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ANNEX

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

Exceptional Assistance Measure regarding Iraq

1. IDENTIFICATION

Action: Support to stabilisation efforts through dialogue and digitisation of evidence of crimes committed by Da'esh

Action Reference: NDICI CR 2022/02

Cost: EUR 5 300 000 (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

This measure will have two components, both serving the overarching objective of addressing grievances and supporting post-Da'esh stabilisation efforts. The first component will build on the achievements of previous mediation and dialogue initiatives under the previous Instrument contributing to Stability and Peace by focusing on inclusive and sustainable dialogue between the Iraqi Government and its citizens and facilitating the return of displaced Iraqis to their home communities. The second component will continue efforts to preserve evidence connected to Da'esh-related crimes and atrocities, notably the ongoing efforts of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) to build an accessible, comprehensive evidence base to investigate and prosecute Da'esh crimes. The assistance will, furthermore, support UNITAD's investigation into crimes committed against the lesbian, gay, bisexual, and transgender (LGBTQ+) community on the grounds of sexual orientation. It will also provide targeted assistance to investigations and domestic legal proceedings against Da'esh members in parts of the country that are currently underexplored as well as stand ready to answer requests for assistance from third-states, including EU Member States.

3. BACKGROUND AND RATIONALE

3.1 BACKGROUND

The situation in Iraq has improved significantly after decades of conflicts and wars that disrupted domestic security and obstructed development. However, challenges related to governance, corruption, lack of economic opportunities, sectarian and ethnic tensions, internal displacement as well as water scarcity, exacerbated further by climate change, still combine to threaten the stability of Iraq. While Iraqis across sectarian and ethnic affiliations do not necessarily express their grievances in unity, their daily realities are very similar. There is a strong demand from citizens for their political leaders to build an inclusive and accountable political system that serves all communities, regions and beliefs, preserves the country's diversity, and enhances its democratic order. This is vital to rebuild trust between the people and their Government and to avoid a return to divisive sectarianism and separatism. The EU is committed to support Iraq in consolidating and strengthening its stability, sovereignty, security and prosperity, among others, by helping authorities to address the structural root causes of continued fragility. In addition, this measure is aimed at supporting the Iraqi state in managing the legacy of Da'esh and addressing grievances that led to its rise and possibly to its resurgence in the future. Redeployment of state authority in the formerly Da'esh-controlled governorates is a prerequisite for post-conflict economic reconstruction and return of the remaining internally displaced persons. These efforts include facilitating intra-communal dialogue and inclusion of under-represented communities and minorities.

The liberation of large areas of Iraq from Da'esh control has exposed the magnitude of crimes inflicted on the population of these territories. The international community has emphasized the crucial importance of holding those bearing the greatest responsibility for these crimes accountable, based on objective, evidence-based investigations and analysis. A large volume of evidence of crimes committed by Da'esh is held in courts and security agency premises across Iraq. It is very often stored in a manner that jeopardizes its physical integrity and future evidentiary viability.

To this end, UNITAD is mandated to actively work with the Iraqi authorities to collect, preserve and store evidence in relation to acts of Da'esh that may amount to war crimes, crimes against humanity and genocide.

In addition, this measure will allow UNITAD to establish a dedicated cell within UNITAD's Gender and Children Unit to investigate crimes committed by Da'esh against the LGBTQ+ community in Iraq. This will allow for the review of thousands of documents to identify relevant information regarding Da'esh crimes against LGBTQ+ people, the structures/units of Da'esh involved in persecution of this sexual minority, and specific individuals in those structures, such as Da'esh judges, who issued the execution sentences, who are potentially criminally liable.

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

The current crisis situation in Iraq constitutes an exceptional and unforeseen situation in the sense of Article 4(4) 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 (a), (d), (e) and (n) of Regulation (EU) 2021/947 specifically provides for the use of the NDICI rapid response pillar to (a) support, through the provision of technical and logistical assistance, for the efforts undertaken by international, regional and local organisations and by State and civil society actors in promoting confidence-building, mediation, dialogue and reconciliation, transitional justice, women’s and youth empowerment, in particular with regard to community tensions and protracted conflicts; (d) support for the development of democratic, pluralistic state institutions, including measures to enhance the role of women in such institutions, effective civilian administration and civilian oversight over the security system, as well as measures to strengthen the capacity of law-enforcement and judicial authorities involved in the fight against terrorism, organised crime and all forms of illicit trafficking; (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, and (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.

3.3 RISKS AND ASSUMPTIONS

Risk	Likelihood	Mitigation measure
Political support from the national government of Iraq is not maintained.	Medium	For both actions, priority has been given to the establishment of effective working diplomatic and working-level relationships with the Government of Iraq.
Security conditions deteriorate.	Medium	If the security situation deteriorates in Iraq, this could prevent the implementing partners from conducting missions to Iraq and key actors from leaving Iraq. Activities are based on the current conflict dynamics. They will be adapted as needed, in accordance with the developing circumstances and restrictions imposed by the COVID-19 pandemic in order to achieve the project objectives.
Use of evidence for criminal proceedings in which capital punishment could be imposed or carried out.	Low	This risk is mitigated by the fact that UNITAD carries out its mandated activities in strict adherence with the UN policies and best practices against the sharing by international accountability mechanisms of evidence for use in criminal proceedings in which capital punishment could be imposed or carried out. UNITAD is prohibited under its legal framework to provide any information to Iraqi authorities that may be used in proceedings in

		which capital punishment may be applied.
<p>Assumptions</p> <ul style="list-style-type: none"> - An essential precondition for the successful implementation of the action will be a security situation permitting access and implementation of the action. - The measure also assumes that members of the communities where the action will take place will want, and be able, to participate. This also entails cooperation from local authorities, civil society organisations and universities. 		

4. OBJECTIVES

4.1 OVERALL OBJECTIVE

The overall objective of the action is to support the stabilisation of Iraq by facilitating inclusive dialogue between the Iraqi Government and its citizens as well as by seeking justice for the victims of Da'esh crimes and atrocities in Iraq.

4.2 SPECIFIC OBJECTIVES

- 4.2.1 To support the state in addressing and mitigating local grievances;
- 4.2.2 To support strengthening of investigations into crimes of Da'esh, including against the LGBTQ+ community.

5. ACTION COMPONENTS AND EXPECTED RESULTS

The main expected results/outcomes include:

Expected Result (1): Local grievances resolution, improved trust and cooperation between local actors in the areas of security, governance, displaced persons and climate change.

Activities (indicative):

- 5.1.1 Organisation of dialogue to address local grievances in Salaheddin, Diyala, and the Southern provinces;
- 5.1.2 Support to the Iraqi state in devising a solution for families of disappeared persons;
- 5.1.3 Monitoring of past local agreements reached in Anbar, Salaheddin, Diyala and Baghdad;
- 5.1.4 State supported in returning its civilian administration in areas where the state's main presence has been a securitised or militarised one;
- 5.1.5 Support to the Iraqi state in reducing local tensions related to environmental and climate change risks through assessment of main drivers and mapping of local areas together with dialogue with key local actors and government representatives;
- 5.1.6 De-confliction channels established between different Iraqi political and security actors, in sensitive geographical areas as well as between the Iraqi government, regional and international actors to reduce tensions.

Expected Result (2): Strengthened capacity of Da'esh related judicial proceedings in Iraq and other States in line with due process and international standards.

Activities (indicative):

- 5.2.1 Comprehensive mapping, preservation and management of Da'esh-related documentary evidence through digitisation and other evidence processing;
- 5.2.2 Training and mentoring to Iraqi judicial and security actors;
- 5.2.3 Provide outreach and targeted assistance to third-states, including EU Member States, to support their investigations and prosecutions into members of Da'esh;
- 5.2.4 Establish an LGBTQ+ Investigation Cell within UNITAD Gender and Children Unit.

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 measures¹.

6.1.1 Grant: direct award (direct management)

(a) Purpose of the grant

This grant will contribute to the first specific objective and expected result (1) under points 4 and 5.

(b) Type of applicants targeted

The types of applicants targeted for this direct award are international and national 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.

6.1.2 Indirect management with an international organisation

A part of this action may be implemented in indirect management with a UN organisation. This implementation entails support to increase the number of successful prosecutions of Da'esh members in domestic proceedings in Iraq and other states for crimes against humanity, war crimes and genocide, in line with due process and international standards in line with the second specific objective and expected result (2) under points 4 and 5. The envisaged entity will be selected using the following criteria: strong operational capacity in terms of human resources, technical competences and an established institutional network with local and national authorities, as well as previous experience in the recovery, classification and digitisation of criminal evidence in conflict or post-conflict scenarios.

¹ 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.

6.2 INDICATIVE BUDGET

The total European Union contribution under this Financing Decision **will not exceed EUR 5 300 000**. 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:		
6.1.1 – Direct grant (direct management)	1 450 000	N/A
Component 2:		
6.1.2. – Indirect management	3 850 000	N/A
Total	5 300 000	N/A

6.3 ORGANISATIONAL SET-UP AND RESPONSIBILITIES

The action shall be implemented under direct and indirect management. It will be devolved and sub-delegated to the **European Union Delegation in Iraq**, 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

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.

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 Requirements for European Union External Action (or any succeeding document) shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

7. COMPLEMENTARITY, COORDINATION AND FOLLOW-UP

The action will be implemented in coordination with relevant EU stakeholders and with other EU humanitarian, stabilisation and/or development actions in Iraq. A careful coordination among these programmes will be ensured by the EU Delegation in Baghdad and the relevant Commission services, in order to benefit from a high level of complementarity and facilitate appropriate follow up by other financing instruments.

The UN Investigative Team UNITAD has received over USD 26 million in extrabudgetary funding through the UNITAD Trust Fund since its establishment in 2018. All of these funds are managed directly by UNITAD through its dedicated Programme Management Unit (PMU), which carries out oversight for all donors funding provided to UNITAD, including this action, and oversees the overall management process, monitoring, and evaluation. Additional support and oversight are provided by the United Nations Assistance Mission for Iraq (UNAMI) with whom UNITAD shares resources and procedures in relation to finance, procurement, and logistics management.

Regular reporting from implementing partners to the EU Delegation will be ensured, as well as briefings for the EU Political Counsellors whenever appropriate so that complementarity with other EU and EU Member State-funded actions can be ensured, and valuable insights shared with EU Member States.