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### ANNEX

#### **Neighbourhood, Development and International Cooperation Instrument (NDICI) – Global Europe**

#### **Exceptional Assistance Measure regarding Bangladesh**

### **1. IDENTIFICATION**

Action:	Helping Rohingya refugees to pursue accountability and participate in international justice processes
Action Reference:	NDICI CR 2024 / 05
Cost:	EUR 1 500 000 (European Union (EU) contribution).
Budget Line:	14 02 03 10
Duration:	Maximum 18 months. The authorising officer responsible may decide to extend this period twice by a further period of up to six months, up to a total maximum duration of 30 months, under the conditions laid down in Article 23(6) of Regulation (EU) 2021/947.
Lead service:	FPI

### **2. ACTION SUMMARY**

The measure will build upon the results and lesson learnt of an ongoing crisis response action helping Rohingya refugees be aware of and pursue their legal rights. This action seeks to enable Rohingya refugees to understand and pursue their legal rights and to mitigate tensions and conflict by raising awareness on international justice within their communities, addressing misconceptions and disinformation and managing expectations. It will also provide gender and age-sensitive and trauma-informed legal assistance to Rohingya refugees, assistance and representation for the international justice proceedings, as well as health, psychosocial and protection support.

The action is in line with the Conflict Analysis Screening Bangladesh (2023), which calls for actions to prioritise the prevention of gender-based violence, support youth and women engagement, adopt a human rights-based approach and pay due attention to conflict sensitivity risk assessment and mitigation.

### **3. BACKGROUND AND RATIONALE**

#### **3.1 BACKGROUND**

Rohingya refugees living in the camps in Cox's Bazar in southeastern Bangladesh are experiencing an unprecedented rise in insecurity and inter and intra-communal tensions in their everyday lives. Food shortages, lack of livelihood opportunities, and the current intensification of fighting in Rakhine State in Myanmar have exacerbated the proliferation of criminal armed groups inside the camps. Insecurity and criminality are causing clashes and violence, including physical assaults, abductions and murders of Rohingya refugees. Restrictions to freedom of movement, desperation, hunger and hopelessness are also compelling an increasing number of Rohingya refugees to flee the camps and undertake perilous sea journeys across the Bay of Bengal and the Andaman Sea in search for protection and safety. Confusion, rumours as well as a distant and limited scope of international judicial proceedings outcomes related to the crimes committed by the Myanmar military against the Rohingya are likely to create further risk of protest, unrest, and long-term loss of trust in an already strained environment. Moreover, women, children and youth, who have been disproportionately affected by violence and tensions, are often not aware of their legal rights, and face additional difficulties in pursuing them as a consequence of deeply rooted gender expectations, inequalities and exclusion. In addition, there is still a degree of misconceptions among Rohingya refugees about the ability of international justice to swiftly award citizenship, land ownership or allowing a safe and dignified return of the Rohingya to their homes in Myanmar.

#### **3.2 RATIONALE FOR CRISIS RESPONSE ACTIONS UNDER THE RAPID RESPONSE PILLAR OF THE NEIGHBOURHOOD, DEVELOPMENT AND INTERNATIONAL COOPERATION INSTRUMENT**

The unprecedented rise in insecurity and inter and intra-communal tensions in the everyday lives of Rohingya refugees living in the camps in Cox's Bazar is constituting an exceptional and unforeseen situation in the sense of Article 4(4) (a) of the NDICI Regulation. An adequate response cannot be provided under any other European Union Instrument due to the urgency with which the funds are required and due to available resources already being firmly committed.

Annex IV, paragraph 1, second paragraph, points (e), (m), (n) and (p) of Regulation (EU) 2021/947 specifically provides for the use of the NDICI rapid response pillar to (e) support for international criminal tribunals and *ad hoc* national tribunals, truth and reconciliation commissions, transitional justice and other mechanisms for the legal settlement of human rights claims and the assertion and adjudication of property rights; (m) support for the rehabilitation and reintegration of the victims of armed conflict, including measures to address the specific needs of women and children; (n) support for measures to promote and defend respect for human rights and fundamental freedoms, democracy and the rule of law, and the related international instruments, and (p) support for measures to address the potential impact of sudden population movements with relevance to the political and security situation, including measures addressing the needs of host communities.

### 3.3 RISKS AND ASSUMPTIONS

Risk	Level of risk	Impact	Risk Mitigation strategy
Safety risks for individuals receiving legal assistance and human rights defenders.	Medium	Medium	<p>All information will be treated discretely and confidentially, saved in a secure database and communication encrypted.</p> <p>The implementing partner will monitor the ongoing trends and attitudes towards human rights defenders, maintain regular and discrete check-ins with its survivor advocates, and ensure prompt engagement with UNCHR and other relevant stakeholders where specific protection risk occurs.</p>
Restrictive policies in the host country limit/hinder the implementation of the action (access to / exit from the camps).	Medium	High	<p>The implementing partner will continuously engage with the government of the host country to ensure the access to international justice activities is maintained. Interviews can be conducted remotely if necessary. The implementing partner will maintain regular contact with survivor advocates and individuals receiving legal assistance, and arrange for them to be accompanied to the implementing partner's office. Activities and developments will be monitored continuously through the survivor advocate network inside the camps.</p>
Increased expectations from the victims regarding justice being rendered thanks to this action.	Medium	Medium	<p>The implementing partner will ensure clear communication throughout the implementation of the action, including in local languages, to mitigate possible misconceptions about this action.</p>
Relocation of some Rohingya refugees from Cox's Bazar to Bhasan Char.	Medium	Medium	<p>The implementing partner will closely monitor the developments in Bhasan Char, and maintain close contact on activities in the camp Char with relevant stakeholders, including</p>

			the UN. Furthermore the implementing partner will ensure that the government of the host country is informed about the importance of the action in case a survivor advocate is being coerced or forced to relocate.
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#### 4. OBJECTIVES

##### 4.1 OVERALL OBJECTIVE

The overall objective of the action is to enable Rohingya refugees to understand and pursue their legal rights and to mitigate tensions and conflict within their communities.

##### 4.2 SPECIFIC OBJECTIVES

1. To raise awareness on international justice within Rohingya refugees, particularly women and marginalised groups, and address misconceptions and disinformation about international justice mechanisms;
2. To support Rohingya refugees, women and marginalised groups in particular, to engage meaningfully in international justice proceedings on crimes committed in Myanmar;
3. To provide holistic peer-support including health, psychosocial and protection support to Rohingya refugees.

#### 5. ACTION COMPONENTS AND EXPECTED RESULTS

This measure is articulated around the above-mentioned specific objectives.

**The main expected results/outcomes include:**

**Expected Result (1):** Rohingya refugees, women and marginalised groups in particular, are empowered to raise awareness on international justice within their communities and address misconceptions and disinformation.

Activities (indicative):

- 1.1 Organise community awareness sessions;
- 1.2 Provide training for the survivor advocates;
- 1.3 Design and provide learning modules and resources on justice and accountability for crimes against Rohingya in Myanmar, including on international justice, transitional justice, and social cohesion for Rohingya community;
- 1.4 Organise community-participatory research initiatives on Rohingya priorities in international justice.

**Expected Result (2):** Rohingya refugees in Cox's Bazar – women and marginalised groups in particular – have access to legal assistance and representation in international justice proceedings and are enabled to contribute to international justice proceedings related to serious international crimes committed in Myanmar.

Activities (indicative):

- 2.1 Engage in a continuous dialogue and share relevant information with international justice mechanisms, including the International Criminal Court (ICC), the International Court of Justice (ICJ), and the Independent Investigative Mechanism for Myanmar;
- 2.2 Submit new evidence in existing proceedings;
- 2.3 Provide legal assistance and representation to Rohingya survivors and compile litigation files;
- 2.4 With the informed consent of survivors and witnesses, facilitate the provision of testimonies from survivors and witnesses to international justice mechanisms in a safe and secure manner (this activity includes travel and accommodation expenses and the facilitation of travel authorisations for Rohingya witnesses when traveling abroad);
- 2.5 Pursue high-level advocacy by organising panel discussions in relevant international fora and supporting Rohingya-led interventions and bilateral briefings with relevant Member States.

**Expected Result (3):** Rohingya refugees have access to health, psychosocial and protection support.

Activities (indicative):

- 3.1 Facilitate health, psychosocial and protection support to Rohingya survivors and witnesses through a peer-support mechanism;
- 3.2 Support the implementation of a self-care framework;
- 3.3 Provide in-house mental health and psychosocial support (MHPSS) capacity for survivor advocates.

## **6. IMPLEMENTATION**

### **6.1 IMPLEMENTATION MODALITIES**

The Commission will ensure that the appropriate EU rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures<sup>1</sup>.

#### **6.1.1 Grant: direct award (direct management)**

##### **(a) Purpose of the grant**

The grant to be awarded will contribute to achieving the overall objective and specific objectives set out in section (4), as well as expected results and type of activities set out in section (5).

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<sup>1</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu) Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website, it is the OJ version that prevails.

(b) Type of applicants targeted

The types of applicants targeted for this direct award are non-profit organisations and private companies.

(c) Justification of a direct grant

Under the responsibility of the Commission’s authorising officer responsible, the recourse to an award of a grant without a call for proposals is justified because **the action entails crisis management aid as referred to in Article 195(a) and as defined in Article 2(21) of the Financial Regulation** at the date of the Financing Decision.

## 6.2 INDICATIVE BUDGET

The total European Union contribution under this Financing Decision **will not exceed EUR 1 500 000**. A breakdown among components is provided hereunder, and is indicative.

### Indicative budget breakdown

Components	EU contribution (amount in EUR)	Indicative third party contribution, in currency identified
Component 1: Helping Rohingya refugees pursue accountability and participate in international justice processes		
6.1.1 – Direct grant (direct management)	1 500 000	n/a
Total	1 500 000	n/a

## 6.3 ORGANISATIONAL SET-UP AND RESPONSIBILITIES

The action shall be implemented under direct management. It will be devolved and sub-delegated to the **European Union Delegation in Bangladesh**, with the support of the Commission for the conclusion of the contracts implementing the action.

## 6.4 PERFORMANCE AND RESULTS 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 report. Each 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 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).

## **6.5 EVALUATION**

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

The Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision or on the initiative of the partner.

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

## **6.6 AUDIT**

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

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

## **6.7 COMMUNICATION AND VISIBILITY**

The 2021-2027 programming cycle has adopted a new approach to pooling, programming and deploying strategic communication and public diplomacy resources.

It will remain a contractual obligation for all entities implementing EU-funded external actions to inform the relevant audiences of the Union's support for their work by displaying the EU emblem and a short funding statement as appropriate on all communication materials related to the actions concerned. This obligation will continue to apply equally, regardless of whether the actions concerned are implemented by the Commission, partner countries, service providers, grant beneficiaries or entrusted or delegated entities such as UN agencies, international financial institutions and agencies of EU member states.

The 2022 "Communicating and Raising EU Visibility: Guidance for external actions" reference document shall be used to establish the appropriate contractual obligations.

## **7. COMPLEMENTARITY, COORDINATION AND FOLLOW-UP**

The action will build upon the results and insights of the ongoing FPI supported project "Helping Rohingya refugees be aware of and pursue their legal rights", which will come to an end in July 2024. Lessons learned from the ongoing project include the need for robust protection and safety mechanisms of witnesses and a direct participation of Rohingya survivors in the various processes and surrounding advocacy to enhance awareness of the protracted crisis at regional and international levels.

This measure is complementary to other EU-funded projects and programmes addressing the situation of Rohingya refugees in Bangladesh, notably the INTPA funded project "Building Rohingya refugee and host community resilience in Cox's Bazar, Phase 2" (implemented by UNICEF) and three projects whose contribution agreements are currently being negotiated: "Improving social cohesion and living conditions of local communities and Rohingya refugees in Cox's Bazar"; "Protection and empowerment of Rohingya refugees and host communities in

Bangladesh”; “Cox’s Bazar Panel Survey via Phones: Monitoring the displaced Rohingya population and Host Welfare”.

The action is also complementary to EU humanitarian aid managed by DG ECHO, notably to the EUR 20 million response package allocated to the Rohingya refugees in Bangladesh (i.e. Cox’s Bazar and Bashan Char). The ECHO funded response ensures comprehensive humanitarian multi-sector assistance, including protection in all its aspects, food assistance, health, nutrition, Water, sanitation, and hygiene, shelter and camp coordination and camp management, education in emergencies, and response to suddenly arising needs. The proposed action, and especially its expected result vis-à-vis access to health, psychosocial and protection support, complements DG ECHO’s response in terms of protection response.

Coherence and synergies will be sought throughout the implementation of this action. The implementing partner will participate in relevant working groups within the Rohingya humanitarian response. Training sessions, interviews and consultations will take place in Kutupalong. Opportunities for increased reach and implementation of activities in other camps will be explored and planned at the project design stage. Furthermore, the project will ensure complementarity with relevant actions funded by Canada and Switzerland, notably with a focus on proceedings before the ICJ and the investigation by the ICC.