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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 be aware of and pursue their legal rights
Action Reference:	NDICI CR 2021 / 06
Cost:	EUR 1 500 000 (European Union 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) No 2021/947.
Lead service:	FPI

2. ACTION SUMMARY

This 18-month action will enable Rohingya refugees to better understand and pursue their legal rights in order to mitigate tensions and conflicts. This will be pursued by enabling community activists and leaders among the refugees to raise awareness within their communities - with a particular focus on women and marginalised groups - of international justice mechanisms; decrease misconceptions and counter disinformation about international justice mechanisms amongst refugees; support and assist refugees in the defence of their legal rights; and enable access to gender-sensitive and trauma-informed legal assistance, as well as psychosocial support. The action aims to feed into the work of the Independent and Investigative Mechanism for Myanmar and the work of the Gambia Legal Team.

The action will focus on the Rohingya refugee populations in the Cox's Bazar district.

3. BACKGROUND AND RATIONALE

3.1 BACKGROUND

Over the past 45 years, the Rohingya – an ethnic, religious and linguistic minority – has fled violence and discrimination in Myanmar, mostly to neighbouring Bangladesh. They are stateless, which severely disrupts their access to rights. Even between peaks of violence and

large refugee outflows, the Rohingyas have been considered refugees due to the cumulative effect of discrimination they have suffered. Following the outbreak of violence against Rohingya civilians in Northern Rakhine state in August 2017, more than 745 000 Rohingyas have fled across the border to Bangladesh in search of protection and assistance. The sudden influx of this record number of refugees, concentrated in Bangladesh's Cox's Bazar district, represents an unprecedented protection crisis in an area that is already considered one of the poorest in the world and which is prone to disasters.

The 2017 mass exodus of Rohingyas to Bangladesh has created the world's largest and densest refugee camps, in which children and youths make up more than half of the refugee population. The extreme density of the population, the lack of access to livelihoods for refugees and psychological trauma from the terrible events in Myanmar that led them to flee result in high levels of despair and frustration among refugees.

Rohingya women and children, who are often disproportionately affected by injustice, as well as the Hijra population, are particularly at risk of sexual and gender-based violence, harassment and assault. Many are unaware of their rights and how to access them but also face difficulties in securing their legal rights and participating in justice mechanisms as a consequence of deeply rooted gender inequality within the Rohingya community. Moreover, levels of insecurity, inter and intra-communal tensions and conflict within the refugee camps in Cox's Bazar remain significant, with the Bangladesh army intervening to address some incidents.

In addition, there is a degree of misconception among Rohingya refugees about the ability of international justice to swiftly award citizenship and land ownership before facilitating the return of the Rohingya to their homes in Myanmar. Confusion, rumours as well as a distant and potentially disappointing outcome of judicial processes for the Rohingya are likely to exacerbate the situation in the camps. In an already strained environment due to COVID-19, a long-term loss of trust risks adding to conditions of instability. Moreover, the military coup in Myanmar in February 2021 renders perspectives of an imminent resolution of the Rohingya crisis unlikely.

The desire for international justice has been identified by Rohingya refugees, the host community and the Bangladesh Government as an important factor to address the crisis and prevent a potential exacerbation of tensions and violence in the Rohingya refugee camps. Misconceptions, disinformation as well as frustration among Rohingya refugees regarding the duration, outcome and potential impact of those proceedings therefore need to be addressed. Moreover, information needs to be shared about international justice mechanisms, such as the International Criminal Court (investigation by the Office of the Prosecutor), the International Court of Justice (the case of *The Gambia v. Myanmar*), the Independent Investigative Mechanism on Myanmar, and how individuals can interact with them. In turn, legal assistance and representation as well as psychosocial support need to be made accessible for them to defend their legal rights and contribute to international justice efforts.

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

The recent military coup in Myanmar, which renders perspectives of an imminent resolution of the Rohingya crisis even more unlikely, has amplified frustration among Rohingya refugees who have suffered and fled violence in Myanmar. At the same time, misconceptions and

disinformation regarding international justice have fuelled tensions in refugee camps in Bangladesh, constituting an exceptional and unforeseen situation in the sense of Article 4(4)(a) of Regulation (EU) No 2021/947. 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, points (e), (m), (n) and (p) of Regulation (EU) No 2021/947 specifically provides for the use of the NDICI rapid response pillar to support (e) 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) the rehabilitation and reintegration of the victims of armed conflict, including measures to address the specific needs of women and children, (n) 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) 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
Deterioration of the security situation in Rohingya refugee camps.	High	Medium/high	Implementing partners will systematically monitor the situation and initiate mitigation plans with a focus on the safe engagement of staff and beneficiaries.
COVID-19 lockdown/restrictions continue for an extended period of time.	High	Medium	Implementing partners will ensure strict observation of precautionary measures. Activities will, where possible, be implemented remotely.
Safety risks for individuals receiving legal assistance.	Medium	Low	All information will be treated discretely and confidentially, saved in a secure database and communication encrypted.
Political conditions in the host country no longer support the implementation of the action.	Medium	High	Ongoing engagement with the Government of the host country to develop a mitigation strategy early on, if necessary.
Heightened expectations on the likelihood of justice being rendered resulting from the existence of this action.			Expectations and possible misconceptions about this action will be managed and addressed from the beginning of implementation.

4. OBJECTIVES

4.1 OVERALL OBJECTIVE

The overall objective of the action is to mitigate tensions and conflict among Rohingya refugees related to misconceptions and disinformation about their legal rights, as well as a lack of access to legal assistance, representation and psychosocial support.

4.2 SPECIFIC OBJECTIVES

- 4.2.1 To counter misconceptions and disinformation about international justice mechanisms and gender equality among the Rohingya refugee community and particularly among women and marginalised groups;
- 4.2.2 To enable Rohingya refugees to defend their legal rights;
- 4.2.3 To enable Rohingya refugees to contribute to international justice efforts.

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 aware of their legal rights regarding gender equality and international justice thus decreasing misconceptions and disinformation.

Activities (indicative):

- 5.1.1 Empower Rohingya community activists and leaders to inform Rohingya communities – women, youth and marginalised groups in particular - of their legal rights with regard to international justice mechanisms and gender equality;
- 5.1.2 Facilitate dialogue and exchange among marginalised and minority groups to build solidarity and advocacy;
- 5.1.3 Provide factual information on international justice to the Rohingya community by means of grassroots advocacy and information campaigns, including the use of community hubs and humanitarian safe spaces;
- 5.1.4 Provide up-to-date information on international justice proceedings to the Rohingya community, including by means of social media;
- 5.1.5 Provide information on international justice to humanitarian service providers for incorporation into their existing service provision;
- 5.1.6 Enable Rohingya community leaders and youth groups, including women and marginalised groups, to discuss gender equality.

Expected Result (2): Rohingya refugees – women and marginalised groups in particular, as well as survivors of sexual and gender based violence experienced in Myanmar and Bangladesh– have access to legal assistance, representation and psychosocial support.

Activities (indicative):

- 5.2.1 Provide trauma-informed and gender-sensitive legal assistance and representation to Rohingya survivors, particularly women, youth and marginalised groups, as well as to witnesses of violent incidents;
- 5.2.2 Provide referrals to medical and psychosocial services when necessary;

Expected Result (3): Rohingya refugees are enabled to contribute to international justice proceedings.

Activities (indicative):

- 5.3.1 Engage in continuous dialogue with international justice mechanisms, including the International Criminal Court, the International Court of Justice and the Independent Investigative Mechanism for Myanmar;
- 5.3.2 With the permission of survivors and witnesses, facilitate the provision of testimonies from survivors and witnesses to international justice mechanisms in a safe and secure manner.

6. IMPLEMENTATION

6.1 IMPLEMENTATION MODALITIES

The Commission will ensure that the EU appropriate 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

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

(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.

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.

Indicative budget breakdown

Components	EU contribution (amount in EUR)	Indicative third party contribution, in currency identified
Component 1: Helping Rohingya refugees be aware of and pursue their legal rights		
6.1.1 – Direct grant (direct management)	1 500 000	-
Total	1 500 000	-

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**, 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 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 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.

Acknowledging that activities financed under this action will be politically sensitive and/or may constitute a security risk for the implementing partner/beneficiaries, the communication and visibility plan for this measure should develop a differentiated approach to satisfy the requirements from the legal obligations to which EU external funding is bound to without putting at risk the actions supported by this measure.

7. COMPLEMENTARITY, COORDINATION AND FOLLOW-UP

This measure complements the objectives of the EU-funded crisis response action ‘Adolescents and youth as agents of change for peace in Rohingya refugee camps and host community: Phase 2’². Furthermore, it is complementary to the other EU-funded projects and programmes addressing the situation of Rohingya refugees in Bangladesh managed by other Commission services (ECHO, INTPA), including ‘Building Rohingya refugee and host community resilience in Cox's Bazar’³. Coherence will be sought throughout the implementation of this action and synergies will be sought.

² Commission Implementing Decision C(2020)2760 final of 30 April 2020

³ Commission Implementing Decision C(2018)6711 final of 17 October 2018