot projects could then be rolled out across the country.

This initiative will be implemented by the Ministry of Foreign Affairs of Denmark (DANIDA), which is already present in the country with an anti-corruption initiative together with UNDP, and will avail itself of the experience and expertise of EU Member States to deliver prompt solutions for multiple beneficiaries.

1 Context

Ever since the change of government in spring 2014, combatting corruption has become a top priority in the Ukrainian reform programme. A comprehensive new legal framework largely complying with European standards was adopted between October 2014 and October 2015. It provided for the establishment of new anti-corruption bodies such as the National Anti-Corruption Bureau, the Specialised Anti-Corruption Prosecution Office and the National Agency for Prevention of Corruption as well as for new mechanisms to fight corruption, such as an electronic system for asset declarations. A substantial contribution to this achievement was made by the pressure of an active civil society and strong international engagement. In particular the policy dialogue conducted with the EU in the framework of the Visa Liberalisation Action Plan (VLAP) has been highly instrumental.

Despite unprecedented efforts, there is still little progress when it comes to the actual repression of corruption and none of the serious criminal acts conducted under the former leadership have so far been successfully brought to justice. Recruitment for the new anti-corruption institutions was carried out transparently and successfully and resulted in the selection of competent staff, but also suffered from significant delays. The e-asset declaration system is not yet operational. Vested interests of the old and often corrupt bureaucracy in the judicial institutions in connivance with political forces linked to the monopolistic power structures in industry and business are a major source of resistance to these changes and persistently attempt to backslide the legislative framework. The continued pervasiveness of corruption in Ukraine imposes significant economic costs on businesses, discourages domestic and foreign investment and stifles the much needed economic recovery of the country. The lack of real progress in the fight against corruption also leads to growing frustration and cynicism in the Ukrainian public which perceives that the fundamentals of the old corrupt system remain unchanged. This undermines public trust in the democratic institutions and weakens the legitimacy of the political leadership.

In order to help Ukraine translate its political priorities into tangible results, it is important to maintain and intensify the EU's support to Ukraine's advancing but still nascent anti-corruption reforms. As the different anti-corruption institutions are becoming operational there is an urgent need for enhanced support to capacity building that will allow them to quickly deliver concrete results. It is also necessary to strengthen the capacity of the Parliament to monitor the reforms as well as to reinforce the key role which civil society and the media are playing in this area. At the same time, the reform commitments requested from Ukraine in exchange for EU support, visa liberalisation and preferential access to EU markets, remain a powerful instrument to foster progress in the fight against corruption.

1.1.1 Public Policy Assessment and EU Policy Framework

For many years, Ukraine failed to implement effective measures and policies to curb corruption which is reflected in low scores for Ukraine in the key international corruption-related ratings[4].

Ukraine became member of the GRECO (Council of Europe's Group of States against Corruption) in 2006 after the Council of Europe Civil Law Convention on Corruption was ratified in 2005. In 2006 the Ukrainian parliament ratified the UN Convention against Corruption and the Council of Europe Criminal Law Convention on Corruption which came into force only in 2009 when the so-called first "anti-corruption package of laws" was adopted: the Law on Principles for Preventing and Counteracting Corruption, the Law on the Liability of Legal Persons for Corruption Offences and the Law on Amendments to Certain Legislative Acts of Ukraine regarding the Liability for Corruption Offences. Entering into force of this package was postponed twice and, finally, all three laws were revoked on 21 December 2010.

The EU-Ukraine cooperation Council noted slow progress in the implementation of the international recommendations until 2010. In reaction to the abolition of a package of anti-corruption laws in 2010, the EU introduced in 2011 objectives dealing with anti-corruption legislation and anti-corruption bodies in the **Visa Liberalisation Action Plan** (VLAP).

After the events of Maidan, Ukraine's vibrant civil society successfully pushed for change. This process was supported by the international community who made financial assistance, closer association and visa-liberalisation conditional upon the adoption and implementation of reforms in this area.

In October 2014 an **Anti-Corruption legislative package**, including a **national strategy** (2014-2017), was adopted in close cooperation with civil society. **An action plan** (state programme) to implement the anti-corruption strategy followed in April 2015. The strategy identifies the main problems and required direction of anti-corruption policy in Ukraine, including: creating an effective institutional framework for anti-corruption policy; prevention of corruption in the elected bodies; ensuring integrity in the public service; prevention of corruption in the executive bodies and state owned enterprises, judiciary and law-enforcement bodies; prevention of corruption in public procurement and in the private sector; ensuring public access to information; effective criminalisation of corruption and law-enforcement; and public awareness raising.

The strategy foresees the creation of three new institutions which presents a major break-through in the reform of anti-corruption institutions in Ukraine to be checked against further implementation: 1) the National Anti-Corruption Bureau (NABU) in charge of investigating

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[4] In Transparency International's 2015 Corruption Perception Index Ukraine ranked 130 out of 168 countries and scored only one point better than in 2014.

high-level corruption cases 2) the Specialised Anti-Corruption Prosecution Office in charge of prosecuting NABU cases and 3) the National Agency for the Prevention of Corruption (NAPC) in charge of anti-corruption policy development and implementation, anti-corruption screening of draft legal acts, research and training, verifying asset declarations and conflicts of interests of public officials, control of political party finances, whistle-blower protection.

Following the signature of the Association Agreement in 2014, the 2015 EU-Ukraine Association Agenda listed more precise short term priorities, in particular the implementation of the anti-corruption legal package adopted on 14 October 2014 and the setting up and effective functioning of both the National Anti-Corruption Bureau and the National Agency for the Prevention of Corruption:

- *It is important to engage in a comprehensive anti-corruption reform process with tangible results in the prevention and fight against corruption with clear responsibilities allocated to specialised bodies and allocated budget for the implementation of particular actions.*
- *It is equally important to address the prevention and fight against corruption at all levels of society, especially high-level corruption, in law enforcement bodies, customs, and tax-systems, and the transparency of funding through the development of ethical codes and specialised training.*
- *In order to ensure transparency and accountability at all levels, necessary conditions for civil society actors and independent media to monitor corruption should be created.*

In relation to its **international commitments**, Ukraine was recommended to implement its declared intention to fight corruption through following steps: 1) necessary legal changes 2) improved policy co-ordination 3) strengthening of law-enforcement anti-corruption efforts. From the three areas mentioned, significant progress was achieved in the legislative reform while some progress was achieved in policy coordination since the National Reforms Council and the National Council for Anti-Corruption Policy were set up and held first meetings. At the same time anti-corruption efforts in the area of law enforcement are yet to bring results since new institutions were only set up recently, while the old ones still need to complete their reorganisation.

Progress in implementing anti-corruption reforms is monitored by the **National Reform Council** (NRC) which publishes a track-record of reform tasks achieved per any given year. The NRC concluded that in 2015, progress was made on 59% of the tasks foreseen for that year but that significant delays had been encountered with the establishment of the National Agency for the Prevention of Corruption and related tasks, notably the system of e-asset declaration. The NRC also publishes the **'Anti-corruption Reform passport',** a brief annual review based on a number of key strategic documents, including the Association Agreement between the EU and Ukraine and the Ukraine–IMF Memorandum. The passport was elaborated by the Anti-Corruption Reforms Task Force, a working group consisting of Government and donor representatives and focuses on the following goals: Effective mechanisms for prevention of corruption are established in public and private sectors; inevitability of responsibility and punishment for corruption is ensured; and the society professes "zero tolerance" to corruption.

Following five years of VLAP implementation, the significant legislative and institutional changes that took place allowed the European Commission to issue a positive assessment of the fulfilment by Ukraine of VLAP benchmarks fulfilment in April 2016.

Priorities 3 and 7 of the EU Roadmap for Engagement with Civil Society focus on support to CSOs for their engagement in anti-corruption work.

1.1.2 Stakeholder analysis

Following the main international commitments and the adoption of the national anti-corruption strategy, the institutional renewal started with the formation of a number of new bodies. Most of these institutions are in the process of being established and becoming operational, thus their capacities are as yet under-developed. The **National Anti-Corruption Bureau (NABU)** is a law enforcement body created in April 2015 following international recommendations to set up an independent law-enforcement agency dealing with high-level corruption cases. NABU started to be fully operational in December 2015 following the appointment of the head of the specialised anti-corruption prosecution office that is in charge of formally opening investigations and bringing high-level corruption cases to court. The NABU is tasked with investigating corruption involving high-ranking public or local government officials. The Bureau is managed by a Director appointed by the President of Ukraine upon the recommendation of the selection board for a seven-year period. Around 170 detectives will do investigative work. Two regional offices will be created in Lviv and Odessa. The NABU is formally a state law enforcement authority, not subordinated to the Government. A number of guarantees are included in the law to secure its independent functioning.

The **Specialised Anti-Corruption Prosecution Office, (SACPO)** was established in November 2015 with the appointment of its head and his deputy. The SACPO is responsible for opening investigations by NABU into high level corruption cases and for bringing these cases to court. The SACPO is formally part of the Public Prosecutor's Office but a number of safeguards ensuring its independence, especially its protection against arbitrary dismissal by the Prosecutor General, were introduced following the latest VLAP recommendations. So far, more than 50 investigations into high-level corruption have been initiated.

According to the Law that entered into force in April 2015, the **National Agency for the Prevention of Corruption (NAPC)** will take over from the Ministry of Justice the function of co-ordinator of the anti-corruption policy in Ukraine. The NAPC is responsible for the development and the implementation of the anti-corruption policy, monitoring the lifestyle of public officials, verifying declarations of assets and conflicts of interest of all public officials Ukraine-wide and for managing a system for electronic asset declarations, which is currently being developed under the auspices of the Ministry of Justice, albeit with significant delay. The Agency is also in charge of controlling political party funding and ensuring whistle blower protection. The Agency will have about 300 staff located predominantly in Kyiv as well as four regional offices. The NAPC has a collegiate leadership of 5 members –the selection of the last member is yet to be finalised. Preparatory work for setting up the Agency is ongoing and it is expected that NAPC will become operational, with 1/3 of staff recruited, by July 2016.

The **National Asset Recovery and Management Office (ARMO).** The Law establishing the ARMO will come into force on June 11, 2016. The law sets up mechanisms for identifying, tracing and managing of tracing of assets derived from corruption and other crime, and provides for the establishment of an independent authority to carry out such activities. The adoption of the ARMO legislation is one of the crucial indicators of implementation by Ukraine of the VLAP. In addition, laws passed in December 2015 provide for respective amendments to the Criminal Procedure Code, Criminal Code and Civil Code with respect to streamlining seizure and special confiscation mechanisms. In addition, an electronic register

for assets seized in criminal proceedings will need to be created and cooperation of the Ukrainian ARMO with its counterparts in other countries be established.

The State Bureau of Investigations (SBI) is a law enforcement agency expected to be established with the aim of preventing, detecting, combatting and solving crimes. Its remit includes investigating corruption-related offences committed by officials holding positions of high responsibility, certain categories of civil servants, judges and law enforcement officers, NABU officials and SACPO prosecutors with the exception of cases falling within the competence of the NABU.

Possible specialised anti-corruption courts– the new law on the judiciary and the status of judges adopted on 2 June 2016 foresees the possibility of creating specialised anti-corruption courts. The law reflects discussions between the Ukrainian authorities, civil society representatives and international donors. The necessity to guarantee a fair trial of corruption cases is key for the success of bringing offenders to justice.

 The anti-corruption policy oversight, coordination and monitoring bodies include:

The Verkhovna Rada's Anti-Corruption Committee. In addition to its responsibility over the legislation on certain aspects of corruption and on the anti-corruption institutions, the committee is tasked with monitoring the overall implementation of anti-corruption reforms by the government as well as the anti-corruption "screening" of draft laws. The Committee's leadership plans to establish an advisory council, composed of international experts, which would assist the Committee in its monitoring work and check compliance of proposed legislation and/or amendments tabled in the Rada with European and international standards and best practices.

The National Council for Anti-Corruption Policy is an advisory body under the President of Ukraine created in the context of the VLAP policy dialogue. Its duties consist of updating and improving the Anti-Corruption Strategy, monitoring of the corruption prevention and counteraction situation within Ukraine and improving coordination and cooperation among entities engaged in the implementation of anti-corruption reform. The Council is made up of government officials, community leaders and representatives of businesses.

The National Reforms Council (NRC) was established as a high-level reform coordination and monitoring body determining government reform priorities, making political decisions on the content of reforms and coordinate the reform process. Members of the Council are national key policy makers: the President, the Prime Minister, the Chairman of the Verkhovna Rada, Ministers, Chairs of Parliamentary Committees, and four civil society representatives. In addition, NRC meetings are regularly attended by leaders of parliamentary coalition's factions, representatives of business associations and heads of other government authorities who are invited depending on the meeting agenda.

Other relevant bodies:

The State Financial Monitoring Service of Ukraine (SFMS) is Ukraine's Financial Intelligence Unit responsible for collecting, analysing and disseminating information regarding potential money laundering and suspected proceeds of crime. The SFMS therefore plays an important role in identifying possible financial crimes, including corruption.

The Public Prosecutor's Office (PPO) is responsible for opening criminal investigations and bringing cases to court. The 2014 Law on the PPO creates the legal framework for turning the

old "procuratura" into a prosecution office compliant with European standards. However, the re-evaluation and renewal of the prosecutorial corps has so far not moved beyond the local level. It remains to be seen how the plans of the new Prosecutor General, appointed in May 2016, to reform the institution will be translated into action. As of April 2017, the selection, promotion and disciplinary sanctioning of prosecutors will be the responsibility of newly created self-governance bodies, notably the Qualification and Disciplinary Commission. The **Ministry of Economy, Development and Trade** is inter alia responsible for policy development and implementation in the area of public procurement. The public procurement process is particularly prone to corruption and the Ministry strives to put in place a system which will eliminate or at least significantly reduce the possibilities for corruption in the process. While the department is already supported by an existing EU project, this project may not cover all the needs in this area. **Investigative journalists/media** play an important role in uncovering corruption schemes, thereby compensating to some extent the lack of investigation into high-level corruption by law enforcement bodies. Print media also regularly publish reports by investigative journalists. However, journalists face significant obstacles in their investigative work, including financial, considering that proper research takes a long time and requires significant effort and expertise.

Civil Society Organisations (CSOs) play a key role in the reform process. Many of the laws adopted as part of the anti-corruption package in October 2014, were prepared with contribution of non-governmental organisations (NGOs), supported by donor funding. CSOs are also very active in advocating anti-corruption reforms in the country and monitoring how the adopted legislation is implemented in practice.

1.1.3 Priority areas for support/problem analysis

The dramatic events of the winter of 2013-2014 in Ukraine significantly affected the country's anti-corruption policy. The widespread corruption was one of the main reasons that instigated the mass demonstrations leading to the change of the government of the country. All political leaders pledged to eradicate corruption. However, although there are promising signs, notably with regard to the renewal of the anti-corruption institutional landscape, the implementation of the legislation is yet to bring results. The setup of new anti-corruption institutions in line with European and international norms and best practices may pave the way to a success story in the fight against corruption. It is crucial to fill all gaps in this course by providing the necessary expertise, technical and political support to the main stakeholders such as the anti-corruption institutions, the Parliament, civil society and the media.

Issues to be addressed were identified as follows:

a) Weak operational capacities of anti-corruption institutions
Most of the anti-corruption institutions are yet to become fully operational. There is a lack of expertise, experience, exposure to international best practices, financial means and technical equipment which hampered the quick   building-up of efficient operational capacities of those bodies.   It is of utmost importance to support these new bodies so that they become new, effective and independent institutions which are trusted by the public and following the best EU and international standards and practices. Capacity of existing institutions to prevent and fight corruption also needs to be strengthened. Moreover, given the number of new actors in the sector, particular attention will need to be given to the proper coordination of their activities and the effective delineation of their respective competences.

b) Insufficient use of modern technologies and IT solutions by public bodies
Administrative processes in Ukraine institutions tend to be bureaucratic and paper-based. Modernisation of hardware and software is needed. The use of e-governance principles and

methods is yet to be explored and implemented. In addition, the investigation of complex corruption cases or the verification of asset declarations cannot be efficiently carried out without the use of modern IT solutions and equipment. It is therefore essential to be able to provide stakeholders with the necessary expertise and supplies in order to allow them to effectively carry out their work.

c) Attempts to hamper reforms by antireformist forces/vested interests
Initiatives in creating necessary legal, regulatory and institutional framework as well as its enforcement face fierce resistance from anti-reformist forces. In order to facilitate progress, constant attention and pressure from civil society, media and international stakeholders is needed. The technical character of some of the issues at stake requires provision of experts' analysis within a short-time frame. It is therefore essential to strengthen stakeholders that are monitoring the Government's reform progress and can exert political pressure to continue the reform process. Support to monitoring, awareness raising and investigation activities by civil society and independent media will play an important role in this respect. Strengthening over parliamentary oversight over of the implementation of anti-corruption reforms would also help addressing this issue.

d) Dispersed and ineffective public communication on reform implementation
There is no effective mechanism in place to ensure that actual progress on the implementation of reforms can be properly communicated to the general public, thereby reassuring the population that things are moving forward. Currently, the (limited) results are only communicated in a dispersed manner by the institutions themselves. Government institutions need support with the development of a public communication strategy on anti-corruption and the design of specific communication campaigns to help individual stakeholders to report about reform implementation in a more effective and coordinated manner.

2   Risks and Assumptions

Risks	Risk level (H/M/L)	Mitigating measures
Lack of cooperation from the side of the beneficiaries	L	Continued policy dialogue, involvement of the beneficiaries in the preparation of the support to be provided by the initiative.
Potential decreased in the funding of the Government to the institutions supported by donors	M	Ensure that the programme does not fund recurrent costs, e.g. salaries of institution staff, but only one-time expenses.
Political resistances to the overall progress in anti-corruption reforms	H	Use of political dialogue in the framework of the Association Agreement and post-VLAP monitoring, reinforcing political pressure by formulating appropriate conditions under future Macro-Financial Assistance and possible sector budget support programmes; enhanced coordination of anti-corruption related conditionalities with the IMF; Coordination of common approaches with civil society, pro-reformist Ukrainian stakeholders and international donors.
Discrediting of project's	M-H	Focus on communication and proper

initiatives/instrumentalisation of expertise/reputational risk		visibility of the initiative; ensure close follow-up of project activities by the Steering committee to allow for adequate consequences if support is politically instrumentalised.
Assumptions		
✓ The Government of Ukraine remains committed to support the action and the overall anti-corruption reform. ✓ The Government of Ukraine creates the remaining agencies to be supported (ARO/AMO) and ensures that the existing ones remain operational, notably by continuing to allocate them an appropriate budget, premises and sufficient staff (NAPC, NABU, SAPO). ✓ The Verkhovna Rada formally establishes the Parliamentary Advisory Council.		

3 Lessons learnt, complementarity and cross-cutting issues

3.1 Lessons learnt

The EU contributed significantly to the adoption of new anti-corruption legislation and establishment of new anti-corruption bodies. The most important impulse to this process was given by the Visa-Liberalisation Process which established stringent benchmarks, notably in the area of anti-corruption, to obtain a visa-free regime for Ukrainian citizens. The EU's financial assistance – the third Macro-Financial Assistance programme and the State Building Contract – reinforced the political pressure by establishing similar corruption-related conditions. A major technical assistance project targeting judicial reforms including anti-corruption ensured that the necessary expertise was provided to the nascent institutions and the legislator. The proposed action should build on the successful features of existing initiatives while avoiding their shortcomings.

a) Need for a substantial, more comprehensive and flexible support programme

Existing support programmes, both of the EU and of other donors, in the area of anti-corruption created both the risk of overlap and of support gaps. Beneficiaries were sometimes overwhelmed by the plethora of assistance offers but often disenchanted by the complexity of the establishment of support programmes which make it impossible or excessively cumbersome to cover certain needs at a short notice, notably as regards the provision of IT solutions and equipment. As a result, beneficiaries often multiplied the same requests for support to the entire donor community, leading to a loss of efficiency, potential "competition" among donors as well as unnecessary resources spent on organising the same support in parallel with other donors and on intensive coordination among donors to avoid overlaps. Consequently, there is a need for a "one-stop-shop" support centre which is able to provide a wide variety of support modalities to a wide range of beneficiaries, and which is both sufficiently present and flexible to allow organising support quickly, thus diminishing the incentive for beneficiaries to apply simultaneously to various donors. Moreover, where the fight against corruption was only a component of a larger programme, resources allocated to this component were limited, thereby limiting the projects' ability to support several more large-scale initiatives simultaneously, such as expert-intensive mentoring programmes or larger-scale training programmes abroad. A new substantial programme, exclusively dedicated to anti-corruption, would not suffer from these constraints. Thirdly, although donor coordination has already improved a lot since 2014, there is still room for further enhancing it

and reducing overlap. The size and one-stop-shop approach of the project would not only allow to offer a very wide range of expertise but also make it an ideal candidate for enhancing donor coordination and cooperation in this area. Finally, it is likely to attract smaller donors to closely cooperate with the one-stop-shop support centre.

b) Need for continued political pressure to ensure continued progress of reforms

The Visa-Liberalisation Process has been acknowledged as a very powerful tool to bring about change in the area of anti-corruption despite strong resistance from vested interests. Since this process is coming to an end, it will be crucial to ensure that the proposed action is flanked and accompanied by appropriate political pressure to ensure that reforms continue to move in the right direction and prevent a possible backslide. It will be important to include appropriate anti-corruption conditionalities in a possible future EU assistance programme. Improved coordination with other IFIs, in particular the IMF and the World Bank, would increase the political leverage of the EU.

3.2 Complementarity, synergy and donor coordination

Donors active in the area of anti-corruption meet regularly and have a good level of awareness of what the others are doing. This initiative is expected to take donor coordination to a further level and work together with each institution based on its capacity building plan and turn the current supply driven approach into one which better responds to the demands and requirements of respective institutions.

In order to ensure a unified EU approach to providing assistance to anti-corruption, the proposed action will closely coordinate with the anti-corruption experts of the EU Advisory Mission as well as with the EU funded projects implemented by Council of Europe.

3.1.1   EU Support

The current EU support to anti-corruption reforms consists of both, budget support and technical assistance projects. The EU's main vehicle to provide technical assistance to the institutions involved in fighting corruption is running out by the end of 2016. In addition to the measures listed below, the EU supports anti-corruption reform through sectoral initiatives such as with the European Union Border Assistance Mission and the Twinning with the State Fiscal Service addressing integrity in the customs/State Fiscal Service, as well as specific initiatives on deregulation, public procurement, decentralisation (U-LEAD), financial services and energy. Anti-corruption activities are also supported via grants for civil society organisations.

The State Building Contract (EUR 355 million) was developed immediately in early 2014 and provided a framework for policy dialogue between the EU and the Ukrainian authorities on key reform areas, in particular anti-corruption. It comprised EUR 355 million non-reimbursable financial support subject to achievement of specific benchmarks including the creation of an anti-corruption investigative bureau, a mechanism for checking e-declarations in order to prevent potential corruption, actions to be taken against 'illicit enrichment', improved competition and transparency in public procurement and increased access to public information. Given delays in implementation the implementation period was extended for a year until autumn 2016**.**

Support to Justice Sector Reforms Project, EUR 8.6 million, (2013-2016). Implemented by a consortium of EU Member States led by Justice Coopération Internationale (France). The project helped to develop the Justice Sector Reform Strategy and Action Plan 2015-2020 and

provides expert assistance needed for the plans' timely implementation. One out of six components consists in provision of support to anti-corruption activities. Organizational support is being provided, as well as embedded long term expertise and short term experts for ad hoc needs. The project had an important role in the preparation of the anti-corruption legislation, the setup of the new agencies and the trainings provided to the Anti-corruption Bureau.

EU Advisory Mission (EUAM): Established in July 2014 with the mandate to provide strategic advice to Ukraine's civilian security sector; the Mission's current mandate runs until November 2017. EUAM's main focus is on the reform of the law enforcement agencies, notably the police. As a cross-cutting issue, support to anti-corruption reform is part of EUAM's activities with experts providing strategic advice and capacity building activities, notably training, to Anti-corruption Institutions (NABU, SAPO, NAPC) as well as the Prosecution Office and the judiciary.

Council of Europe Programmatic Cooperation Framework (PCF) – Fight against corruption component (EUR 1 million, 2015-2017): The PCF programme is a regional programme of a total of EUR 30 million which provides assistance to the Eastern Partnership countries in the field of human rights, justice, rule of law, information society and democratic governance. A specific component on the Fight against Corruption of EUR 1 million, is included supporting NABU, SACPO and NAPC through trainings, experience exchange, expert advice and review of legislation.

Macro Financial assistance, EUR 1.8 billion, disbursable in three tranches, the first of which was released on 22 July 2015. The disbursement of the remaining two tranches is conditional on the implementation of a number of reforms, including in the anti-corruption field**.**

3.1.2   Other donors' support

United States of America: **several projects to support rule of law reform (total 52 million for the period 2015-2020),** The USA are providing support (capacity building and equipment) to NABU, SACPO and the Public Prosecutor's office, support to civil society, to rule of law reforms and the introduction of e-governance.

United Kingdom's Department for International Development (DFID; EUR 10 million in the area of rule of law): In the scope of a large Rule of Law Programme, the UK provides support to NABU (support to setting up NABU, its setting up training and capacity building (embedded financial investigator), communication strategy and IT solutions.

Denmark/United Nations Development Programme (UNDP, EUR 3.7 million – until 2018): Denmark provides support to establishing the NAPC (development of regulations, SOPs, guidelines, capacity building of staff); asset declaration database set-up (software development).

The World Bank – supported the development of Terms of Reference for the establishment of the asset-declaration database.

Canada: The Canadian EDGE project assisted the establishment of NABU, notably through the secondment (until end 2015) of a resident advisor on capacity and institution building as well as by providing office furniture.

The Organisation for Economic Cooperation and Development (OECD, total EUR 1.2 million): This country-specific project aims to strengthen the legal and institutional capacity to effectively detect, investigate and prosecute high-profile and complex corruption in Ukraine. Support is provided to NABU and SACPO through training and capacity building as well as the future ARO/AMO through assistance in establishing unified database of confiscated assets.

The new programme would complement the existing donor landscape. It would come in after the end of the existing Justice Sector Reform Programme, thereby being the only major EU technical assistance initiative in the area of anti-corruption. It would also be one of the few donor programmes to provide not only expert advice but also supplies, notably IT solutions.

Considering the significant support provided by donors to the anti-corruption area, enhanced needs of donor coordination arise. Beneficiary-led donor coordination covering the whole anti-corruption spectrum is challenging considering the independent nature of many institutions as well as the involvement of civil society, media and Parliament. In this respect, it is proposed that this sizeable initiative will also provide a platform to coordinate donors in the anti-corruption area, and gather the various institutions together on a regular basis.

3.3 Cross-cutting issues

Good governance: this action will envisage specific measures aimed at improving the fight against corruption, minimising opportunities for misuse of power and public funds.

Human rights and the rule of law: increased knowledge of EU standards and practices will raise democratic standards, involvement of civil society organisations will be a guarantee for an efficient and stable surveillance of the reform progress in the area covered by this action.

Other issues: in implementation of this Action attention will be paid to ensure *equal opportunities* and *gender equality*. Given the links between gender inequality and corruption, the particular needs for technical assistance to establish or strengthen mechanisms to advance gender quality and women's empowerment in the fight against corruption will be identified during the programme's inception phase.

4   Description of the action

4.1   Objectives/results

This programme is relevant for the Agenda 2030. It contributes primarily to the progressive achievement of SDG targets Nr 16, 16.5, 16.6 and 16.a.[5]

The **overall objective** of the programme is to improve the implementation of anti-corruption policy in Ukraine, thereby ultimately contributing to a reduction in corruption.

The **specific objectives** (SOs) are to:

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[5] Goal 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.
Goal 16.5 Substantially reduce corruption and bribery in all their forms.
Goal 16.6 Develop effective, accountable and transparent institutions at all levels.
Goal 16.a Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.

1) Strengthen the operational and policy-making capacities of state institutions dealing with the prevention and the fight against corruption as well as the integrity of personnel of other justice sector institutions, in line with international norms and the best European practices;
2) Strengthen the Parliament's oversight of the reform implementation and its capacity to scrutinise and improve the strategic and legislative framework;
3) Enhance the capacity of civil society and media to contribute in fighting against corruption.

Results

Under SO1)
1.1 Newly created institutions function effectively, professionally and independently with trained personnel on best European practices; staff integrity of other relevant institutions improved;
1.2 Improved capacity of the judiciary to adjudicate corruption cases in an independent and impartial manner;

Under SO2)
2.1 Improved legal and regulatory framework;
2.2 An efficient oversight mechanism of the Parliament over the implementation of the anti-corruption reform and an enhanced ability to conduct anti-corruption assessments of draft legislation;

Under SO3)
3.1 Improved capacities of CSOs and media in exposing and investigating specific corruption cases;
3.2 Increased awareness of citizens on corruption mechanisms and anti-corruption activities;
3.3 Showcase of successful examples of fight against corruption at local level.

4.2   Main activities

Component 1: Strengthening Ukrainian institutional capacity in preventing and fighting corruption

1.1 Provision of expertise and European and international best practices through

- Trainings, in particular in the form of operational/investigative training ,mentoring and hands-on training including, as appropriate, by facilitating the creation of injoint investigative teams within existing bilateral or multilateral frameworks;

- Support to organisational development and human resources management;

- Analysis and recommendations on the strategic/legislative/regulatory framework, organisational structures and administrative processes, including on the interinstitutional communication and cooperation;

- Advice to the development and implementation of corruption risk analysis and integrity monitoring;

- Support to communication (including between the direct beneficiaries and other Ukrainian public institutions) and outreach activities.

1.2 Facilitation of international cooperation between the relevant Ukrainian anti-corruption/law enforcement authorities and relevant partners, in particular the relevant EU authorities/bodies (The European Anti-Fraud Office OLAF, Europol, Eurojust), authorities from EU Member States and/or neighbouring countries (e.g. Moldova, Georgia);

1.3 Needs analysis on information systems and procurement of agreed IT solutions and surveillance equipment;

1.4 Support of the anti-corruption reform measures in the judiciary, including by providing support to the creation of a new body responsibly for adjudicating corruption cases.

Component 2: Enhancing parliamentary oversight

2.1 Provision of expertise to the Parliament Anti-corruption Committee on the anti-corruption screening of legislative proposals as well as on structures and procedures of the Committee;

2.2. Support, as appropriate, the set up and functioning of an international advisory council for the Rada's Anti-corruption Committee.

Component 3: Strengthened oversight by civil society and the media

3.1 Support CSO activities in awareness raising campaigns, reforms monitoring, public perception and user satisfaction surveys, advocacy campaigns, policy dialogue, procurement/register monitoring, at central as well as at local level;

3.2 Support media activities to investigate specific corruption cases, programmes for investigative journalism, train journalists, provide appropriate analytical tools;

3.3 Launch regional pilot projects ("Clean city"), preferably carried out by Civil Society Organisations, to implement, in a concentrated fashion, a broad range of anti-corruption tools and measures in selected cities where there is strong local political backing for implementing reform in the area of anti-corruption. The pilot projects would support the development and implementation of anti-corruption programmes and innovative initiatives of civil society to visibly reduce corruption at local level (such as external monitoring activities, public procurement and service provision oversight, promotion of transparency and integrity). The exact geographical locations would need to be defined in coordination with the U-LEAD initiative in support of capacity building for decentralisation.

4.3   Intervention logic

This action is expected to contribute to scale up Ukraine's capacities to fight corruption. The programme is divided into three main components in line with the three specific objectives.

Component 1 will enhance the capacity of anti-corruption institutions.

Component 2 will strengthen the Rada's capacity to exercise parliamentary oversight and to hold the Government accountable for progress.

Component 3 will further increase the ability of civil society and the media to act as a watchdog over the reform process, raise public awareness about corruption and expose corruption cases through investigative journalism. Civil society will also be invited to develop innovative ideas for conducting regional/local pilot projects which visibly reduce corruption in a given location.

The proposed action builds on the successful elements of existing EU support in the fight against corruption in Ukraine and other countries in transition. It foresees the set-up of an innovative and flexible instrument that is able to respond on short notice to emerging demands of the new Ukrainian institutions bringing together resources from anti-corruption institutions in EU Member States.

The action intends to be a visible, one-stop support centre for the institutions aiming at fighting against corruption in Ukraine. It intends to be an anti-corruption initiative

unprecedented in its comprehensiveness, involving a wide range of stakeholders, aiming to coordinate donors, enhance cooperation between Ukrainian institutions fighting corruption and EU Member States anti-corruption bodies and other international entities. Inputs to be delivered consist of specific short and long term expertise as well as equipment, exchange of experience events, training and analytical activities. Logistical support will contribute to the achievement of the results throughout. The action will take place mostly in Kyiv but also in the regions. It is based on the assumption that there is growing political will to fight against corruption, that institutions concerned will continue to receive the appropriate support from the Government, the Parliamentary advisory council will be supported by the Verhovna Rada and that more than two years after Euromaidan there is increased awareness in wider society that only by fighting corruption can Ukraine develop further as a modern European state.

5 Implementation

5.1 Financing agreement

In order to implement this action, it is foreseen to conclude a financing agreement with the partner country, referred to in Article 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 4.2 will be carried out and the corresponding contracts and agreements implemented, is 42 months from the date of entry into force of the financing agreement.

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

5.3 Implementation modalities

5.3.1 Indirect management with the Ministry of Foreign Affairs of Denmark (DANIDA)

This action will be implemented in indirect management with the Ministry of Foreign Affairs of Denmark (DANIDA) in accordance with Article 58(1)(c) of Regulation (EU, Euratom) No 966/2012. This implementation entails the activities described in section 4.2 necessary to reach the objectives and results specified in the section 4.1. This implementation is justified because of:

- the good track record in preventing and fighting corruption of Denmark which scores as 1st in the Transparency International Corruption Perception Index 2015;

- long-standing experience in the successful implementation of EU-funded projects in third countries;

- proven expertise in the implementation of technical assistance projects in the area of good governance and anti-corruption projects,

- proven experience in Ukraine, in particular through its Good Governance program (2015-2018, DKK 60 million), which notably provides support to the establishment of the National Agency for the Prevention of Corruption (with UNDP), criminal justice reform (with the Council of Europe) and the Ombudsperson Office (with UNDP). DANIDA has also supported

free media incl. investigative journalism in Ukraine since 2005 and civil society since 2009. Moreover, DANIDA co-finances the upcoming U-LEAD decentralisation programme (approximately DKK 40 million).

DANIDA would involve a number of other EU Member States, in the implementation of the programme and avail itself of their expertise and experience in the anti-corruption area.

The entrusted entity would carry out the following budget-implementation tasks: procurement procedures and conclusion of service and supply contracts, allocation of grants and execution of related payments.

5.4   Scope of geographical eligibility for procurement and grants

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply, subject to the following provisions.

The Commission's authorising officer responsible may extend the geographical eligibility in accordance with Article 9(2)(b) of Regulation (EU) No 236/2014 on the basis of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where the eligibility rules would make the realisation of this action impossible or exceedingly difficult.

5.5   Indicative budget

	EU contribution (amount in EUR million)	Indicative third party contribution (amount in EUR million)
5.3.1. Indirect management with the Ministry of Foreign Affairs of Denmark (DANIDA)	14.5	1.34
5.8 Evaluation and 5.9 Audit	0.5	
Totals	15	1.34

5.6   Organisational set-up and responsibilities

In order to ensure co-ordination between the action components and the numerous stakeholders, a Steering Committee (SC) will be established to guide action implementation. EU guidance of the implementation will be very important given that the reform area is a particularly sensitive one. The SC will include representatives of the beneficiaries, the implementing partner and the relevant European Union services. The implementing partner will ensure the proper functioning of the SC, including preparation of the agenda in consultation with the European Union, sending the invitations, preparation and follow up of the minutes. The SC will meet quarterly but can also be convened on an extraordinary basis at the request of the implementer or the European Union.

5.7   Performance monitoring and reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring

system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the logframe matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

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

5.7   Evaluation

Having regard to the importance of the action, mid-term and final evaluations will be carried out for this action or its components via independent consultants.

It will be carried out for problem solving, management- and learning purposes.

The Commission shall inform the implementing partner at least 15 days 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.

Indicatively, two contracts for evaluation services shall be concluded in April 2018 and in October 2019.

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.

Indicatively, one contract for audit services shall be concluded in February 2018.

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 5.5 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 obligation.

Annex B: Results Framework

EU Programme Support for Anti-Corruption in Ukraine - Results framework

Taken from EU Action Document. To be further developed during the formulation phase.

Thematic Programme	**EU Programme Support to Combating Corruption in Ukraine (2017-2019)**		
Thematic Programme Objective	To improve the implementation of anti-corruption policy in Ukraine, thereby contributing to reducing the occurrence of corruption		
Impact Indicator	Compliance with relevant GRECO and OECD recommendations		
Baseline	Year	2016	Implementation of recommendations outstanding
Target	Year	2019	Full compliance
Impact Indicator	Rank on Transparency International's Corruption Perception Index		
Baseline	Year	2016	130
Target	Year	2019	Index increase by 33

Component 1 (to be split later)	Component 1: AC institutions (note, this will be divided into separate engagements during the formulation phase)		
Outcome	Strengthen the operational capacities of state institutions dealing with prevention and fight against corruption as well as the integrity of judges and prosecutors following international norms and the best European practices		
Outcome indicator	No. of cases investigated by AC institutions		
Baseline	Year	2016	16
Target	Year	2019	Significant increase (number to be defined during formulation)
Output example for component 1	Newly created institutions function effectively, professionally and independently, personnel of all relevant institutions is recruited or, as appropriate, re-evaluated and appropriately trained with sufficient knowledge of best European practices		
Output indicator	No of staff in place		
Baseline	Year	2016	NABU: 50%, NAPC 30%, ARMO 0%
Target	Year 1	2017	NABU 100%, NAPC 100%, ARMO 50%
Target	Year 2	2018	All institutions 100%
Target	Year 3	2019	All institutions 100%

Output example for component 1		Strategic development plan developed and adopted	
Output indicator		No. of institutions with strategic development plans developed and adopted	
Baseline	Year	2016	0
Target	Year 1	2017	2
Target	Year 2	2018	All
Target	Year 3	2019	All
Component 2 (to be split later)		Component 2: The Rada (note, this will be divided into separate engagements during the formulation phase)	
Outcome		Strengthen parliamentary oversight over reform implementation and Parliament's capacity to scrutinise and improve the strategic and legislative framework	
Outcome indicator		Number of recommendations of international advisory council and/or Anti-corruption committee followed by Rada or government	
Baseline	Year	2016	0
Target	Year	2019	At least 50%
Output example for component 2		Rada external advisory services deliver recommendations	
Output indicator		No of assessment report delivered	
Baseline	Year	2016	0
Target	Year 1	2017	4
Target	Year 2	2018	8 (accumulated)
Target	Year 3	2019	12 (accumulated)
Component 3 (to be detailed later)		Component 3: Integrity cities, CSOs and media (note, this will be managed directly by Danida and thus not have separate engagement documents, but be part of the thematic)	
Outcome		Enhance the capacity of civil society and media to fight corruption (including advocacy campaigns, awareness-raising, analysis and research, monitoring of anti-corruption policies, media scrutiny into corruption cases and others), including by demonstrating the feasibility of progress in the fight against corruption at local level through targeted pilot projects ("clean city")	

Outcome indicator		Decrease in personal experience with corruption/increase in readiness to report corruption in the targeted municipality	
Baseline	Year	2016	Survey to be conducted
Target	Year	2019	Pending survey

Output example for component 3		Improved capacities of CSOs and media in exposing and investigating specific corruption cases;	
Output indicator		No. of CSOs supported at regional and local level	
Baseline	Year	2016	0
Target	Year 1	2017	8
Target	Year 2	2018	16
Target	Year	2019	24

Output example for component 3		Showcase of successful examples of fight against corruption at local level	
Output indicator		No. of showcases	
Baseline	Year	2016	0
Target	Year 1	2017	1
Target	Year 2	2018	3
Target	Year 3	2019	4

Annex C: Key Partner Institutions

National Anti-Corruption Bureau of Ukraine (NABU)

Mandate
The National Anti-Corruption Bureau (NABU) is a law enforcement body mandated to investigate corruption cases and submission of false information in asset declarations, of high-level officials, judges, Members of Parliament, Ministers and managers of large State-Owned Enterprises (in summary: high officials authorized to perform functions of state or local governments that pose a threat to the national security). Case value limits vary according to the positions of those involved.[6] Also included are any cases involving the bribery of foreign officials.

It further has an internal investigation unit dealing with cases allegedly committed by its own staff (other than the top directorate, when cases are dealt with by the State Bureau of Investigations).

Status
NABU was legally established in April 2015 as a state law enforcement authority, not subordinated to the Government. It became operational in December 2015, following the appointment by the President of Ukraine, on a seven-year term.[7] In addition to its headquarters in Kiev, regional offices have been established in Lviv and Odessa, while a third is planned in Dnipropetrovsk. These will be representative local offices, without the permanent presence of an investigation capability.

Engagement of NABU personnel is ongoing, with 99% (presumably excluding the top directorate) engaged through an open selection process. NABU has an establishment for 700 personnel in total, of which 496 are already in post. Competition is keen: for 100 investigator posts, 71 have to date been selected, from over 3,700 candidates.

Internally, each department is urgently developing its operating strategy, which will then be combined into a bureau strategy. It is declared policy that an open-door, transparent policy will be adopted, to encourage public scrutiny and corruption complaint reporting. In support of this a wide investigation acceptance policy is adopted, with cases being accepted from both external complaints and internal research. To date, the Bureau has initiated investigation into over 130 cases, with 15 already sent to court.

The State Budget for 2016 has allocated UAH 486.7 million to the Bureau.[8]

Key Needs
The primary need of NABU is in the area of IT capability. As its personnel establishment is limited to 700, it intends to maximize electric processes to enhance efficiency. It has prepared a two-year strategy that defines its priorities as:

- IT systems architecture
- Infrastructure and network
- Governance
- Security management.

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[6] https://nabu.gov.ua/en/faq
[7] Annex 1of the Commission Implementing Decision on the Special Measure 2016 for Anti-Corruption and Support to Key Reforms in favour of Ukraine.
[8] 160523 Non-Paper UA VLAP.pdf

Key areas within this strategy that require support are:

- The selection and implementation of IT systems for the automation of an e-Case management system (pre-trial investigation workflow); analytical functions to support pre-trial investigations; and other functions such as HR management internal controls, security and external communications.
- Procurement of hardware for the implementation of the infrastructure
- Deployment of the governance model, including setting up internal governance, design and delivery of training and document development.

A secondary need is law revision. The bureau has identified a number of areas where exiting provisions present challenges to its its efficient operation and where legal amendments are desirable. The EUAM is assisting in this regard.

Specialised Anti-Corruption Prosecution Office (SACPO)

Mandate
The SACPO is responsible for the supervision of cases undertaken by NABU, into high level corruption cases and for prosecuting these cases in court.[9]. It is formally part of the Public Prosecutor's Office but a number of safeguards have been put in place to ensure its independence. In particular, these include clear delineation of responsibilities and protection against arbitrary dismissal by the Prosecutor General.

Status
SACPO was established in November 2015 with the appointment of its head and his deputy. It remains short of prosecutor positions and is currently undertaking a recruitment programme.

It has supported NABU in the investigation of those cases mentioned above, as well as the ensuing prosecutions.

The State Budget for 2016 has allocated UAH 74 million.[10]

Key Needs
SACPO is currently operating within the physical premises of the General Prosecutor's Office. This is clearly a highly undesirable situation, that is for the government of Ukraine to address as soon as possible. Other material needs include a lack of vehicles and a secure telephone system. (They currently assert that they are routinely wiretapped by other Ukrainian institutions). Linkage with the NABU e-Case management system would also clearly be desirable.

A number of legal amendments are also required. They currently have no legal authority to wiretap themselves (unlike other bodies such as the Secret Service and the Police), and are seeking this power for both themselves and for NABU. They are also seeking the withdrawal of immunity from prosecution of judges, the power to reclassify the status of persons of interest[11] and the exclusion of corruption cases from the right to parole.

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[9] Annex 1of the Commission Implementing Decision on the Special Measure 2016 for Anti-Corruption and Support to Key Reforms in favour of Ukraine.
[10] 160523 Non-Paper UA VLAP.pdf
[11] For example, a person initially classified as a suspect cannot be reclassified as a witness, undermining potential cooperation.

They require assistance with training in a number of areas, including compliance with European human rights legislation and case conduct under these requirements; asset recovery and legal aid instruments.

National Agency for the Prevention of Corruption (NAPC[12])

Mandate
The NAPC is expected to take over from the Ministry of Justice as the key preventative institution for driving the anti-corruption reform process and will develop into an instrumental body for the medium and long term, able to raise the bar of transparency and accountability in the public service. The NAPC is responsible for development and implementation of the anti-corruption policy, monitoring the lifestyle of public officials, verifying declarations of assets and conflicts of interests of all public officials, as well as managing a system for electronic assets declaration.[13] The NAPC is furthermore in charge of controlling political party funding and ensuring whistle blower protection. It is assumed that it will also engage in the important area of corruption risk assessment and mitigation, although this is not specifically mentioned in its brief.

Status
The agency has experienced significant problems and setbacks in its formation. The NAPC is structured to have a collegiate leadership of five members. Significant delays occurred in engaging up to four of these members but there is now apparently significant discord and the threat of resignations, even before the agency becomes fully operational. The agency is not yet fully staffed, with fewer than half of the 300 engaged to date. Nevertheless, it has been declared as operational with effect from July 2016.

The only significant progress to date has been the launch of the asset declaration scheme for civil servants. The deadline for submission is mid-August, so the processing of these declarations and follow-up action will be the first test of its capability.

A vast amount of development will be required for the agency to adequately fulfil its mission. Of particular significance is that there has been no development in:

- Policy and strategy development
- Behaviour of civil servants regarding conflict of interest, acceptance of advantages and gifts, monitoring of lifestyle, etc.
- Control of political party finances
- Corruption risk assessment and mitigation in state institution processes
- Handling of whistleblowers and reporting persons, processing of complaints and whistleblower protection.

The State Budget for 2016 has allocated UAH 486.2 million.[14]

Key Needs
The NAPC has got off to a very uncertain start. It needs major interventions in its top management and well as training and institutional support in the vast majority of its mandated tasks.

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[12] The bureau has been variously described as the NAPC (… prevention of corruption) and NACP (…corruption prevention). The former is used here, as it more closely aligns with the Ukrainian title.
[13] Annex 1 of the Commission Implementing Decision on the Special Measure 2016 for Anti-Corruption and Support to Key Reforms in favour of Ukraine.
[14] 160523 Non-Paper UA VLAP.pdf

A significant omission in the development of the anti-corruption programme in Ukraine is a strategic communications strategy. This is one of the three essential pillars in the internationally recognised three-pillar strategy[15] fundamental to the success of any anti-corruption programme. Each institution is currently planning or implementing basic publicity and communications initiatives, but there is neither an overall strategy nor a single institution tasked with its development and management. The EUAM has drafted such a preliminary strategy and, in the absence of an institution charged with responsibility, has suggested that the NRC should, in the first instance, take on the role of implementing this strategy. While this is acceptable on a *pro-tem* basis, a more permanent solution would appear to be that this role be added to the mandate of the NAPC, as and when that body becomes fully operational. This will clearly need external donor support for its development.

State Financial Monitoring Service (SFMS)

Mandate
The SFMS is the central executive authority that implements the state policy as the key element of the Anti-Money Laundering and Proceeds of Crime and Terrorist financing system. It is regulated by the Law of Ukraine "On Prevention and Counteraction to Legalization (Laundering) of the Proceeds of Crime or Terrorist Financing". This is regulated and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance of Ukraine.

One of its main activities is development and improvement of the legislation in this area, implemented by the Ministry of Finance of Ukraine. In addition, the SFMS of Ukraine acts as a National Financial Intelligence Center with the appropriate powers of this type, the main objectives and functions of which include collection, processing and analysis of information on financial transactions subject to financial monitoring, financial transactions or other information that may be relevant to suspicion of legalization (laundering) of proceeds from crime or terrorist financing.

Status
Unlike the other institutions, the SFMS was established in 2002. Despite being long-established, it currently is hampered in its effectiveness by an inadequate budget, inadequate IT equipment and low morale, losing key personnel due to poor conditions of service.

Key Needs
Its needs are thus primarily concerned with improved conditions of service (probably outside the terms of this project), upgrading of IT equipment and establishing a better coordination mechanism with other agencies such as NABU, SACPO and the not-yet-established ARMO. It is currently receiving no external support.

National Asset Recovery and Management Office (ARMO)
The law establishing the ARMO (ARO/AMO) came into effect June 2016. The legislation has been drafted with the European standards, FARF and GRECO recommendations. The ARMO has the right to actively manage seized property.

The legislation sets up mechanisms for identifying, tracing and managing of tracing assets derived from corruption and other crime.[16] To date, no substantive action has taken place to establish the office or implement its mandate.

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[15] The three pillars are investigation and prosecution, corruption prevention, and education and awareness.
[16] Annex 1of the Commission Implementing Decision on the Special Measure 2016 for Anti-Corruption and Support to Key Reforms in favour of Ukraine.

The State Budget for 2016 has allocated UAH 25.3 million to the ARO/AMO Office. [17]

Verkhovna Rada Anti-Corruption Committee

Mandate
In addition to its responsibility over the legislation on certain aspects of corruption and on the anti-corruption institutions, this committee is tasked with monitoring the overall implementation of anti-corruption reforms by the government as well as the anti-corruption "screening" of draft laws. [18]

Status
The Parliamentary Committee is established consists of 22 members, which is an increase from 12 members in the last session.[19]

The Committee's leadership plans to establish an advisory council, composed of international experts, which would assist the Committee in its monitoring work and check compliance of proposed legislation and/or amendments tabled in the Rada with European and international standards and best practices. The legal status of such a body has not yet been determined.

Specialised Anti-Corruption Courts

Status
No specialised anti-corruption courts currently exist in Ukraine. However, the new law on the judiciary and the status of judges adopted in June 2016 foresees the possibility of creating such specialised courts. There would appear to be two options open to the government of Ukraine: the establishment of totally separate courts, external to other courts, or alternatively the creation, on either a full-time or part-time basis, of an anti-corruption chamber within existing courts. Each would require the selection, vetting, training and development of a cadre of judges, with detailed knowledge and understanding of the intricacies of such cases. While holding no brief for the adoption of any particular system, NABU and SAPCO are naturally highly supportive of their adoption.

The law reflects discussions between the Ukrainian authorities, civil society representatives and international donors. The necessity to guarantee a fair trial of corruption cases is key for the success of bringing offenders to justice.

The U4 Anti-Corruption Resource Centre [20] has recently conducted research into the establishment of specialised courts in four countries: Slovakia, Indonesia, Uganda and the Philippines. Its reports and analysis provide a clear guide to the issues that need to be addressed and the potential pitfalls of such systems. These reports, and any further to come, should clearly form the basis for local research and initiatives to adopt such a system in Ukraine.

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[17] 160523 Non-Paper UA VLAP.pdf
[18] Annex 1of the Commission Implementing Decision on the Special Measure 2016 for Anti-Corruption and Support to Key Reforms in favour of Ukraine.
[19] http://gapp.rada.gov.ua/radatransl/Home/Committees/en
[20] U4 is a resource centre for development practitioners who wish to effectively address corruption challenges in their work. The centre is operated by the Chr. Michelsen Institute – an independent centre for research on international development and policy – and is funded by DFAT (Australia), SDC (Switzerland), Danida (Denmark), DFID (UK), GIZ (Germany), Norad (Norway), Sida (Sweden) and The Ministry for Foreign Affairs of Finland.

Annex D: One-Stop-Shop Setup

The one-stop-shop will legally be a project implementation unit working as an extended arm of the European Neighbourhood Department (EUN) of the Ministry of Foreign Affairs of Denmark and operating in accordance with Danish laws and regulations. In practice this means operating in accordance with the rules and procedures as can be found at www.amg.um.dk.

The one-stop-shop will have full oversight of the programme budget on a day-to-day basis. They will report on progress on a monthly basis to the assigned programme officer in EUN. Furthermore, the one-stop-shop will function as a secretariat for the programme steering committee.

The one-stop-shop will also play a key role in uniting donors in Ukraine in a combined effort in the anti-corruption sub-sector. It will serve as a secretariat for donor coordination and with the support of EU and Denmark to push for a joint and coordinated strategy, which will allow for concerted efforts to combatting corruption. Specific resources in the one-stop-shop will be assigned to this task.

The services
The one-stop-shop will provide services as requested by the beneficiaries in all three components of the programme as well as a range of cross-cutting services. In practice the needs of partners will be identified through:
- The strategy development process
- The capacity development plan
- The IT provision plan (existing for e.g. NABU as well as upcoming)
- Needs identified by the institutions across all components as they emerge

The smaller scale service provision will be decided by the team leader of the one-stop-shop, while major capacity development and service needs will be decided by the steering committee based on the recommendations of the team.

Cross-cutting services
- Advise on anti-corruption reform processes to Ukrainian Government and donors
- Arranging annual conferences on combatting anti-corruption
- Assisting with the development of cross-sector strategy and planning processes with mayor coordination councils, anti-corruption institutions and donors
- Specific advise as background for policy dialogue to the Government of Denmark and the EU
- Advise on strategic communication for EU and Denmark

Component 1 services
- Provision of regular advise and mentoring for component 1 institutions
- Provision of short term expertise from the one-stop-shop roster
- Provision of capacity development packages
- Provision of IT equipment
- Other capacity development services to institutions as required
- Advise on strategic communication for component 1 institutions

Component 2 services
- Provision of regular advise and mentoring for the Rada

- Provision of short term expertise from the one-stop-shop roster
- Provision of capacity development packages for the anti-corruption committee
- Provision of funding to allow for international advisory process on legislation
- Provision of secretariat assistance to the international advisory process
- Advise on strategic communication for the Rada anti-corruption work

Component 3 services
- Provision of short term expertise from the one-stop-shop roster to local governments in integrity cities
- Provision of grants for CSO capacity development
- Provision of grants for media capacity development
- Provision of related short term advise as required
- Advise on strategic communication for local government and civil society

To perform these services, the team will draw on a number of modalities to assist in the process (details still to be developed). These are likely to include:
- Short-term expert roster of EU Member State (MS) anti-corruption institutions as well as individual consultants.
- A framework contract arrangement with European member state institutions where they can bid for more comprehensive capacity development assignments
- IT equipment procurement processes
- Grant making for component 3 activities

The team
The team will comprise of three international and six national staff members. Details as follows for international staff:

Team leader:
Key tasks:
- Refers to EUN and Ministry of Foreign Affairs of Denmark
- Overall team management
- Lead on overall dialogue with Ukraine state institutions and parliament on programme support
- Liaison with EU
- Liaison with international donors
- Lead secretary on donor coordination
- Lead on reform process coordination dialogue
- Overall responsible for programme management
- Final decision on minor capacity development service provision

Key qualifications:
- Masters degree in relevant field
- More than 15 years experience with development, governance and anti-corruption
- Experience from working with public administration and political affairs at a senior level
- Strong management skills
- Experience from working with state institutions in Eastern Europe
- Experience from working with EU structures
- Fluent in English

- Knowledge of Ukrainian and/or Russian and advantage

International deputy team leader with financial management and coordination expertise
Key tasks:
- Day-to-day responsible for managing programme in accordance with Danida guidelines
- Responsible for procurement processes
- Responsible for financial management
- Responsible for donor coordination support
- Human resource management

Key qualifications:
- Masters degree in relevant field
- More than 10 years experience with financial and programme management
- Experience with Danida Aid Management Guidelines
- Experience from working with state institutions in Eastern Europe
- Fluent in English
- Knowledge of Ukrainian and/or Russian and advantage

International anti-corruption expert
Key tasks:
1) Support to strategic planning across all components
2) Specific advise on anti-corruption reform process
3) Specific advise to NABU, SACPO and NACP
4) Specific advise and support to the Rada anti-corruption committee

Key qualifications:
- Masters degree in relevant field
  - More than 15 years experience with development, governance and anti-corruption
  - Experience from working with public administration and political affairs
  - Experience from working with state institutions in Eastern Europe
  - Experience from working with European and international institutions or organisations within anti-corruption
  - Fluent in English
  - Knowledge of Ukrainian and/or Russian and advantage

Expected national staff will include:
- National financial management and procurement expert
- National communication experts for cross-component work
- National expert on prevention with emphasis on cooperation with civil society and media as well as NAPC and MoJ
  - National Expert on investigation and prosecution with emphasis on NABU, SACPO, and SFMS
  - National expert on civil society and media with emphasis on component 3
  - National expert on IT with emphasis on IT assessment and procurement

The team will be co-located with the EU Advisory Mission in Kiev. The details of the cooperation will be discussed and agreed during the formulation mission.

Annex E: Process Action Plan

Activity	Responsible	Date
Commission approval of the "Action Document"	SGUA	27 July
Programme Committee Meeting	EUN	8 Sept.
Initiate Hiring Process Danida Adviser(s) UA to OSS	EUN	Mid-Sept.
Second Formulation Mission Ukraine	EUN/Consultancy/TQS	14-23 Sept.
Draft Programme Document (incl. Development Engagement Documents, annexes, agreements with partners, ToR advisors etc.)	Consultancy	Early Oct.
Discussion of the Draft programme Document with SGUA/EU del. Kiev	EUN	Oct.
Desk Appraisal of the programme	TQS	Late-Oct.
Draft Appraisal Report	TQS	Early Nov.
Final Programme Document (including annexes)	Consultancy/EUN	Mid-November
Discussion of the Final Programme Document with EU Del. Kiev/SGUA	EUN/SGUA/Consultancy	Nov.
Approval of Programme Document/Action Description and signing agreement between DK and Commission	EU Del. Kiev/EUN	Dec.
Signing of Agreement with Implementing Partner(s)	EUN	Dec./Jan.
Programme Launch and Start	One-Stop-Shop /Implementing Partner(s)	Dec./Jan. 2017

Annex F: HRBA / Gender Screening Note

<table>
<tr><td colspan="2" align="center">**Tool for Human Rights Based Approach (HRBA)**

and Gender Equality Screening</td></tr>
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Purpose: The HRBA and Gender Screening Note complement the HRBA Guidance Note and the up-coming Gender Equality Strategy and the Gender Equality Toolbox. The purpose of the note is to facilitate and strengthen the application of the Human Rights Based Approach and mainstreaming of gender equality programming related to Danish development cooperation. It can be used as an inspirational checklist by all staff.

The information in the note should be based on the analysis undertaken as part of the preparation of the Country policy paper and should draw on major Human Rights and gender equality analysis relevant for the country such as UPR-processes, reports and documents from OHCHR, EU HR Strategy, CEDAW-reporting as well as relevant analysis prepared by other major donors. The Screening Note should be attached to the (country) programme concept note, and the questions raised below should be reflected in the (country) programme document. Appraisal of country programmes will include a specific focus on HRBA and Gender Equality.

Basic info

Title	EU Programme Support to Combatting Corruption in Ukraine (2017-2019)
Country/ region	Ukraine
Budget in DKK mio.	App. 122
Starting date and duration	December 2016 – December 2019

Human Rights Based Approach

Assess whether a Human Rights (HR) Based Approach has been applied in the programme:

Human Rights Assessment and Standards			
Issues:	**yes**	**no**	**Explain:**
Have major HR analysis relevant for the country been consulted (UPR, OHCHR, EU HR Strategy, other relevant donor documents)	x		E.g. donor strategies, UPR, regional and international mechanisms reporting
Have key international **HR standards** and/or mechanisms influenced choice and formulation of outcome areas?	x		E.g. Council of Europe and UN treaties ratified, EU Association Agreement
Where relevant, is application at national level, including **major gaps between human rights in principle vs. human rights** in practice,	x		E.g. in justice area, the executive branch, the legislative branch for the anti-corruption sector.

evaluated and identified?			
Are **key recommendations from UPR** for the thematic programmes and from any treaty bodies, special procedures, INGOs, HNRIs etc. that require follow up at national level considered?	x		UPR Recommendations form part of the justification for all intervention areas
Are rights-holders identified?	x		E.g. women, men and children in contact with the state to obtain services. Practically represented by civil society in this programme
Are duty-bearers identified?	x		The programme specifically focuses on strengthening the capacity of key duty bearer institutions within the areas of governance (e.g. Anti-corruption officers in public authorities, National Agency for Corruption Prevention, National Council on Anti-corruption, Parliamentary Committee on Anti-corruption, Ministry of Justice, State Bureau of Investigations, National Anticorruption Bureau, National Police of Ukraine).

Assess whether Human Rights Principles have been applied in the preparation and in the design of the programme?			
Non-discrimination: Are any groups among rights-holders excluded from access and influence in the thematic programme areas identified?		x	In principle all non-elite women and men are subject to requests for corrupt practices in Ukraine
Are disaggregated data available on most vulnerable groups?		x	No differentiated data in place specifically on anti-corrupton
List any key support elements included to promote non-discrimination	x		E.g. combating corruption, and strengthening of National preventive Mechanism and complaints mechanism and NABU
Participation and inclusion: Are barriers for participation, inclusion and empowerment of rights holders identified?	x		To some extent, e.g. in terms of corruption
List any key support elements included to promote participation and inclusion	x		E.g. combating corruption, providing access to complaints mechanisms through the NABU office by ensuring increased presence throughout the country, strengthening parliamentary oversight, strengthening the role of the media and civil society
Transparency: Is the extent to which information is accessible to rights holders	x		A key part of the programme will be the support to communication of procedures, processes and progress as well as making

including marginalised groups assessed? Where relevant, whether information is available in other than official languages of the country in question should be indicated.			available key public information such as e.g. budget at local government level
List any key support elements included to promote transparency	**x**		See above. Linked to strengthening the roles of the media and civil society, and the general monitoring and reporting functions of the institutions.
Are key **accountability** mechanisms in the relevant area – both horizontal and vertical listed?	**x**		The programme specifically targets duty bearer institutions in key identified areas
Are obstacles, e.g. capacity and political-economy incentives that duty-bearers and rights holders face to exercise their obligations and rights listed?	**x**		E.g. needs and challenges for the justice sector institutions, the executive and legislative branch, anti-corruption mechanism, and the institutions supported.
List any key support elements included to promote accountability	**x**		All programme components have strengthening of accountability as their main focus
Results/Indicators			
List any indicators designed to monitor the realisation of specific human rights			The programme expects to promote gender disaggregated reporting on corruption cases, human resource management in the institutions supported among others
List any indicators designed to monitor the integration of the four principles			a. Increased preventive action against corruption, paving the way for more equal participation and access to public service, and contributing to greater **transparency** b. Increased access to mechanisms for human rights protection also for vulnerable and marginalised groups by increasing the outreach of NABU, contributing to reduced **discrimination**, as well as increased opportunity for **participation and inclusion** c. Increased **accountability** for discrimination violations through e.g. monitoring and complaints handling by NABU
List any key indicators chosen to track capacity of key partners (both rights holders and duty bearers)			Overall performance improvement of anti-corruption institutions.
Dialogue Partners			

Define key dialogue partners (duty bearers) to be addressed by the country programme	x		NABU, NACP, SACPO, Ministry of Justice, ARMO, the Rada and courts.
Define key alliance partners, including other likeminded donors, multilateral partners and CSO's	x		Civil society, media institutions, Council of Europe; UNDP; USAID, DFID
State major dilemmas/risks associated with the policy dialogue and proposed mitigation measures (incl. reference to Framework for Risk Assessment)			Substantial policy dialogue risks. See Framework for Risk Assessment

Gender Screening Tool			
Are key challenges and opportunities for gender equality identified?	x		To some extent, e.g. by assessing gender based discrimination through NABU reporting. However more capacity development needed in this field
Are reference made to CEDAW-reporting, UPR, and other relevant gender assessments?		x	Not at this stage. Additional dialogue with partners needed first
Identify opportunities/constraints for addressing gender equality issues			Including assessment of gender equality within e.g. anti-corruption sector institutions, for employees/officials (e.g. promotion opportunities, recruitment; observance of patterns of gender-specific violations. Gender and LGBT-related violations may be difficult to identify and address due to prevalent cultural perceptions, including fear of stigma on the part of victims . Also assessment of potential marginalised groups subject corrupt practices. This will need further assessment
Describe key strategic interventions to promote gender equality within each thematic programme?			The support will start with a strategic development exercise, which will also force the institutions to undertake gender mainstreaming in their strategic planning process and implementation
Explain how gender specific purposes with be reached, which strategic approach, what activities are planned			Ibid
Define expected outputs.			Strategic plans developed with proper gender mainstreaming. No. of women involved in capacity development activities.
Identify gender equality indicators aligned with national targets on gender if possible.			None at this stage

Annex G: Risk Management Matrix

(See below)

Contextual Risks

Context: EU Programme Support to combat corruption in Ukraine 2017-2019

File No:

Risk factor	Likelihood	Background to assessement	Impact	Background to assessment	Risk response if applicable / potential effect on development cooperation in context
1 Political resistance to the overall progress in anti-corruption reforms	**Likely**	Firstly, Ukraine has in the last years been subject to the production of legislation and counter-legislation, which hampers anti-corruption efforts. Secondly, there are actors within the prosecutional and judicial services, who are working to curtail the mandate of several of the new anti-corruption institutions	**Major**	All the state institutions in the chain of anti-corruption work will need financial and legal support to enable them to operate. If one institution in the chain misperforms, the conviction of felonies will be limited	Use of political dialogue in the framework of the Association Agreement and post-VLAP monitoring, reinforcing political pressure by formulating appropriate conditions under future Macro-Financial Assistance and possible sector budget support programmes; enhanced coordination of anti-corruption related conditionalities with the IMF; Coordination of common approaches with civil society, pro-reformist Ukrainian stakeholders and international donors.
2 Increase in insecurity as a consequence of escalating war in Donetsk and beyond	**Unlikely**	Limited appetite from the warring parties to escalate the war beyond the present geographical area	**Major**	Escalation of war would drag resources and political attention away from anti-corruption efforts	N/A
3 Change of Government of Ukraine will result in another revamping of the anti-corruption sector	**Unlikely**	Change of Government will take place during the course of the programme, but a new government will be equallly interested in the VLAP and cooperaiton with the EU and thus continue, at least nominally, to support anti-corruption	**Major**	Capacity development efforts initiated prior to such change would be less effective	Use of political dialogue in the framework of the Association Agreement and post-VLAP monitoring, reinforcing political pressure by formulating appropriate conditions under future Macro-Financial Assistance and possible sector budget support programmes; enhanced coordination of anti-corruption related conditionalities with the IMF; Coordination of common approaches with civil society, pro-reformist Ukrainian stakeholders and international donors.

Programmatic and Institutional Risks

Title:

File No:

Programmatic Risks

	Risk factor	Likelihood	Background to assessement of likelihood	Impact	Background to assessment to potential impact	Risk response	Combined residual risk
P1	Discrediting of project's initiatives/instrumentalisation of expertise/reputational risk	**Almost Certain**	Discrediting is already being practiced by competing authorities within Ukraine	**Major**	Legitimacy of institutions among the population key to ensure cooperation and trust	Focus on communication and proper visibility of the initiative; ensure close follow-up of project activities by the Steering Committee to allow for adequate consequences if support is politically instrumentalised.	**Major**
P2	Lack of cooperation from the side of the beneficiaries	**Unlikely**	All beneficiaries are comitted and request the EU and Danish support	**Significant**	Without ownership, the institutons are unlikely to take in the capacity development provided	Continued policy dialogue, ensuring the beneficiaries have a lead role in the preparation of the support to be provided by the initiative.	**Minor**
P3	Potential decrease in the funding of the Government to the institutions supported by donors	**Likely**	Politicians whose interests are targeted have an interest in limiting the ability of the institutions to perform	**Major**	All the institutions have substantial recurrent costs, which need to be covered to ensure full operation	Ensure that the programme does not fund recurrent costs, e.g. salaries of institution staff, but only one-time expenses. Use policy dialogue to ensure continued funding by the Government.	**Major**
P4	Unclarity about and overlapping mandate means that institutions will compete and influence degree of cooperation and open new opportunities of corruption	**Likely**	There is currently no proper coordinating body for the sub-sector, and no initiative taken to delineate institutional mandates	**Major**	Cooperation is needed across the anti-corruption chain from prevention to prosecution and conviction. Poor cooperation will thus limit the effectiveness of the anti-corruption efforts	Engage with the programme to improve coordination and joint planning between the participating institutions. In addition, use policy dialogue of EU and Government of Denmark to put pressure on the institutions to perform.	**Minor**
P5	Misuse of funds / poor financial management of any of the institutions or CSOs supported	**Unlikely**	All funding will be channeled through the one-stop-shop. The institutions will not control the budget. The exception is grants for CSOs, but these are covered by external audits	**Major**	Misuse of funds will discredit the instutions and undermine their performance	Ensure that all funding will be channeled through the one-stop-shop. And that all external funds are covered by external independent audits.	**Minor**

Institutional Risks

	Risk factor	Likelihood	Background to assessement of likelihood	Impact	Background to assessment of potential impact	Risk response	Combined residual risk
I1	Discrediting of project's initiatives/instrumentalisation of expertise/reputational risk	Almost Certain	Discrediting is already being practiced by competing authorities within Ukraine	Major	Discredited institutions will impact the reputational risk of the programme eventually influencing the EU and Denmark	Ensure a proper communication strategy for the institutions and the programme is drafted and implemented.	Major
I2	Lack of cooperation from the side of the beneficiaries	Unlikely	All beneficiaries are comitted and request the EU and Danish support	Minor	Minor in the short-term as the programme will continue, but major in the long-term if no results can be measured	Ensure continuous dialogue with beneficiaries to motivate ownership.	Minor
I3	Potential decrease in the funding of the Government to the institutions supported by donors	Likely	Politicians whose interests are targeted have an interest in limiting the ability of the institutions to perform	Minor	The programme will continue to provide funding even if the Government funds are reduced	Continue strong policy dialogue with Government to minimise risk.	Minor
I4	Unclarity about and overlapping mandate means that institutions will compete and influence degree of cooperation and open new opportunities of corruption	Likely	There is currently no proper coordinating body for the sub-sector, and no initiative taken to delineate institutional mandates	Major	Stories of poor cooperation and coordination in a programme where the EU and Denmark support the full chain of institutions, is a significant reputational risk	1) Work with institutions to clarify mandate, 2) ensure this risk is included in the programme communication strategy as a mitigating factor.	Minor
I5	Misuse of funds / poor financial management of any of the institutions or CSOs supported	Unlikely	All funding will be channeled through the one-stop-shop. The institutions will not control the budget. The exception is grants for CSOs, but these are covered by external audits	Significant	Misuse of funds carries a substantial reputational risk and is likely to result in a temporary or permanent stop of funding for the programme	1) Ensure institutions are properly trained in Danida Aid Management Guidelines, 2) apply annual audits for all institutions, 3) take risk into consideration of programme communication strategy.	Major

Deviations and follow-up

Title:

File No:

Planned date for first assessment: Autumn 2017

Date of assessment:
Deviations from original assessment: Follow-up:
Date for next asssment:

Date of assessment:
Deviations from original assessment:
Follow-up:
Date for next asssment:

Date of assessment:
Deviations from original assessment:
Follow-up:
Date for next asssment:

Date of assessment:
Deviations from original assessment:
Follow-up:
Date for next asssment:

Date of assessment:
Deviations from original assessment:
Follow-up:
Date for next asssment:

Programmatic and Institutional Risks

Risk factor	Likelihood	Impact	Risk response	Combined residual risk
Programmatic Risks				
Discrediting of project's initiatives/instrumentalisation of expertise/reputational risk	**Almost Certain**	**Major**	Legitimacy of institutions among the population key to ensure cooperation and trust	**Major**
Lack of cooperation from the side of the beneficiaries	**Unlikely**	**Major**	Without ownership, the institutons are unlikely to take in the capacity development provided	**Minor**
Potential decrease in the funding of the Government to the institutions supported by donors	**Unlikely**	**Major**	All the institutions have substantial recurrent costs, which need to be covered to ensure full operation	**Major**
Institutional Risks				
Discrediting of project's initiatives/instrumentalisation of expertise/reputational risk	**Almost Certain**	**Major**	Ensure a proper communication strategy for the institutions and the programme is drafted and implemented.	**Major**
Lack of cooperation from the side of the beneficiaries	**Unlikely**	**Minor**	Minor in the short-term as the programme will continue, but major in the long-term if no results can be measured	**Minor**
Potential decrease in the funding of the Government to the institutions supported by donors	**Likely**	**Minor**	The programme will continue to provide funding even if the Government funds are reduced	**Minor**