

EN

ANNEX

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

Exceptional Assistance Measure regarding Ecuador

1. IDENTIFICATION

Action:	Emergency response programme to strengthen stability of Ecuador in light of the penitentiary crisis
Action Reference:	NDICI CR 2022 / 13
Cost:	EUR 2 500 000 (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

Ecuador is experiencing a rapid rise of violent deaths in its prisons, with a seven-fold increase from 2020 to 2021. The causes of deaths and the extreme levels of violence in prisons are related to the confrontation between transnational crime organisations fighting for the control of their illicit businesses inside and outside prisons. The situation is aggravated by overcrowding, poor living conditions and lack of proper registration of persons deprived of liberty, limited human resources and institutional capacities to manage prisons, a regulatory framework that fragments competences in prison management, as well as limits to effective control of facilities.

The situation is posing a serious threat to both national and regional security, with transnational crime organisations able to maintain power inside prisons. The Government of Ecuador has declared six states of emergencies over the past two years, with the military and police forces intervening to try to regain control of the most problematic prisons. A failure to stem, and eventually reverse, insecurity, including in prisons, could impact stability and undermine the Government's current efforts to strengthen the country's institutions and increase citizens' confidence.

The 18-month action seeks to mitigate the potential spill-over effects of Ecuador's current penitentiary and penal crisis on the security and stability of the country, and reduce the levels

of violence generated by criminal gangs within prisons and beyond. Notwithstanding the need for a more profound and longer-term reform of the penitentiary system, a rapid and urgent response will allow to kick-start the process of regaining control of prisons, putting a brake on the spiral of violence and establishing the adequate measures to protect the basic rights of persons deprived of liberty. It will also contribute to limit the power and scope of organised crime groups within prisons and, concomitantly, restrain their influence and the spill-over of violence affecting Ecuadorian society at large.

3. BACKGROUND AND RATIONALE

3.1 BACKGROUND

Ecuador is experiencing an unprecedented penitentiary crisis that has steadily deteriorated over the past couple of years. The number of violent deaths in the country's prisons has been on the rise from 15 in 2018 to 316 in 2021¹. In 2021, the majority of those killed were young people in pre-trial detention charged with minor offences. According to government authorities, the causes of deaths and the extreme levels of violence in prisons are related to the confrontation between transnational crime organisations fighting for the control of their illicit businesses inside and outside prisons. They are also caused by overcrowding due to, inter alia, the excessive use of preventive detention, as well as poor living conditions for inmates, lack of proper registration of persons deprived of liberty, limited human resources and institutional capacities to manage prisons, a regulatory framework that fragments competences in prison management, and limited effective control by the State in facilities where the most serious acts of violence have occurred.

The control criminal organisations are able to exercise from within prisons, including the recruitment and the coordination of their activities, are increasing not only the violence inside the prisons, but also the levels of violence and the development of transnational organised crime throughout the entire country. Violent deaths in 2021 amounted to more than 2,000 through mid-November 2021, compared with 1,361 during the whole year of 2020, according to the office of the President of Ecuador.

The action will focus on institutional strengthening for an effective prison management and crisis prevention, and on strengthening the capacities of prison guards to manage riots and ensure the protection of inmates. Activities will include the provision of digital technology and equipment in selected prisons allowing the establishment of an efficient mechanism for the classification of persons deprived of liberty, the separation of criminal organised groups, and the monitoring and control of riots. It will also include the rapid training of penitentiary officials and security agents to efficiently react and protect the lives of persons deprived of liberty. The sustainability of the action and the longer-term penitentiary and penal reform needs will be addressed through, inter alia, complementary programmes developed within the framework of the El PAcCTO programme and the 2021-2027 EU Delegation's multiannual programme.

¹ Data from the Inter-American Commission on Human Rights
(<https://www.reuters.com/world/americas/ecuadors-prisons-blighted-by-state-abandonment-iachr-2022-03-17/>)

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

The risks of spill-over of the deteriorating penitentiary crisis in Ecuador on society at large and on the stability of the country constitute 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 (d), (f) and (n) of Regulation (EU) 2021/947 specifically provides for the use of the NDICI rapid response pillar to support (d) 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; (f) the reinforcement of State capacity - in the face of significant pressures to rapidly build, maintain or restore its core functions, and basic social and political cohesion, and (n) 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

RISKS	LIKELIHOOD (High/Medium/ Low)	MITIGATION STRATEGY
Political risks		
Criminal groups resist the implementation of activities and perpetrate violent incidents in prisons in order to influence the media to change government policy.	High	In coordination with the Government of Ecuador, development of a media plan to counter negative messages from organised crime groups and proactively control the narrative.
Even though this Action will probably be the only rapid response programme, its first outcomes will be seen by the second semester of 2022. This may give the impression that nothing has been done regarding the penitentiary crisis.	Medium	From the beginning of the action the working plan and its outcomes must be widely disseminated among identified stakeholders. Periodical reports must be shared so there is a common understanding of what is being done.
Operational risks		
Challenging co-ordination between implementing partners. Reluctance of government institutions and	Low	EU assistance will be designed in a flexible way and synergies among different actors will be reinforced to guarantee a coherent approach. The technical cooperation group

RISKS	LIKELIHOOD (High/Medium/ Low)	MITIGATION STRATEGY
other multilateral actors to share sensitive information affecting efficient co-ordination and co-operation.		created by the Ministry of Foreign Affairs will be strengthened and a broad participation ensured to discuss and agree upon coordinated interventions.
Reluctance of the Ministry of Governance and other relevant institutional stakeholders to coordinate penitentiary intelligence activities with the National System of Integral Attention for Persons Deprived of Liberty (SNAI).	Low	Policy and political dialogue will be increased to promote a culture of collaboration and coordination. When possible, Memoranda of Understanding (MoUs) formalising and framing such co-operation will be signed.
Difficulty in accessing prisons and availability of prison staff to participate in specialised human rights-compliant training.	Low	Direct articulation and communication with SNAI and the Ministry of Government to prepare activities and ensure support needed.
High turnover of trained penitentiary personnel assigned to work in prisons poses a challenge in terms of transfer of knowledge, cost-efficiency and sustainability. Misuse of material procured through the action.	Low	Signature of MoUs to secure the use of procured equipment for the intended purpose and the commitment of SNAI to maintain trained staff for the whole duration of the action.
Financial risks		
Limited national budgetary allocations to support relevant penitentiary reforms especially regarding human resources.	Medium	Accompaniment to SNAI in developing investment projects throughout the action in order to ensure the allocation of the required annual budget and advocacy efforts to ensure budget allocations from the Ministry of Finance.

4. OBJECTIVES

4.1 OVERALL OBJECTIVE

The overall objective of the action is to mitigate the potential spillover effects of Ecuador's current penitentiary and penal crisis on the security and stability of the country, and reduce the levels of violence generated by criminal gangs within prisons and beyond.

4.2 SPECIFIC OBJECTIVES

- 4.2.1 To strengthen relevant institutions, in particular the National System for Integral Attention for Persons Deprived of Liberty (SNAI), for an effective prison management and crisis prevention.
- 4.2.2 To strengthen the capacities of prison guards to manage riots and ensure the protection of inmates' human rights.

5. ACTION COMPONENTS AND EXPECTED RESULTS

The main expected results/outcomes include:

Expected Result (1): Identification of persons deprived of liberty and penitentiary intelligence in three prioritised prisons are strengthened.

Activities (indicative):

- 5.1.1 Acquire equipment for the collection of biometric data;
- 5.1.2 Identify suitable penitentiary intelligence and crowd control technologies;
- 5.1.3 Set up surveillance system inside prisons to monitor inmate activity;
- 5.1.4 Set up an operating local control room for the prevention of critical incidents;
- 5.1.5 Strengthen the capacities of prison guards in crowd control.

Expected Result (2): The capacity of the authorities to monitor riots is strengthened and coordinated.

Activities (indicative):

- 5.2.1 Develop protocols and procedures to be used to control emerging crises in prisons;
- 5.2.2 Acquire relevant equipment (e.g. monitors, radios) for the Central Control Room;
- 5.2.3 Design and activate crisis management and intervention protocols;
- 5.2.4 Develop a joint working methodology and a protocol between penitentiary officials, and police and military forces to carry out coordinated penitentiary intelligence activities and select and train penitentiary officials.

Expected Result (3): Training in prison management and administration, riot management, crowd control, negotiation and crisis management is provided to selected prison and penitentiary staff.

Activities (indicative):

- 5.3.1 In prioritised prisons, select trainees and develop an intensive human-rights compliant training in riot management, crowd control, negotiation and crisis management;
- 5.3.2 Develop and implement a comprehensive emergency training plan for prison officials;
- 5.3.3 Develop and implement pre-deployment staff training policy.

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 measures².

6.1.1 Indirect management with an international organisation

This action may be implemented in indirect management with an entity which will be selected by the Commission's services using the following criteria: proven technical expertise, long standing presence in the country, well established relationships with relevant authorities and key stakeholders, and the capacity to rapidly implement activities. The implementation by this entity entails the implementation of activities as described in sections 4 and 5 above.

6.2 INDICATIVE BUDGET

The total European Union contribution under this Financing Decision **will not exceed EUR 2 500 000**. 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: Emergency response programme to strengthen Ecuador's penitentiary system composed of 6.1.1. – Indirect management with an international organisation	2 500 000	N.A.
Total	2 500 000	N.A.

6.3 ORGANISATIONAL SET-UP AND RESPONSIBILITIES

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

² 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.

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 sustainability of the action and the longer-term penitentiary and penal reform needs will be addressed through, inter alia, complementary programmes developed within the framework of the El PAcCTO programme and the 2021-2027 EU Delegation's multiannual programme (MIP).

El PAcCTO (Europe Latin America Programme of Assistance against Transnational Organised Crime) is an international cooperation programme funded by the EU that seeks to contribute to security and justice in Latin America by supporting the fight against transnational organised crime. It addresses the entire criminal chain from an integral perspective through its work in three components: police, justice and penitentiary. It started in 2017 and will go on until June 2023. Within the framework of the Team Europe Initiative, a second phase will start in October 2023, with a penitentiary component foreseen, which will ensure the continuity and sustainability of the Action.

Under the MIP's priority area 3 on "Good Governance", areas of intervention may include institutional and capacity building to tackle security threats and, in particular, the ones caused by transnational organised crime. Complementarity and continuity will be ensured through the MIP.