



Co-funded by the
European Union



german
cooperation
DEUTSCHE ZUSAMMENARBEIT

#TEAMEUROPE

Team Europe Democracy (TED) Initiative

United for Democracy

Supporting Implementation of the 2015 EU Transitional Justice Policy Framework

Valérie Gabard and Asa Solway – UpRights

December 2025, Belgium

Table of Contents

Table of Contents	2
Acknowledgements.....	3
Executive Summary.....	4
Acronyms and Abbreviations	7
Introduction.....	8
Background	8
Strengthening Transitional Justice Support in Partner Countries	10
1. Supporting (Sensitive) Government-Led Transitional Justice Processes	11
2. Framing Transitional Justice in Sensitive Environments	13
3. Avoiding an Asymmetric Focus on Criminal Justice.....	14
4. Ensuring a Comprehensive Approach to Transitional Justice Support.....	17
5. The Need for Early Engagement and Long-Term Support.....	19
6. Ensuring a Victim-Centred Approach	21
7. Provision of Mental Health and Psychological Support (MHPSS).....	22
8. Gender Sensitive Transitional Justice.....	24
9. Situating Transitional Justice within Broader EU and MS Activities	25
10. Context Specific Engagement	27
Improving EU and Member State Engagement with the Framework	28
1. Sensitisation.....	28
2. Planning	30
3. Capacity	31
4. Coordination.....	32
Bibliography.....	35

Acknowledgements

This Paper was produced by [Enabel](#) and [Gesellschaft für Internationale Zusammenarbeit](#) (GIZ) in the framework of the Team Europe Democracy (TED) Initiative. The authors Valérie Gabard and Asa Solway - co-directors of the non-profit initiative UpRights - are grateful to members of TED Secretariat, and EU Staff (INTPA, EEAS, etc) for their support. The report builds on desk research and semi-structured interviews carried out between September and October 2025 with representatives of the EU institutions including EU delegations and EU Member States, as well as civil society organisations and transitional justice experts. The authors are grateful to all those who shared views and insights during the interviews. The views expressed in this paper are those of the authors and do not represent those of the EU, the TED Initiative or Member States. Some of the conclusions and information contained in this report are based on stakeholder interviews and internal EU documents. As such, direct attribution is not provided, and the content has been generalised. Any errors or omissions remain the responsibility of the authors.

Executive Summary

As part of their ongoing commitment to promote human rights, democracy and the rule of law, the European Union (EU) and its Member States provide a range of support – both directly and indirectly – to transitional justice processes and mechanisms in partner countries. This commitment remains increasingly relevant as instability, democratic backsliding and the proliferation of internal and external conflicts across the globe present a significant challenge to fundamental EU values, including human rights and the rule of law, and contributes to economic insecurity, political instability and increasingly antagonistic relations among nations.

As the EU and Member States develop strategic plans to address these related challenges, the relevance of the 2015 EU Policy Framework on support to Transitional Justice remains an important policy instrument to guide the EU in engaging in partner countries where past violations and abuses have occurred. It does so through support to a context-specific combination of measures promoting truth, justice, reparations and guarantees of non-recurrence.

This report, commissioned by Team Europe Democracy Secretariat in view of the 10th anniversary of the adoption of the framework, assesses how the EU and Member States have supported transitional justice processes in partner countries on the basis of six selected case studies in sub-Saharan Africa: Burundi, Central African Republic, Ethiopia, The Gambia, Liberia and Democratic Republic of Congo. The conclusions of this report, however, are relevant to broader support to transitional justice processes including in Eastern Europe and the Middle East. The report is based on a comprehensive literature review and interviews with EU staff in the EU headquarters in Brussels and in EU Delegations, as well as representatives of Member States and civil society organisations.

The findings of this report confirm that the EU Policy Framework on support to Transitional Justice continues to serve as a sufficient high-level policy tool on transitional justice to support engagement in situations where past violations and abuses have occurred with the aim of preventing the recurrence of crises, addressing the most serious crimes of concern to the international community and averting future violations of human rights.

There is, however, a clearly displayed need for concrete guidance to ensure effective implementation by EU headquarters, EU delegations and Member States that are directly supporting transitional justice processes, as well as peacebuilding and conflict prevention, in partner countries. And while transitional justice exists as a relatively specialised field of expertise within the EU, its objective to promote more stable, peaceful societies can be more effectively used to support EU external action relating to security, political stability and economic development in partner countries.

Better use of the EU Policy Framework on support to Transitional Justice requires, in particular, moving away from formal conceptions of transitional justice focused on the presence of existing government-led processes and towards a holistic approach that recognizes the mutually reinforcing nature of the different components of a transitional justice process.

The recommendations contained in this report are therefore intended to support EU actors - including EU Delegations and Member States - and their implementing partners to strengthen their programming, coordination and dialogue on transitional justice.

With respect to strengthening support to transitional justice processes in partner countries, the EU and Member States should:

- While ensuring the importance of promoting nationally and locally owned processes, critically assess the degree to which government-led transitional justice processes are genuine and perceived as legitimate. Indicators of a genuine process may include: commitment to meaningful participation of victims and civil society, including women and marginalised groups;

accountability and truth-seeking instead of amnesties; independence and impartiality of institutions and commissions; transparent and inclusive design and implementation of the processes; and alignment with international human rights standards. Where genuine political will does not exist, or where the preceding factors are largely absent, cautious engagement with government-led transitional justice processes is required.

- Provide support, in addition to government-led transitional justice processes, to alternative transitional justice activities including non-governmental, informal processes, in particular civil society and victim-driven initiatives, that promote credibility and inclusivity. Support to government-led processes should not lead to the neglect of informal or community-based transitional justice initiatives.
- While recognising that criminal justice is an important element of transitional justice, avoid over-emphasising these processes at the expense of a balanced approach that recognises the importance of other issues including trauma healing, truth seeking, memorialisation, reconciliation, reparations, security sector reform and disarmament, demobilisation, and reintegration.
- Identify the specific needs of partner countries, rooted in a victim-centred approach, and assess carefully, together with national actors (governmental and non-governmental) where EU and Member State support can have the most impact, taking into consideration the cost of relevant support.
- Ensure early engagement whether or not national authorities have signalled an interest in starting a formal process. For example, undertaking documentation of alleged violations during conflict or periods of violence and avoiding blanket amnesties during peace negotiation processes.
- Ensure long-term engagement by framing and financing transitional justice support with a long-term and continuous development cooperation strategy.
- Place victims and affected communities – with particular attention to traditionally excluded and marginalised groups – at the centre of design and implementation of transitional justice processes as active agents of change, including at the community level and in non-judicial processes, and respect the “do no harm” principle and manage expectations including avoiding overpromising results.
- Integrate mental health and psychosocial support to victims and affected communities in programming to address the root causes of violence and to prevent recurrence of violence by security forces and ex-combatants.
- Incorporate gender transformative approaches into programming to address the root causes of gender violence and inequality as a precondition to preventing future violence and systematically connect EU gender policies, including EU Gender Action Plan III (2021-2025), in planning and engaging on transitional justice activities to support holistic and mutually reinforcing approaches in partner countries.
- Tailor support to regional contexts and ensure coordination with international organisations including the United Nations and the African Union to enhance the effectiveness and legitimacy of support to transitional justice initiatives.

With respect to improving overall engagement with the framework, the EU and Member States should:

- Sensitise personnel and stakeholders to the content of the framework and, in particular, embrace a less formalistic, more comprehensive understanding of transitional justice that does not limit its application to formal, government-led processes such as criminal justice institutions.
- To ensure better planning, incorporate the EU Policy Framework on support to Transitional Justice into other relevant activities such as crisis response, conflict prevention, peacebuilding and the Global Gateway, and equivalent Member State policies and connect the framework to relevant thematic areas including, for example, security sector reform. This may include

developing concrete, positive examples of the role of transitional justice in fostering long-term stability and development.

- Improve capacity by more effectively utilising EU and Member States' experience in the field of transitional justice at the partner country level.
- Improve coordination between Capitals and the EU headquarters including through Team Europe Democracy, as well as at the partner-country level through the development or use of existing transitional justice coordination mechanisms.

Acronyms and Abbreviations

AU	African Union
AUTJP	African Union's Transitional Justice Policy
ASF	Avocats sans Frontières
CAR	Central African Republic
COHOM	EU Working Party on Human Rights
CSOs	Civil Society Organisations
CVR	Commission Vérité et Réconciliation - Burundi
DDR	Disarmament, Demobilisation, and Reintegration
DRC	Democratic Republic of Congo
EU	European Union
EUD	European Union Delegation
EU TJ Policy Framework Facility	EU's Policy Framework on support to Transitional Justice Facility on Justice in Conflict and Transition
FONAREV	Fonds National des Réparations des Victimes - DRC
FPI	European Commission's Service for Foreign Policy Instruments
Headquarters	EU Headquarters in Brussels
ICC	International Criminal Court
INTPA	Directorate-General for International Partnerships
MHPSS	Mental health and psychosocial support
MINUSCA	United Nations Stabilization Mission in the Central African Republic
MONUSCO	United Nations Stabilization Mission in the Democratic Republic of Congo
MS	Member States
OWECC	Office for the Establishment of a War and Economic Crimes Court in Liberia
SCSL	Special Court for Sierra Leone
SSR	Security Sector Reform
SGBV	Sexual and Gender-Based Violence
TED	Team Europe Democracy
TRC	Truth and Reconciliation Commission
White Paper	The Gambia's Government white paper on the report of the truth reconciliation and reparations commission in The Gambia
UN	United Nations
UNDP	United Nations Development Programme
2015 Council Conclusions	2015 Council Conclusions on the EU's Support to Transitional Justice

Introduction

As part of their commitment to promote human rights, democracy and the rule of law,¹ the European Union (EU) and its Member States (MS) have consistently – both directly and indirectly – supported transitional justice processes and mechanisms in partner countries. This commitment remains increasingly relevant as instability, democratic backsliding and the proliferation of internal and external conflicts across the globe present a significant challenge to fundamental EU values, including human rights and the rule of law, and contributes to economic insecurity, political instability and increasingly antagonistic relations among nations.

As the EU and MS develop strategic plans to address these challenges, the EU's Policy Framework on support to Transitional Justice (EU TJ Policy Framework) adopted in 2015 remains an important policy instrument. Its objective is to provide a framework for EU support to transitional justice mechanisms and processes and enhance the EU's ability to play a more active and consistent role in engagement with partner countries and international and regional organisations. This report has been commissioned by Team Europe Democracy (TED) to assess EU and MS support to transitional justice processes in partner countries since the adoption of the framework. The report is based on six selected case studies from Sub-Saharan Africa: Burundi, Central African Republic (CAR), Democratic Republic of Congo (DRC), Ethiopia, The Gambia and Liberia.

Concrete recommendations contained in this report intend to align and support the EU, including EU Delegations (EUDs), MS and their implementing partners to strengthen their programming, coordination and dialogue when supporting transitional justice in line with the EU TJ Policy Framework. It incorporates lessons learned and good practices, and identifies gaps, with respect to EU and MS engagement with transitional justice in partner countries in light of funding challenges, shifting EU priorities and geopolitical constraints.

The concept of transitional justice incorporated into the framework, and enumerated in this report, can be seen as a set of exceptional measures that domestic systems are unlikely to possess in their normal operation, aiming to address large-scale abuses and allow society to rebuild towards a better future. It is a process intended to support future prosperity, peace and sustainable economic development by allowing society to move past, and not revert to, a violent past and aligning with broader efforts to promote people-centred justice. As detailed throughout this report, the implementation of the EU TJ Policy Framework relies in part on a concrete recognition and understanding of this objective. While a specialised field, transitional justice plays a role in supporting external EU goals relating to security, political, economic and human rights in conflict, post-conflict and fragile environments.

While the six case studies focus on Sub-Saharan Africa, the recommendations in this report are directly applicable to the implementation of the framework across geographic contexts. The case studies were selected based on empirical EU and MS engagement on transitional justice in Africa, including potential for lessons learned, national will and capacity to implement national transitional justice processes. The underlying findings and recommendations contained below, however, are applicable to EU and MS engagement in other contexts, including in Eastern Europe, Asia, the Middle East and Latin America.

Background

The EU's engagement with transitional justice has grown out of its broader, treaty-based commitment to democracy, human rights, and the rule of law, which serves as the guiding principle of its external

¹ European Union (2012). Consolidated Version of the Treaty on European Union (EU Treaty). Article 21. [online] Official Journal of the European Union. Available at: <https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC>

action and is incorporated into relevant action plans, council conclusions and other guiding materials.² In practice, transitional justice in the EU is governed through a distributed model across multiple institutions, as noted in the 2015 Council Conclusions on the EU's Support to Transitional Justice (2015 Council Conclusions) which underscore that *"the operationalization of the policy framework [...] is a joint undertaking, and a shared responsibility for EU institutions and services as well as for Member States, in capitals and on the ground."*³

Transitional Justice – Definition and Scope

Transitional justice is defined in the framework, in line with the approach adopted by the United Nations, as *"the full range of processes and judicial or non-judicial mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, to ensure accountability, serve justice and achieve reconciliation."*⁴ The framework recognises four essential elements of transitional justice, namely criminal justice, truth, reparations and guarantees of non-recurrence/institutional reform.⁵ In supporting transitional justice, the EU also recognises five key objectives: ending impunity, providing recognition and redress to victims, fostering trust, strengthening the rule of law, and contributing to reconciliation. This support is designed to prevent *"the recurrence of crises, addressing the most serious crimes of concern to the international community as a whole, and averting future violations of human rights."*⁶

The framework further sets out that processes are to be nationally owned, participatory and consultative, with appropriate outreach to affected communities and adapted to the specific political and social context, addressed in a comprehensive and timely manner, and implemented in full compliance with international norms and standards. The framework further identifies a rights-based approach as the foundation of EU engagement, complemented by victim-centred, gender-sensitive and child-sensitive methodologies. It finally situates transitional justice within the broader security–development nexus, recognising that justice, peace and development are interdependent components of sustainable recovery.

The adoption of the EU TJ Policy Framework in November 2015 was designed to *"provide a framework for EU support to transitional justice mechanisms and processes and enhance the EU's ability to play a more active and consistent role,"* by offering a common reference point for the EU and its MS.⁷ The European Commission's Service for Foreign Policy Instruments (FPI) has also established, in 2019, the Facility on Justice in Conflict and Transition (the Facility) which serves as a source of technical

² EU Treaty. See also General Secretariat of the Council of the European Union (2015b). *EU Action Plan on Human Rights and Democracy (2015-2019)*. [online] Council of the European Union. Available at: https://www.consilium.europa.eu/media/30003/web_en_actionplanhumanrights.pdf. General Secretariat of the Council of the European Union (2015a). *Council Conclusions on EU's Support to Transitional Justice (2015 Council Conclusions)*. [online] Council of the European Union. Available at: <https://data.consilium.europa.eu/doc/document/ST-13576-2015-INIT/en/pdf>. Under Priority 1.6, it committed the Union to *"closing the accountability gap, fighting impunity and supporting transitional justice"* as well as developing comprehensive EU approaches to accountability, supporting victims in seeking remedy, and engaging with international and hybrid tribunals as well as UN mechanisms. It also included an action point to *"support in-country initiatives to combat impunity for human rights violations and abuses and transitional justice processes, including by strengthening links with the UN."* General Secretariat of the Council of the European Union (2020). *EU Action Plan on Human Rights and Democracy (2020-2027)*. [online] Available at: https://www.eeas.europa.eu/sites/default/files/documents/2024/Action-Plan-EN_2020-2027.pdf.

³ 2015 Council Conclusions.

⁴ See United Nations Secretary-General (2004). *The Rule of Law and Transitional Justice in Conflict and post-conflict Societies: Report of the Secretary-General*. digitallibrary.un.org. See also, United Nations Secretary-General (2010). *Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice*. [online] United Nations Digital Library System. Available at: https://digitallibrary.un.org/record/682111?_gl=1.https%3A%2F%2Fdigitallibrary.un.org%2Frecord%2F527647%3Fv%3Dpdf&v=pdf.

⁵ European Union External Action Service (2015). *The EU's Policy Framework on Support to Transitional Justice (EU TJ Policy Framework)*. [online] European Union. Available at: https://eeas.europa.eu/archives/docs/top_stories/pdf/the_eus_policy_framework_on_support_to_transitional_justice.pdf

⁶ Ibid.

⁷ EU TJ Policy Framework. Its stated purpose was to *"strengthen the EU's position on transitional justice"* and to *"promote a comprehensive approach to transitional justice, with the aim of achieving peaceful, just and democratic societies based on rule of law and respect for human rights, helping to recognize and redress the harms suffered by victims of human rights and international humanitarian law violations, fighting impunity, fostering trust, contributing to reconciliation and thus preventing repetition of violations or abuses in the future."*

expertise on transitional justice and constitution building, mainly for partners in third countries, but also for the EU.

Transitional justice is also embedded or referenced in conflict-related policies, including within the EU's Framework to Support Security Sector Reform (SSR),⁸ and in key accountability mechanisms, including through the 2011 Decision and Action Plan on the International Criminal Court (ICC), which committed the EU to advancing universal adherence to the Rome Statute of the ICC and ensuring that the prosecution of international crimes remains central to the EU's human rights agenda and various other council conclusions.⁹ EU external services also engage in a substantial number of broader activities that are of relevance to transitional justice, including the EU Guidelines on promoting compliance with international humanitarian law and support in contexts of fragility and risk.¹⁰

In addition to engagement with transitional justice in the context of the EU System, EU MS engage in their own direct funding and technical assistance to transitional justice in partner countries through their development agencies, or directly to national and international civil society organisations (CSOs) and the United Nations (UN). The level of MS engagement with transitional justice in partner countries varies considerably depending on foreign policy interests, notably the degree of prioritisation of supporting rule of law and transitional justice; MS specific priorities in a partner country; and the relationship between the MS and the partner country. Each MS, in general, integrates transitional justice in its own framework and according to its own terminology. Some MS have developed policies and strategies on transitional justice.¹¹

Strengthening Transitional Justice Support in Partner Countries

The EU TJ Policy Framework is a high-level foreign policy instrument that sets out broad principles but offers limited practical guidance on how to translate these principles into support at country level.

⁸ Transitional justice principles are further embedded in the SSR's understanding of internal accountability mechanisms - such as vetting, codes of conduct, independent complaints bodies and scrutiny by civil society – which are considered to positively contribute to accountability processes. See European Commission (2016). *Joint Communication to the European Parliament and the Council: Elements for an EU-wide Strategic Framework to Support Security Sector Reform*. [online] Europa.eu. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016JC0031>.

⁹ General Secretariat of the Council of the European Union (2011). *Council Decision 2011/168/CFSP of 21 March 2011 on the International Criminal Court and Repealing Common Position 2003/444/CFSP*. [online] Europa.eu. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32011D0168>. See also: General Secretariat of the Council of the European Union (2018). Council Conclusions on the Integrated Approach to External Conflicts and Crises. [online] Available at: <https://data.consilium.europa.eu/doc/document/ST-5413-2018-INIT/en/pdf> observing “step up the EU's efforts in supporting and promoting transitional justice processes and engaging with partners at the international and at the country level” and reiterating “the importance of the fight against impunity for atrocity crimes and the EU's strong policy in support of the International Criminal Court; General Secretariat of the Council of the European Union (2019). EU Action Plan on Women, Peace and Security (WPS) 2019-2024. Available at: <https://data.consilium.europa.eu/doc/document/ST-11031-2019-INIT/en/pdf> emphasizing transitional justice as a means of conflict prevention.

¹⁰ European Union External Action Service (2018). *EU Guidelines on Promoting Compliance with International Humanitarian Law*. [online] EEAS. Available at: https://www.eeas.europa.eu/sites/default/files/04_hr_guidelines_humanitarian_en_0.pdf; See, General Secretariat of the Council of the European Union (2025). *Working party on public international law (COJUR): report on the EU guidelines on promoting compliance with international humanitarian law: January 2024 - December 2024*. Publications Office of the European Union. <https://data.europa.eu/doi/10.2860/5554652>. (“COJUR Report”). See also, European Union's Directorate-General for International Partnerships (2020). *Evaluation of EU State Building Contracts (2012-2018)*. [online] europa.eu. Available at: https://international-partnerships.ec.europa.eu/publications-library/evaluation-eu-state-building-contracts-2012-2018_en. (“Evaluation on EU State Building”) See also, European Union External Action Service (2024). *EU's Annual Report on Human Rights and Democracy in the World 2024*. [online] EEAS. Available at: https://www.eeas.europa.eu/eeas/eus-annual-report-human-rights-and-democracy-world-2024_en. See also, European Union's Directorate-General for International Partnerships (2022). *Evaluation of the European Union Support to Rule of Law and Anticorruption in Partner Countries (2010-2021)*. [online] europa.eu. Available at: https://international-partnerships.ec.europa.eu/publications-library/evaluation-european-union-support-rule-law-and-anticorruption-partner-countries-2010-2021_en. (“Evaluation of Rule of Law and Anticorruption Report”). See, European Union External Action Service (2024). *EU's Annual Report on Human Rights and Democracy in the World 2024*. [online] EEAS. Available at: https://www.eeas.europa.eu/eeas/eus-annual-report-human-rights-and-democracy-world-2024_en. pp. 100-104

¹¹ Ministry of Foreign Affairs of The Netherlands (2023). *Policy Document Human Rights – Democracy – the International Legal Order*. Available at: <https://www.government.nl/documents/policy-notes/2023/11/09/policy-note-human-rights-democracy-and-international-legal-order>; Federal Government of Germany (2019). Interministerial Strategy to Support ‘Dealing with the past and Reconciliation (Transitional Justice)’ in the Context of Preventing Crises, Resolving Conflicts and Building Peace. German Federal Foreign Office; Swedish International Development Cooperation Agency (SIDA) (2024). *Transitional justice – a technical note*. [online] SIDA - Technical Unit. Available at: <https://www.sida.se/en/publications/transitional-justice-a-technical-note>

Drawing on six case studies in Sub-Saharan Africa (Burundi, CAR, DRC, Ethiopia, The Gambia and Liberia), the below recommendations set out context-sensitive guidance to EU and MS actors, developed and implemented in close coordination with civil society and other international and national stakeholders. These recommendations reflect the fact that transitional justice processes are inherently context-specific and there is no “one-size-fits-all” approach. The need for tailored support, however, does not preclude coherent and aligned implementation of the framework. Rather, flexible, innovative and context-informed approaches should be anchored in a shared understanding of the framework’s objectives and tools.

Against this backdrop, the section distils lessons learned from EU and MS engagement with transitional justice in third countries and proposes concrete ways to bridge the gap between principle and practice. It sets out recommendations on how to provide comprehensive support to transitional justice processes that avoid asymmetric focuses on specific processes, such as criminal justice, while ensuring support both to government-led programs as well as local or informal processes led by victims’ groups, local communities and civil society.

1. Supporting (Sensitive) Government-Led Transitional Justice Processes

The EU TJ Policy Framework provides that “*transitional justice can only reach its goals if the process of its design and implementation is nationally and locally owned and inclusive, while respecting international norms and standards. It is essential that the process is initiated and driven by government authorities and local civil society.*”¹² While local ownership and genuine political will is a fundamental component of a legitimate and successful transitional justice process, the EU TJ Policy Framework provides little practical guidance to the EU including EUDs, and MS on how to engage in conflict-affected or fragile contexts in which there is an absence of genuine political will, where processes are not seen as legitimate, or where the conception of transitional justice is, in and of itself, contentious.

In The Gambia, for example, following a transition from an authoritarian regime and where there is overall a genuine political will to come to terms with a legacy of large-scale past abuses, EU and MS engagement with transitional justice has been properly and understandably framed by the presence of a nationally owned process that facilitates direct engagement with national authorities. The EU works directly with and supports government-led transitional justice processes and has developed a positive relationship with the Ministry of Justice which has appointed a special advisor on transitional justice that serves as a responsive EU-counterpart within the Ministry.

Where genuine political will does not (or not entirely) exist, or where processes are not perceived as legitimate, decisions on whether to engage or not with the national transitional justice process are less clear. When deciding whether to engage with government-led transitional justice processes, the EU and MS need to assess the degree to which the national process is genuine, inclusive, and victim-centred and to what extent they can directly or indirectly support it without risking being harmful to the goals of transitional justice and EU values, including its commitment to human rights and the rule of law. It requires a critical assessment of government-led processes including whether they exclude critical civil society groups or omit transitional justice elements. Such an assessment is context specific and requires analysis and consultations.

Indicators of Genuine Government-Led Processes

Indicators of a genuine process may include, for example, the degree to which national authorities display a commitment to:

¹² EU TJ Policy Framework.

- Meaningful participation of victims and civil society, including participation of women and marginalised groups.
- Accountability and truth-seeking instead of amnesties and impunity.
- The independence and impartiality of established transitional justice mechanisms.
- Transparency and inclusivity in design and implementation of the processes.
- Respect for international human rights standards.

If the government-led transitional justice process is not considered genuine or perceived as legitimate, cautious engagement with it will be required.

The EU TJ Policy Framework also provides that “*in contexts where there is no genuine political will to move forward with meaningful transitional justice processes, informal initiatives developed and implemented at the grass roots level can provide impetus to the transitional justice agenda and combat impunity*”.¹³ In other words, even where there is no political will or where national processes are not legitimate, the EU TJ Policy Framework provides a framework to support alternative transitional justice activities including non-governmental, informal initiatives, in particular civil society and victim-driven initiatives, that can help restore credibility and inclusiveness of the transitional justice process.

Support to localised and informal initiatives may in particular be relevant and can include, for example, activities that aim to address the root causes of violence, such as mental health and psychosocial support (MHPSS) or gender transformative approaches (See *Section 7 - Provision of MHPSS*, and *Section 8 - Gender Sensitive Transitional Justice*), or initiatives such as artistic and cultural activities, local memorialisation projects and critical media reporting with a view to giving victims a voice and educating the population towards more cohesion and critical thinking about the past. As noted by a civil society interlocutor, where there is a lack of confidence in government-led processes, community level initiatives can support transitional justice while avoiding concerns over independence, politicisation, and uncertainty on the long-term commitment of the national authorities.

Even if the EU and MS ultimately choose different approaches to supporting a government-led transitional justice process, it is important to ensure a common understanding between the EU and MS of the characteristics of a government-led transitional justice process to guarantee proper planning, alignment, and strategic engagement. In this regard, analysis conducted by the independent transitional justice experts of the Facility can allow, for example, EU and MS in countries to have a common understanding of the issues at stake and can create a framework for discussion.

Finally, and critically, engaging with government-led transitional justice processes must also be guided by the fundamental principle of “do no harm”. Applied in conflict, post-conflict or fragile contexts, this principle requires ensuring that engagement by the EU or MS does not - even unintentionally - go against the objective of coming to terms with a legacy of large-scale abuses by supporting initiatives that risk creating new conflicts or worsening existing ones. The principle can serve as a red line when deciding whether to support and if so, to what extent, government-led transitional justice processes. More broadly, the “do no harm” principle should guide any interventions on transitional justice.

Case Study – Burundi

¹³ Ibid.

In Burundi, the EU conducted an assessment on whether to support national transitional justice processes, and particularly the *Commission Vérité et Réconciliation* (CVR) as the only formal transitional justice mechanism established by the Government. The EU subsequently decided to prioritise support to civil society. On this basis, key areas were identified as an entry door to support transitional justice in Burundi. Relevant CSO initiatives to be considered included addressing trauma caused by past violence, professional documentation and archiving for transitional justice and utilising artistic and cultural initiatives and institutions in addressing the past and achieving reconciliation. The EU and MS have subsequently supported projects in the areas of trauma healing, artistic and cultural initiatives and digitalisation of judicial services.

Case Study – Ethiopia: Civil Society Engagement

In Ethiopia, the civil society landscape is complex and civic space is shrinking. CSOs that are supporting government-led transitional justice processes could be perceived by victims, especially those who do not trust government procedures, as government-controlled, risking excluding numerous victims and communities from the process and impacting its inclusiveness. In this complex landscape it is important, when supporting CSOs, to be critical and assess what role an organisation plays in monitoring and effectively supporting transitional justice. The EU and MS should also ensure that they do not focus exclusively on CSOs engagement in the government-led process, but also support CSOs that entail non-official, informal transitional justice engagement.

2. Framing Transitional Justice in Sensitive Environments

In politically sensitive environments, the term transitional justice itself can raise concern with national authorities or convey ideas that may be misrepresented, which can serve as an impediment to effective action. As noted by the UN, however, so long as terminology does not undermine transitional justice principles, alternative terms may be considered including “dealing with the past”, “rule of law reform” or “victim-centred justice” and “victim-centred peace”.¹⁴ The UN has further observed that the term “transitional justice” itself can be misunderstood to mean, in different contexts, applying only to prosecutions, or exclusively to non-judicial measures.¹⁵ Where alternative terms are chosen, they must be seen to not limit the scope of transitional justice.

In this light, as articulated by the UN, it is critical to “*identify the most relevant entry points for, and ways to frame, transitional justice responses in each context, with a recognition that terminology is of lesser importance (i.e. the work does not need to be called or framed as ‘transitional justice’) and with better usage of the inherent flexibility of transitional justice and its connections with adjacent policy areas and agendas (including prevention, sustaining peace and the Sustainable Development Goals)*.”¹⁶ This is reflected in the EU TJ Policy Framework, which serves as a foreign policy framework for the EU to assist in ending legacies of past abuses, but is not a singular, formulaic process that must be designated with a specific term. This is an important point as it reaffirms the importance of not focusing

¹⁴ United Nations (2022). *Transitional Justice in Peace Processes: United Nations Policy and Challenges in Practice*. [online] Available at: <https://peacemaker.un.org/sites/default/files/document/files/2024/03/sg-guidancenote-peace-processes-digital.pdf>.

¹⁵ Ibid.

¹⁶ United Nations Secretary-General (2023). *Transitional Justice: A Strategic Tool for People, Prevention and Peace* | UN Peacemaker. [online] Un.org. Available at: <https://peacemaker.un.org/en/documents/transitional-justice-strategic-tool-people-prevention-and-peace>.

on formalistic processes, but on the underlying issues including an emphasis on victim-centred activities.

While it is important to sensitise personnel and build capacity on transitional justice to be able to internally recognise where the framework applies, this can be differentiated from the design of and support to activities by the EU and MS in a partner country. Specific programs or support may therefore be labelled thematically, for example as relating to criminal justice, dialogue and reconciliation, art and culture or memory. This also relates to the importance of moving away from a formalistic understanding of transitional justice, in which only certain processes are viewed as relevant to the EU TJ Policy Framework. There may also be perceived benefits to labelling programs as specialised, e.g. relating to gender, mental health, youth, or arts and culture, as targeted programs can avoid sensitivities or misunderstandings arising from the term transitional justice.

Case Study – Limitations on the Usage of the Term Transitional Justice in National Contexts in which the EU is Engaged

In Burundi, the EU and MS-engagement rely upon terms such as “social cohesion” or “trauma healing” that are not perceived as controversial but still aim at addressing the objectives of transitional justice. Such activities can be embedded by the EU and MS in different funding areas, such as health support or gender programming. Circumstances can also change, as for example in DRC, where civil society reported a shift in the use of terminology from criminal justice/accountability to transitional justice after 2018 and the new President’s renewed political interest in promoting a broader transitional justice process in DRC.

3. Avoiding an Asymmetric Focus on Criminal Justice

The EU and MS should ensure that they do not provide asymmetric support to transitional justice processes that, in particular, place too great an emphasis on criminal justice mechanisms. The EU TJ Policy Framework reflects that “*measures should not be seen in isolation from, or in competition with, each other but rather as **mutually reinforcing** [...] Each element of transitional justice plays an important role and cannot substitute for another (e.g. truth commission, reparations and institutional reforms are not substitutes for criminal prosecution).*”¹⁷ While EU and MS provide an understandably strong level of support for criminal justice processes in the context of transitional justice, constituting an essential component of transitional justice as enumerated in the framework, this support can risk, in certain instances, an asymmetric focus on criminal justice.¹⁸

There are legitimate reasons explaining why criminal justice processes have been emphasised or prioritised. Criminal justice is one of the most universally accepted mechanisms to address violent behaviour and provide redress for victims in most contexts and is accordingly recognised as a key element of transitional justice. Criminal justice is also tangible with identifiable results (although its longer-term impact, particularly with respect to reconciliation, has been increasingly questioned). While criminal justice serves as an important component of transitional justice, its use must still be

¹⁷ EU TJ Policy Framework.

¹⁸ As noted in the Position Paper on EU support to Transitional Justice authored by Avocats Sans Frontières (ASF) “*in practice the EU and many of its [M]ember [S]tates display a clear preference for supporting criminal prosecutions [...] at the detriment of other transitional justice approaches or mechanisms*” Avocats Sans Frontières (2024). Position Paper on EU Support to Transitional Justice - Informal COHOM Meeting of 18-19 April 2024. Available at: https://www.parlament.gv.at/dokument/XXVII/EU/183537/imfname_11370713.pdf. The Paper continues “*Justice needs of victims are complex, multidimensional and evolve over time; from ASF’s own experience of engagement with victims it is apparent that while criminal prosecutions are generally welcomed by them (though not always) victims commonly express demands for broader justice responses, in particular reparations, measures to prevent abuses and promote reconciliation, and measures to address the long-term psychological and socioeconomic harm/loss suffered by them... [the EU should] equally value and support measures aimed at truth-telling, reparations and redress, memorialization, rebuilding community social fabrics, addressing the long-term impact of trauma on individuals and communities (and as a driver of ongoing conflict and human rights abuses), and guarantees of non-recurrence.*”

contextualised in light of the overall goals of the EU TJ Policy Framework and in relation to the other elements of transitional justice. This is not to conclude that criminal justice should not be supported by the EU and MS. Where national authorities express a genuine interest in criminal justice, in particular, there is clear merit.

But over-emphasis on criminal processes, can lead to a failure to ensure a balanced approach that is responsive to the realities of a specific context and which address the underlying causes of conflict and violence. Criminal justice institutions, by their very nature, tend to be expensive and require lengthy time frames – this reality should be factored into relevant planning and assessment. An asymmetric focus can also fail to identify more immediate priorities, such as MHPSS for deeply traumatised populations, urgent SSR, or other critical components. Specialised criminal mechanisms must also be subject to objective scrutiny of their perceived impact and viability, discussed in context in the next section.

Systematic Approaches to Transitional Justice

Criminal justice focuses on addressing specific acts, namely an alleged violation and its consequences for victims and alleged violators. Focussing exclusively on criminal proceedings, however, may risk missing systemic harms that brought about this violation. Across Sub-Saharan Africa (and across the globe), root causes of conflict arise from complicated, interrelated challenges related to gender perceptions, legacies of colonisation, inter-ethnic strife, corruption and many other factors. Criminal justice evaluates the human rights violations that arose from these enduring problems but is often not capable of directly assisting in impacting or changing the underlying causes of conflict.

As an example, Thomas Lubanga was the first person ever convicted at the ICC for the recruitment and use of child soldiers in the context of the DRC. After serving his sentence, Thomas Lubanga was released and in 2025 created a new armed group that has engaged in hostilities in Ituri Province. This illustrates that criminal justice cannot by itself stop the cycles of violence in DRC. While criminal prosecution can help to fight impunity and bring some level of justice and reparations to the victims, it cannot succeed to come to terms with a legacy of mass abuses in a vacuum.

Criminal processes, including international, hybrid or specialised domestic courts, must also be evaluated with respect to their potential impact, relative cost and feasibility. Like any judicial mechanism, each institution has limitations that should be considered in a broader transitional justice context alongside other measures to ensure that they are mutually reinforcing and have a real impact on a society in transition and on reconciliation in that context. International or hybrid tribunals, for example, have been characterised by high costs and may be limited in the number of perpetrators they prosecute in situations of mass violence. National-led mechanisms are often limited by lack of political will, judicial independence, capacity, staffing and financial resources. Any criminal process is lengthy, can be difficult to understand and therefore somewhat distanced from the general public. It is likely to lead to a long period of administration which may delay justice for victims, and it is important to recognize that the cost, administrative effort and political will required to establish any specialised criminal bodies that are well-functioning is significant. This may be further compounded by donor fatigue, in light of the length of the proceedings, in which political priorities may not meet the timeframes required by legitimate legal processes.

Case Study - CAR and the Special Criminal Court

First, the Special Criminal Court provides an opportunity to consider the significant EU and MS investment in a formal criminal justice mechanism in light of shifting donor priorities and current reductions in donor-funding.

After a challenging and slow start, the Special Criminal Court is now experiencing a surge in judicial activity with a renewal of its mandate until 2028, while also facing significant funding challenges. The Special Criminal Court's funding depends on voluntary contributions. Contributors have included the UN - United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and United Nations Development Program (UNDP) - the United States, the EU, France, and the Netherlands. France, Germany, Belgium, and Switzerland also contribute by mobilizing international personnel paid directly by the contributing State. While the Court has made progress in implementing its mandate, it is currently facing increasing challenges in ensuring adequate funding to continue its operations. The budgetary issues have become particularly acute in 2025 with a general funding crisis, including within the UN, and the United States' repositioning in terms of foreign policy priorities.

In this context, there has been some hesitation from the EU and MS to continue their support to the Special Criminal Court over time given the slow progress, the length of criminal processes and their significant cost. Nevertheless, given the initial commitment to the establishment of the Special Criminal Court by European actors and the heavy investment over the years on this structure, disengagement could have been counterproductive and perceived negatively by the victims and affected communities, especially at a time where the Special Criminal Court has become operational, and its work is more visible. In 2024, and despite other donors shifting interests, the EU decided to re-commit 4.2 million Euros to support the Special Criminal Court over a period of four years. Given the current funding constraints, the EU and MS have set out more realistic expectations for a formal hybrid criminal tribunal in a context of limited government capacity and reductions in donor funding by trying to take steps to ensure a more effective and coordinated support to the Special Criminal Court.

Second, the Special Criminal Court also provides an opportunity for an assessment of EU and MS investment in a formal criminal justice mechanism in a complex conflict or post-conflict context. CAR has faced - and continues to face - considerable setbacks, including a failure by the State to provide basic services, ongoing instability, perpetually weak state institutions including in the judicial sector, a history of serious human rights violations and thousands of victims in search of justice. In this context, the emphasis of the EU TJ Policy Framework on the mutually reinforcing nature of transitional justice processes may serve as a basis to consider whether the initial investment in a single, resource heavy hybrid criminal tribunal in a country that is unable to provide basic services furthered the interest of post-conflict recovery and development in CAR in line with EU strategic priorities. A critical assessment supports reconsideration of future activities considering the need to diversify and broaden engagement on transitional justice such as supporting future legitimate truth commissions, reparations programs, MHPSS support including to DDR, SSR, memorialisation activities, and building the capacity of media, civil society and religious and traditional actors.

4. Ensuring a Comprehensive Approach to Transitional Justice Support

To avoid asymmetric emphasis on criminal justice and ensure cost-effective, impactful support, the EU and MS should ensure, as required by the EU TJ Policy Framework, comprehensive approaches towards transitional justice processes.

What is a Comprehensive Approach?

While government-led processes perceived as genuine represent a key area of engagement, the EU TJ Policy Framework recognises that a comprehensive approach to transitional justice should involve *“informal initiatives developed and implemented at the grass roots level”* that *“can also work alongside formal mechanisms to strengthen their political and societal impact.”*¹⁹ Further, *“transitional justice measures should not be seen in isolation from, or in competition with, each other but rather as mutually reinforcing [...] Each element of transitional justice plays an important role and cannot substitute for another (e.g. truth commission, reparations and institutional reforms are not substitutes for criminal prosecution). Thus, a comprehensive approach demands a coherent strategy in which each element of a transitional justice strategy acknowledges the need for, and provides space for, other initiatives.”*²⁰

Applying a comprehensive approach at the outset can help to properly assess existing transitional justice processes. In DRC, for example, civil society reported that during a period in which transitional justice was not central to political discussions, addressing large scale abuses by the Government largely focused on criminal trials, limiting the scope of victims’ reparations to judicial outcomes and monetary remuneration. By bringing a transitional justice lens to the criminal process, civil society promoted the recognition of the State’s responsibility for reparations and a judicial acknowledgement that reparations also include non-monetary reparations, such as psychosocial support to victims, that have then fed into political discussions to establish a national reparation program. Ensuring that the EU and MS also integrate a broader perspective can help to ensure a more comprehensive assessment not limited to how processes or mechanisms are formalised.

Recognising the influence that formal government-led mechanisms have over policy making is also important to avoid an overemphasis on such processes where there may be legitimate reasons to support non-governmental initiatives. This is particularly true where formal national processes may reinforce problematic narratives and where, as a result, alternative approaches are of particular importance. Even in the presence of legitimate national processes, it remains important to engage in a holistic and broad capacity as outlined in the framework, particularly where certain issues, such as marginalised voices, are not represented in national strategies.

A comprehensive approach can also help to address emerging challenges related to reductions in funding and changing geopolitical circumstances, which have created greater urgency in assessing the scale, scope and form of interventions by the EU in the field of transitional justice. While this represents a challenge to providing effective and meaningful support, the EU TJ Policy Framework can assist in developing targeted engagement and support to conflict-affected or fragile countries that links transitional justice activities to specific objectives and outcomes that reflect the needs of a specific national context.

¹⁹ EU TJ Policy Framework, Section IV (2).

²⁰ EU TJ Policy Framework.

Developing a Comprehensive Approach

Connecting specific interventions with the intended outcomes and considering the specific needs of a national context can support more cost-effective, practical implementation of the EU TJ Policy Framework. Examples of such considerations may include:

- An assessment that identifies complicated and widespread challenges for victims to re-enter society, which can help identify concrete measures that place an emphasis on addressing the root causes of the violence, such as MHPSS or gender transformative approaches.
- Where questions are present about preservation of evidence, consideration of whether supporting local or international CSOs may be a more cost-efficient means of documentation that does not require a full and operational judicial body – this may be particularly effective where there is a lack of political will by national authorities.
- Assessing whether existing or planned international or regional mechanisms can also help to identify targeted areas of support. For example, determining where the UN or regional bodies are willing or capable of setting up commissions or investigative bodies.

Conducting such analysis can help to contextualise the impact and benefit of investment in proposed institutional responses. For instance, when deciding whether a hybrid criminal tribunal is needed, such an assessment may consider the number of perpetrators that may in fact be tried by a hybrid criminal tribunal, the costs of a specialised court, the existing national capacity, whether a hybrid mechanism can help to improve the capacity of national judicial actors and the degree of independence of the judiciary, the length of proceedings, the preference of the victims and communities and the broader social and economic context. It should also consider the impact of long-term institutions and the required commitment in light of changing geopolitical engagement and reduced available funding. Such commitment will for example likely require long-term administrative and financial support in countries such as CAR or Liberia, where national authorities may not be reliably counted on to provide such support.

Numerous benefits can arise from a comprehensive and holistic approach. It can serve as a laboratory of experimentation allowing different initiatives to be assessed. It can help to analyse the benefits, or drawbacks, of engaging with basket funds that may be less flexible and adaptable to changing financial conditions. Similarly, where strong CSOs are present, it could enable the promotion of locally owned, more cost-effective interventions that may be more flexible with funding requirements. Identification of intended outcomes can help support more nuanced planning to find a middle ground between the assumption that a comprehensive approach “*requires everything, all the time*” and choosing to focus on single, expensive resource-heavy processes. This takes on additional necessity considering reductions in funding and a changing emphasis in EU external priorities towards an investment-based logic. Ensuring cost-effective, outcome-based programming can ensure that the EU can properly assess the value of relative approaches.

Engaging in a comprehensive analysis must always be done considering national priorities. National ownership remains a central feature of the EU TJ Policy Framework. The analysis contained in this section is intended to help identify supporting and, where necessary, supplementing national actions considering the specific context.

Case Study – Liberia

A comprehensive approach may allow for more effective assessments on specific engagement in a country. In Liberia, national authorities created the Office for the Establishment of a War and Economic Crimes Court in Liberia (OWECC). The Office is mandated to lead the establishment of two specialised institutions: a Special War and Economic Crimes Court and a National Anti-Corruption Court. The OWECC mandate includes the design and implementation of a Roadmap to outline a phased process to establish the War and Economic Crimes and Anti-Corruption courts. In this context, the EU TJ Policy Framework can serve as a basis to consider support to these mechanisms. Challenges related to each court may be considered, including high costs, the degree of national political support and, with respect to the Special War and Economic Crimes Court, the length of time that elapsed since the commission of crimes. Benefits for victims and communities may also provide a useful frame of reference, considering the degree to which there is a demand for these mechanisms or what would be concrete outcomes for victims and communities. These considerations should also be framed within the larger context in Liberia, where there is strong support for the establishment of a Special War and Economic Crimes Court, but also strong views that a more comprehensive implementation of the recommendations of the Truth and Reconciliation Commission (TRC) should take place. Considerations that may take place could include:

- The degree to which national authorities are invested in the long-term requirements of the relevant courts, e.g. the degree to which national ownership can be ensured.
- The degree to which there is a justice preference of victims and affected communities following consultations with local communities.
- The relationship to the needs of victims of a War and Economic Crimes and Anti-Corruption court including need for (non-monetary) reparations, lengthy nature of proceedings, influence of political actors on these mechanisms, capacity to provide long-term support, and comparative experiences of the Special Court for Sierra Leone (SCSL) and the CAR Special Criminal Court, existing prosecutions in universal jurisdiction cases and security considerations for court staff.
- The importance and need to remain engaged in national-led processes and the Roadmap for the EU and its MS.
- How such support can be provided in a comprehensive manner (e.g. to what extent it may prevent (or support) the implementation of TRC recommendations including the needs and desires of local communities, reparations programs, the enactment of vetting processes, ongoing needs related to MHPSS and memorialisation processes).
- The ability for the UN and African Union (AU), and for the EU-AU Partnership, to support these various mechanisms.

5. The Need for Early Engagement and Long-Term Support

The EU TJ Policy Framework provides that “*early engagement in transitional justice processes is desirable as it provides a signal against impunity and paves the way for justice and rule of law.*”²¹

This statement signals not only that early engagement with a national transitional justice process when it exists is beneficial, but also that EU and MS support to transitional justice does not need to wait for a statement of interest from the authorities to materialise. The research showed that the EU TJ Policy Framework is too often seen as applicable only when authorities express an explicit interest in transitional justice. Engagement, however, can take place in any context where transitional justice applies (i.e. where an identified need exists for the country to come to terms with a legacy of large-

²¹ EU TJ Policy Framework.

scale past abuses), irrespective of whether national political authorities have signalled an interest in establishing transitional justice processes and mechanisms.

In fact, early support can have an enabling role in triggering national political interest and/or planting seeds for a future inclusive and victim-centred national transitional justice process. EU and MS should consider how, in this early phase, they can support transitional justice actors such as civil society or victims' groups expressing demand for transitional justice processes and mechanisms to be established, but also transitional justice enablers such as support to documentation of violations and crimes, support to victims' associations, support to projects encouraging community dialogues, MHPSS etc. Early engagement can also ensure that transitional justice is considered during peace negotiations to ensure that future transitional justice engagement is not hindered, for example, by blanket amnesties.

Transitional justice is also increasingly recognised as a framework that should be incorporated during conflict. As noted by the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, supporting a transitional justice framework at an early stage of transition can *"increase its efficacy, including by embedding such mechanisms in peace negotiations, ensuring comprehensive documentation while human rights violations are ongoing and leveraging the potential of transitional justice processes to stop ongoing abuses and prevent further violence."*²² This reflects that *"transitions are not a neat point in time; rather, transitions are long, intricate processes and transitional justice often happens as they unfold."* This can at a minimum support the preservation, collection and prevention of destruction of evidence, which can support later justice, truth and memory activities.²³

Case Study – DRC

For example, in DRC, where conflicts remain ongoing, the EU and MS have for many years supported documentation efforts by civil society of both past and ongoing human rights violations. Such efforts have been - and continue to be - fundamental in triggering a response by national criminal judicial authorities while also assisting them with criminal investigations. This documentation is also feeding into supporting victims with their participation in the newly established victims funds.

By trying to come to terms with a legacy of large-scale past abuses, transitional justice also necessarily involves engaging with long-term processes and mechanisms. The EU and MS must factor in this important characteristic of transitional justice whereby, as contained in the EU TJ Policy Framework, designing engagement *"should take into account current developments without losing sight of the longer timeframe"*.²⁴ Developing a comprehensive approach, that identifies the different activities over time, including their relative cost and commitment, can help to outline realistic long-term approaches (See *Section 4 - Ensuring a Comprehensive Approach to Transitional Justice Support*). As explained below in *Section 9 - Situating Transitional Justice within Broader EU and MS Activities*, this also means that the EU support for transitional justice processes in partner countries should be framed within a long-term and continuous development cooperation strategy. To the extent possible within existing financing cycles and instruments, the EU and MS programming should also be planned and implemented in a way that considers the long-term nature of transitional justice processes.

²² United Nations Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (2024). *A/79/180 - Report of the Special Rapporteur on the Promotion of truth, justice, Reparation and Guarantees of non-recurrence*. [online] Available at: <https://docs.un.org/en/A/79/180>.

²³ Ibid.

²⁴ EU TJ Policy Framework.

6. Ensuring a Victim-Centred Approach

The EU TJ Policy Framework, in line with fundamental principles relating to transitional justice, explicitly encourages a victim-centred approach. The framework, however, lacks specificity and guidance on the actual content of such an approach, despite victims' dignity and healing serving as essential features of transitional justice. A victim-centred approach requires that victims and affected communities are placed at the centre of transitional justice processes through their design, adoption and implementation to ensure that their dignity, views and concerns are considered and respected. At the heart of a victim-centred approach lies the recognition that victims are not just beneficiaries, but active agents of a transitional justice process in which they can effectively serve as rights holders. This applies to all elements of a transitional justice process enumerated in the framework.

Adopting Victim-Centred Activities and Managing Expectations

Adopting a victim-centred approach to transitional justice can be achieved through activities including:

- Awareness raising on transitional justice from inception to completion, such as media engagement and the dissemination of information about the purpose and design of national transitional justice mechanisms.
- Supporting the constructive involvement of victims, victims' groups and CSOs in the design of national transitional justice processes via public consultation or any other activities aiming at ensuring that the views and specific needs of victims are considered.
- Ensuring meaningful participation of the victims and affected communities in established transitional justice processes and mechanisms.

Particular attention should be paid to traditionally excluded and marginalised groups including religious minorities, indigenous peoples, women and girls, children, youth and older persons.

Managing victims and affected communities' expectations about what transitional justice can or cannot deliver is also an important aspect of a victim-centred approach.

- Activities overpromising on what transitional justice can achieve are counterproductive as they can erode the trust in transitional justice processes and institutions and harm victims, rather than restoring their dignity – examples include promising reparations to victims to ensure their participation in a process or suggesting that high-level perpetrators are going to be brought to justice where no such guarantees exist.
- Activities supported by the EU or MS should ensure that victims are duly informed about timeframes, limitations and challenges of transitional justice processes and mechanisms, continually building in public consultative processes and having established referral pathways to ensure a holistic approach to victims' needs.

EU and MS should also be aware, when supporting transitional justice initiatives, of the “do no harm” principle, which should guide all interventions. The “do no harm” principle requires that victims should not be exposed to unnecessary risk or left in a more serious situation due to their interaction with transitional justice activities and processes. In this context, it is important to underline the risk of re-traumatisation (the psychological or emotional harm caused when victims are exposed again to reminders of their past trauma) that can arise from repeated testimonies or sustained advocacy and of the risk of supporting projects that can lead to re-victimisation (harms inflicted upon victims by institutions or authorities such as discrimination, stigmatisation, or denial of justice that compound their

initial victimisation), for instance by supporting national processes that fail to protect or respect victims' rights.

Numerous best practices are publicly available relating to incorporating victims into the design and implementation of transitional justice processes to align with the expectations of affected communities.²⁵

Adopting a victim-centred approach also requires supporting a holistic approach to victims' needs and interests. The spectrum of what victims need and aspire to is wide and reaches from criminal accountability, to redress, to addressing the root causes of violations. It acknowledges the need to focus on areas additional to the fight against impunity such as education or memorialisation. It also involves supporting activities that aim to address the root causes of violence and ensure a more people-centred approach – meaning seeking to make a tangible difference in people's lives, such as through MHPSS and gender transformative approaches (as enumerated in the following section).

Case Study – DRC

In DRC, ASF and TRIAL International are leading an EU-funded project to promote a holistic vision of transitional justice that ensures that victims and affected communities are placed at the heart of the process. Based on the needs identified in the current DRC context, activities in the project include building the capacity of CSOs for the documentation of serious human rights violations and supporting them in an overall mapping of the violations, with the objective of supporting various transitional justice processes including criminal proceedings, community dialogue and the Kasai truth commission. The project also aims at providing victims that choose to engage with formal mechanisms with free specialised legal assistance for criminal proceedings but also to engage with other transitional justice mechanisms such as the recently established *Fonds National des Réparations des Victimes* (FONAREV). The project further supports the establishment of community dialogues on transitional justice to raise awareness and consolidate the views and demands of victims and affected communities as well as to serve as a platform to develop community level initiatives on transitional justice.

7. Provision of Mental Health and Psychological Support (MHPSS)

Populations in countries affected by large-scale abuses are often deeply traumatised. Untreated trauma, in turn, can prevent peace and reconciliation and even be passed on to the next generation (intergenerational trauma). MHPSS to victims and affected communities, therefore, is an integral part of the support that the EU and MS can provide when pursuing a holistic and victim-centred transitional justice strategy. Despite this, it remains underutilised and is not adequately addressed in the EU's policy framework.

²⁵ See, United Nations (2022). *Transitional Justice in Peace Processes: United Nations Policy and Challenges in Practice*. [online] Available at: <https://peacemaker.un.org/sites/default/files/document/files/2024/03/sg-guidancenote-peace-processes-digital.pdf>. See also, United Nations Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (2024). *A/79/180 - Report of the Special Rapporteur on the Promotion of truth, justice, Reparation and Guarantees of non-recurrence*. [online] Available at: <https://docs.un.org/en/A/79/180>. See also, Office of the United Nations High Commissioner for Human Rights (2009). *Rule of Law Tools for Post-Conflict States*. [online] United Nations. Available at: https://www.ohchr.org/sites/default/files/Documents/Publications/NationalConsultationsTJ_EN.pdf. See also, Van der Merwe, H. and Masiko, N. (2020). *Addressing Diversity and Inclusion through Transitional Justice*. [online] CSVr. Available at: <https://www.csvr.org.za/wp-content/uploads/2020/01/Addressing-Diversity-and-Inclusion-Policy-Brief-2020.pdf>. See also, Ramírez-Barat, C. (2011). *Making an Impact: Guidelines on Designing and Implementing Outreach Programs for Transitional Justice*. [online] Available at: https://www.ictj.org/sites/default/files/ICTJ-Global-Making-Impact-2011-English_0.pdf.

MHPSS can be defined as “any type of local or outside support that aims to protect or promote psychological well-being and/or prevent or treat mental disorder”.²⁶ MHPSS interventions can include strengthening community and family support, focused (person-to-person) non-specialised support and specialised services offered by psychologists and psychiatrists.²⁷ In contexts of transition, best practices on MHPSS underline the importance of community and family support and the need to plug into existing community structures to ensure that the support provided is culturally sensitive and adapted to the needs of victims. Reliance on psychological and psychiatric professionals is relevant for the most serious cases, but numerous actors can support such processes, including family and community structures.²⁸

Case Study – MHPSS Activities in Burundi and DRC

In Burundi, mental health issues are widespread. Addressing trauma related to recurring periods of violence is seen as a priority and even a precondition to other transitional justice activities. Several projects supported by the EU and MS have aimed at addressing MHPSS over the years. For instance, the EU under FPI is currently funding the project “*Menya ukire – Healing through understanding*” implemented by CSOs (Impunity Watch and Burundian civil society partners) that builds on previous similar initiatives and lessons learned that have included a strong MHPSS component. It intends to operationalise a holistic conception of MHPSS that connects community-focused interventions, drawing upon local culture and empowering communities, with person-focused interventions delivered by professionals. Its goals include: (1) supporting provincial trauma and therapeutic support centres and group therapeutic support sessions; (2) establishing informal community networks at communal level to support awareness-raising and dialogue sessions on historical traumas as well as economic empowerment initiatives; (3) addressing multigenerational traumas by ensuring that young people (18-35) have a better understanding of the present-day impact of historical traumas; (4) supporting artistic and cultural initiatives of MHPSS and memory transmission; (5) organising intergenerational dialogues including women; (6) the development of youth-focused online content and radio programs on inclusive memory transmission; (7) building the capacity of CSOs and community-based organisations and local authorities so that they are equipped to undertake MHPSS, memory transmission, and social cohesion actions; and (8) the implementation of consultation meetings between civil society and national institutions to connect the experiences of communities to national institutions. The project has also been extended to the DRC in Ituri, North Kivu and South Kivu Provinces which, despite being among the most affected by the armed conflict, were not included in the popular consultations on transitional justice in the context of the adoption of a national policy on transitional justice. In DRC, the project follows a similar methodology and includes mirrored - but tailored to the context - activities.

²⁶ Inter-Agency Standing Committee Reference Group for Mental Health and Psychosocial Support in Emergency Settings (2010). *IASC Guidelines on Mental Health and Psychosocial Support: What Should Humanitarian Health Actors Know? (2010)*. [online] interagencystandingcommittee.org. Available at: <https://interagencystandingcommittee.org/iasc-reference-group-on-mental-health-and-psychosocial-support-in-emergency-settings>.

²⁷ Inter-Agency Standing Committee Reference Group for Mental Health and Psychosocial Support in Emergency Settings (2007). *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings, 2007* | IASC. [online] interagencystandingcommittee.org. Available at: <https://interagencystandingcommittee.org/iasc-task-force-mental-health-and-psychosocial-support-emergency-settings/iasc-guidelines-mental-health-and-psychosocial-support-emergency-settings-2007>.

²⁸ See, Inter-Agency Standing Committee Reference Group for Mental Health and Psychosocial Support in Emergency Settings (2007). *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings, 2007* | IASC. [online] interagencystandingcommittee.org. Available at: <https://interagencystandingcommittee.org/iasc-task-force-mental-health-and-psychosocial-support-emergency-settings/iasc-guidelines-mental-health-and-psychosocial-support-emergency-settings-2007>. See also, International Federation of the Red Cross and Red Crescent Societies (IFRC) and International Committee of the Red Cross (ICRC) (2021). *Mental Health Matters: Progress Report on Mental Health and Psychosocial Support Activities within the International Red Cross and Red Crescent Movement*. [online] Available at: <https://pscentre.org/wp-content/uploads/2021/10/2021-global-MHPSS-report.pdf>

Supporting MHPSS is connected to several elements of transitional justice. First, it can be a form of reparation for the harm suffered. Second, it can help to avoid re-traumatisation and help to promote victim-centred participation by victims in formal national transitional justice processes and mechanisms (criminal proceedings, truth commissions, reparations programs etc). Finally, supporting MHPSS for victims and affected communities can be linked to non-repetition by addressing the root causes of the past abuses with the objective of reducing the propensity for violence. In short, supporting civil society's capacity and national health care services to deliver MHPSS support can be a critical complementary component of transitional justice processes and mechanisms.

While MHPSS is encompassed in the concept of a victim-centred process, it is important to note that support is not limited to victims but should also be extended to security forces, combatants and other groups within society. For instance, when human rights violations are connected to security forces, integrating MHPSS to police and military personnel in SSR and security sector programs, may assist in the prevention of violent behaviour. Finally, MHPSS is also important for those working on transitional justice processes to prevent vicarious trauma.

Case Study – The Gambia and Widening Engagement on MHPSS

In The Gambia, while MHPSS support is important, it has primarily focused on support to sexual and gender-based violence (SGBV) survivors. Experts found in this context that support to MHPSS should be more inclusive to account for other categories of victims of the Jammeh authoritarian regime but also to address the general level of trauma caused by a long dictatorial regime. In the context of The Gambia, international partners were recommended to focus on three key areas: (1) providing support to existing structures in The Gambia in order to build lasting capacities and ensure that support is framed by the national MHPSS policy; (2) supporting and professionalising community-based initiatives addressing trauma with a long term and strategic vision; and (3) ensuring that MHPSS is integrated in SSR in particular with the police and the army.

8. Gender Sensitive Transitional Justice

The EU TJ Policy Framework states that *“it is critical for transitional justice mechanisms to acknowledge and respond to the full range of violations women and girls experience during conflict as well as men and women’s differentiated needs with respect to accessing and benefiting from transitional justice processes.”*²⁹

Incorporating gender into the EU TJ Policy Framework contributes to more effective, holistic transitional justice processes. A gender-sensitive transitional justice approach recognises the need to acknowledge the gendered causes and consequences of conflict to effectively assist the entire population to address, and come to terms with, large scale abuses.

Explicitly connecting other EU policies such as the EU Gender Action Plan III (2021-2025) - designed to mainstream gender equality and empower women and girls in all the areas of the EU’s external action – and the EU TJ Policy Framework is important as both policies are cross-cutting and mutually reinforcing.³⁰ Gender mainstreaming throughout transitional justice mechanisms and processes, from

²⁹ EU TJ Policy Framework.

³⁰ See, European Commission (2020). *Gender Action Plan – Putting Women and girls’ Rights at the Heart of the Global Recovery for a gender-equal World.* [online] Available at: https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_20_2184/IP_20_2184_EN.pdf. See also, European Commission (2008). *Comprehensive Approach to the EU Implementation of the UN Security Council Resolutions 1325 and 1820 on women, Peace and Security.* [online] data.consilium.europa. Available at: <https://data.consilium.europa.eu/doc/document/ST%2015671%202008%20REV%201/EN/pdf>. European Union External Action Service

their design through to implementation of recommendations, also provides an opportunity to address gender inequalities and to strengthen the participation and influence of women in the transitional justice process. This can serve an additional benefit - in national contexts where transitional justice is politically sensitive, approaching programming with the respective government from the gender perspective can serve as an opportunity to address sensitive issues without the need to formally define them as part of a transitional justice process.

In addition to gender mainstreaming, a comprehensive approach to transitional justice should also aim to address the underlying causes of gender inequality. When planning support to transitional justice in country, incorporating gender transformative approaches that aim at addressing the root causes of gender violence and inequality can contribute to the prevention of future violence and abuses. Similarly, as discussed in the case study below, applying a gender lens can help to identify the role of masculinity narratives in conflict situations, including with respect to military personnel in SSR and Disarmament, Demobilisation, and Reintegration (DDR) contexts to address the root causes of conflict and prevent recurring violence.

Best Practice: Gender Transformative Approaches - a Framework to Address the Root Causes of Conflict

In Burundi, Impunity Watch is developing programs to address the root causes of the conflict in relation to gender inequality and SGBV to challenge the established gender norms that contribute to the perpetuation of violence. This includes transforming underlying stereotypes such as the notion of militarised masculinity. For instance, the *Twuzuzanye* project, supported by the Belgium Government, implemented activities with young Burundians to promote positive masculinity. The project also developed an MHPSS program for 100 ex-combatants from various former rebel groups and ex-Burundian armed forces. The project aims to deconstruct patterns of violence that developed during conflict and promote positive masculinities. By trying to deconstruct militarised masculinity with youth and ex-combatants, the project attempts to prevent future cycles of violence.

9. Situating Transitional Justice within Broader EU and MS Activities

As detailed in the EU TJ Policy Framework "*since the design and successful implementation of transitional justice processes are interlinked with security, peace, stability and sustainable development, EU support for transitional justice processes should be framed within a long-term and continuous development cooperation strategy*".³¹ Accordingly, implementation of the framework can be supported through effectively connecting it to other EU and MS activities and strategic interests.

For example, there is a clear and observable movement by EU and MS towards increased emphasis on support to economically beneficial investment in partner countries. This trend, however, does not necessitate or require an abandonment of key commitments of the EU to human rights and the rule of law which serve as guiding principles to EU external action. To the contrary, and in light of the comparative investment outlays by other foreign actors, including China and the United States, the EU

(2020). *EU Guidelines on Violence against Women and Girls and Combating All Forms of Discrimination against Them*. [online] EEAS. Available at: https://www.eeas.europa.eu/sites/default/files/03_hr_guidelines_discrimination_en_0.pdf. European Parliament (2018). *European Parliament Resolution of 31 May 2018 on the Implementation of the Joint Staff Working Document (SWD(2015)0182) – Gender Equality and Women’s Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020 (2017/2012(INI))*. [online] Europa.eu. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52018IP0239>.

³¹ EU TJ Policy Framework.

and MS commitment to rule of law may be leveraged as one of the unique components of EU external action and developed at the partner country level.

EUDs and MS should also ensure coordination on mutually reinforcing issues such as DDR and SSR, which are incorporated into the framework but may be addressed as distinct issues from formal transitional justice activities. This is, as described above in *Section 4 - Ensuring a comprehensive approach to Transitional Justice Support*, essential to develop a comprehensive transitional justice process but can also enhance support and engagement with partner countries. For example, where the EU or MS utilize context analysis and risk-assessment mechanisms that identify patterns of violations by security actors, such assessments may feed into or be linked with transitional justice processes, including with respect to vetting, institutional reform, truth commissions and criminal investigations. Conversely, transitional justice processes can strengthen the evidentiary basis for due-diligence implementation, e.g. by identifying units or actors implicated in violations.

Case Study: Developing Comprehensive Engagement in The Gambia

The Gambia's Government white paper on the report of the truth reconciliation and reparations commission in The Gambia (White Paper) is viewed as adopting a relatively comprehensive approach to transitional justice. It includes processes ranging from criminal accountability and reparations to memorialisation SSR. Specifically, the White Paper recognises the link between transitional justice and SSR, incorporating numerous recommendations on the topic related to institutional reform, the need to build capacity to address cases of SGBV and on human rights and rule of law issues.

Implementation of the White Paper, and EU support to the process, show the challenges at the country level of linking inter-related processes. Specifically, while both SSR and transitional justice processes were initiated in The Gambia in 2017, they have largely run in parallel and in isolation from each other, with transitional justice activities focusing on criminal accountability while SSR activities have focused primarily on police reform. EU support has reflected this trend with separate support provided to transitional justice and SSR on parallel tracks, with approximately 10 million allocated and divided for support programs from 2025 – 2027 between transitional justice and SSR.

One of the significant reasons for the division is “*institutional silos*” between the Ministry of Justice (working on broader transitional justice efforts) and the National Security Advisor (working on SSR) - different components of the EUD, responsible for SSR and transitional justice distinctly, have developed relationships with the respective ministries. Similarly, MS have different levels of engagement within the different sectors, in particular MS focus on support to SSR in the context of police reform.

The EU and MS continue to work to align efforts despite this distinction, including promoting transitional justice and SSR coordination through attempts to form steering committees and incorporating, where possible, elements into each strategy. Gender is one area in which there has been alignment, with, for example, new police stations incorporating gender dimensions including separate cells for men and women. This, however, is recognised as being facilitated by the requirement to mainstream gender into EU projects.

Other possible areas to combine SSR and support to transitional justice are, for instance, where future special criminal accountability mechanisms may benefit from SSR that address criminal justice shortcomings related to investigation, forensics, witness protection and maintaining law and

order for sensitive cases. Incorporating MHPSS work into SSR programs, particularly with the police and army, is also presented as an opportunity for engagement.

The challenges in merging or aligning inter-related activities are not easily overcome. Ensuring coordination, particularly with respect to funding priorities, is necessary to find areas of overlap. Clearly identifying the value of the mutually reinforcing nature of transitional justice and SSR can also help identify concrete areas of engagement. While it may not be feasible in such contexts for efforts to be perfectly aligned, engagement and awareness of the connection between these issues is a prerequisite to identifying areas of opportunity.

Finally, CSOs have also observed that transitional justice is often viewed in an overly narrow capacity by EU and MS in their funding opportunities. Namely, measures which supported transitional justice processes, but were included in non-human rights funding calls (e.g. peacebuilding and conflict prevention) were reported to have been excluded from consideration on the basis that transitional justice activities should be directed towards justice and human rights funding opportunities. This displays a lack of understanding of the broader nature of the EU TJ Policy Framework and its relevance to different EU priorities.

10. Context Specific Engagement

Where possible, transitional justice approaches should also be tailored to recognize and use relevant institutions and regional bodies. This may, for example, include incorporating transitional justice components into relevant accession agreements in Eastern Europe, engaging with UN fact-finding commissions or other human rights bodies mandated to document or investigate human rights violations or as detailed below, cooperation with the UN and AU.

United Nations

The UN system plays a central role and serves as a technical leader in the field of transitional justice. Accordingly, where the UN system has a strong presence in the partner country, it tends to be an important player and partner on the topic of transitional justice (in particular, the Office of the High Commissioner for Human Rights and the UNDP). The diversity of engagement in different country contexts suggests that there is no broad, general recommendation that can be made with respect to engaging on transitional justice with the UN. A country-specific analysis is instead necessary to outline the benefits and drawbacks. But the underlying recommendations contained in this report relating to planning, coordination and capacity apply to ensuring effective engagement and support to transitional justice processes led by, or in coordination with, UN actors. In particular, EU and MS should conduct a country and topic specific analysis to outline the benefits and drawbacks of supporting projects carried out by the UN system on transitional justice including, for example, when working with basket funds. It is also important to recognize that while the UN remains an important strategic partner, CSOs are often the first responders on transitional justice on the ground. It is also important to assess on a case-by-case basis what are the most productive ways for the EU and MS to cooperate with the UN.

African Union

Regional organisations can also offer the opportunity to promote effective implementation of the framework that is tailored to the specific situation including, for example, in the AU. In this regard, EU cooperation with the AU on transitional justice is framed through engagement with the African Union Transitional Justice Policy (AUTJP) and the implementation roadmap which emphasises the need to

“facilitate AU-EU Dialogue on Transitional Justice and Rule of Law.”³² This is operationalised through policy dialogue and on-the-ground collaboration via a three-year EU-funded programme carried out to support AU Member States in incorporating the AUTJP. Recognizing the benefits of the AUTJP, namely that it incorporates a more comprehensive set of provisions relating to transitional justice that has a greater degree of regional ownership over its content than the EU TJ Policy Framework, provides the opportunity for targeted, context-specific engagement. Systematically integrating the AU’s approach into the EU TJ Policy Framework when operating in African contexts can, accordingly, allow the EU to enhance the effectiveness and legitimacy of its transitional justice initiatives insofar as they are designed in collaboration with, and relevant to, AU Member States. In particular, the AUTJP integrates traditional and community-based mechanisms with less of an emphasis on formal accountability mechanisms than the EU TJ Policy Framework. For example, it places a stronger emphasis on community participation, expressly mandating consultations through established mechanisms that facilitate the engagement of women, youth, and civil society actors in shaping transitional justice processes. Interlocutors further mentioned that AU Member States have also been reported to favour engagement with the AU framework, in part due to the perceived reduced emphasis on criminal prosecution of political leaders—seen as a Western model of transitional justice—towards a more holistic and preventive approach that is contextually grounded in African realities.

It was also observed that, in limited instances, the AU and AU Member States have expressed concerns over the EU’s genuine commitment to transitional justice and treating the AU as an equal partner, including through failing to send high-level EU representatives to meet equivalent AU counterparts or through lack of internal EU coordination or prioritisation of transitional justice. Such perceptions can undermine trust and hinder meaningful engagement with the AU. In this regard, the EU may also consider demonstrating in more concrete ways than in the context of the existing AU-EU Dialogue on Transitional Justice, that it values transitional justice within its own borders, thereby reinforcing the perception of an equal partnership between the two regional organisations rather than that of a purely technical support provider.

Improving EU and Member State Engagement with the Framework

Effective implementation of the EU TJ Policy Framework depends not only on support delivered in partner countries, but also on the ability of the EU and its Member States to recognise, interpret, and operationalise the framework in a coherent and strategic manner. Engagement with the framework remains uneven and is constrained, in particular, by a need to sensitise personnel to move beyond overly formal interpretations of its application. The result is that opportunities to use the framework to address legacies of large-scale abuses, support victims, and contribute to more stable and peaceful societies are not always fully recognised or implemented in line with key principles.

The recommendations below suggest that implementation of the framework can be supported through building a shared understanding of the scope and purpose of transitional justice, integrating the framework more systematically into policy and programming processes, and ensuring that expertise and collaboration are mobilised to support long-term, conflict-sensitive engagement in fragile and conflict-affected contexts.

1. Sensitisation

There is a clear need to sensitise personnel across the EU and MS, working in or with conflict-affected or fragile partner countries, to the purpose, scope and nature of transitional justice. Identification of the

³² African Union (2019). [Transitional Justice Policy : an Integrated, Prosperous and Peaceful Africa](#). [online]; African Union (2020); *Roadmap for the Implementation of the African Union Transitional Justice Policy in Response to the Assembly Decision/AU/Decl.5 (XXXII) on the Adoption of the Policy*. [online] Available at: https://au.int/sites/default/files/documents/41242-doc-Roadmap_for_the_Implementation_of_AU_ENGLISH_Sep_091.pdf.

applicability of the framework is often dependent on the presence of formally implemented, government-operated processes and, in particular, criminal justice-related institutions. This fails to allow for a more comprehensive understanding of the range of transitional justice processes and mechanisms such as support to victims, addressing the root causes of past violence, promoting social cohesion and holding government to account. There is, in parallel, a lack of understanding related to the nature and potential of transitional justice as a driver of change in countries with a legacy of large-scale abuses to promote lasting peace.

In particular, there is a prevailing trend to view transitional justice as focused primarily on criminal justice or other large-scale institutional processes such as truth commissions or reparations programs. Application or reference to the EU TJ Policy Framework was seen in a narrow capacity. Actors tended to see support to a specific institution such as a criminal tribunal as sufficient - contrary to the content of the framework which advances a conception of transitional justice that requires a comprehensive approach bringing together a range of different actors and processes. The impact of failing to recognize where transitional justice should be applied and the range of activities available to realize its goals should be seen as a foundational challenge to implementing the recommendations contained in this report.

Addressing this issue requires sensitising EU personnel and MS representatives to obtain a more comprehensive and less formalistic understanding of transitional justice when providing support to partner countries. Identifying the relevance of the framework (if not implementation) was more likely where mechanisms or national strategies are applied with a formal label, e.g. a national justice strategy, a reparation program, or a criminal tribunal. Where there is no formal governmental engagement with transitional justice processes or mechanisms, however, EUDs and EU headquarters in Brussels (Headquarters) were less able to identify the relevance of the EU TJ Policy Framework even though they are often directly supporting programs under other labels that form part of a transitional justice process. This is particularly true in the areas of: mediation; social cohesion; pacification at the community level and DDR.

The above analysis is not meant to preclude the EU or MS from framing their programming in light of a specific national context. A distinction should be made between internal EU and MS planning on the implementation of the EU TJ Policy Framework and the labels given to external support. This recognises that while there may be legitimate (or necessary) reasons to not label or frame activities under the term transitional justice, the EU TJ Policy Framework is still relevant and should help guide internal planning, as detailed in *Section 2 - Terminology*.

Contextualising Transitional Justice Activities

Sensitisation towards the range and objectives of transitional justice processes allows for better implementation and ensures a more comprehensive approach. For example:

- In DRC, the recognition that reparations to victims shall not be limited to financial reparations tied to criminal justice processes and should instead include broader activities that seek to provide redress to victims and affected communities including non-monetary compensation.
- In Burundi, instituting memory, arts or cultural programs to bridge deeply divided communities, particularly where highly politicised narratives exist in national institutions and where a truth commission was determined not to be impartial, influenced by the government, not independent and therefore likely to create a one-sided narrative.
- In all case studies contained in this report, the need to better recognise and address the root causes of past violence through MHPSS activities and gender transformative

approaches as a prerequisite to supporting victims or conducting reforms including DDR or SSR and as a way to make a tangible difference in people's lives.

- Identifying synergies between activities across policy frameworks, for instance in Ethiopia where an opportunity was missed to link the DDR process with human rights documentation efforts with former combatants (recognizing the importance of “do no harm” and other potential challenges in implementing documentation in such a context).

2. Planning

The EU TJ Policy Framework should be utilised to support a range of EU priorities and policies on the basis of its goal to promote more stable, peaceful societies. While transitional justice is primarily incorporated into human rights and democracy related programming, there is a recognition that it may play an important role in areas such as crisis response, conflict prevention, peacebuilding, fragility, security and development policies as well as within the Global Gateway strategy. Accordingly, the EU TJ Policy Framework may be more effectively integrated into related EU priorities and policies where its outcomes are recognised as supporting more stable, peaceful societies.

Notably, various EU and MS personnel have observed an increased focus and emphasis on more immediate and pressing priorities, including promoting economic development (e.g. through the Global Gateway) and combating corruption. The emphasis on focusing on investment and infrastructure opportunities is sometimes identified as distinct or not relevant to the EU TJ Policy Framework. These priorities, however, should not be seen as mutually exclusive with the EU TJ Policy Framework (as elaborated in the case study below). In particular, the intention of the framework to “[prevent] the recurrence of crises, [address] the most serious crimes of concern to the international community as a whole, and [avert] future violations of human rights” supports long-term interests related to stability and economic prosperity.

There is also a need to better articulate the relationship between the EU TJ Policy Framework and related (often broader) EU policies and thematic areas of focus. There is no question that the EU provides significant external support in areas directly and indirectly relevant to transitional justice, including broader thematic areas of focus of the EU, including international humanitarian law, peace and security, anti-corruption and support to fragile contexts. Various evaluations and reports relating to these thematic areas show limited references to transitional justice in general (particularly outside of those contexts already analysed within this report save for the case of Colombia) and no explicit reference to the EU TJ Policy Framework in various evaluations and reports of the EU.³³ In certain contexts, these evaluations have explicitly found that the EU “*should overcome the siloed approach to [Rule of Law] observed in EU external action, which is largely restricted to the ‘justice sector’ [...]. This implies investing further in transitional justice - particularly in fragile/ conflict-affected countries (without guarantee of results)*”.³⁴

Further, identifying opportunities can allow the framework to be incorporated into broader analysis, for example where a crisis response is developed (where the scope is relevant to transitional justice) and in other assessment tools or MS priorities relating to areas such as conflict prevention, peace stabilisation and development. It was noted, in this regard, that the EU TJ Policy Framework, insofar as it sets out a basis to consider the root causes of conflict and opportunities to promote more stable environments, can support analysis and engagement in fragile or conflict-affected contexts.

³³ See for example: COJUR Report; Evaluation on EU State Building Report; European Union External Action Service (2024). *EU's Annual Report on Human Rights and Democracy in the World 2024*. [online] EEAS. Available at: https://www.eeas.europa.eu/eeas/eus-annual-report-human-rights-and-democracy-world-2024_en; Evaluation of Rule of Law and Anticorruption Report, p.64.

³⁴ Evaluation of Rule of Law and Anticorruption Report, p. 107.

Accordingly, there is space to consider how the framework can be more effectively integrated or relational to other thematic areas in order to allow, as required by the framework, the EU to engage in situations where past violations and abuse have occurred. This is only feasible if there is legitimate “demand” to utilise the EU TJ Policy Framework to support a broader range of services – in other words, if there is recognition that the framework can support work related to *inter alia* conflict prevention, fragile nations and peacebuilding. While engagement, ultimately, will be determined in light of budgetary allocations, political will and specific contexts, there is a clear recognition that the framework, to this point, has relatively limited application but could provide a broader basis of assistance if its relevance was better understood by EU and MS staff working in or with conflict-affected or fragile partner countries. MS may also play a more significant role in this process by providing access to and engaging with national contact points or experts working on transitional justice on the basis of the EU TJ Policy Framework.

Case Study: Transitional Justice and the Global Gateway

Global Gateway marks an evolving EU and MS approach to international cooperation from development-focused capacity building towards international partnerships in key areas of the digital sector, climate and energy, transport, health, education and research. It also, however, intends to build those partnerships in line with the EU’s interests and values, including rule of law and human rights – Global Gateway partnerships are based on six principles that includes democratic values and good governance. Interlocutors at the Headquarters level observed that support to transitional justice processes should be built into the partnership logic of the Global Gateway, as investments require peace and stability which is a central goal of the EU TJ Policy Framework. The inverse should also be seen as a potential strength, whereby development brought by partnerships in the context of the Global Gateway in fragile states may contribute to build trust with a national government that could also allow for support to transitional justice processes.

In the case of both Ethiopia and The Gambia, for example, interlocutors observed that there is a need to clarify the relevance of the EU TJ Policy Framework as an enabler of long-term stability to emerging priorities which focus on economic and social development. Engagement in longer-term activities, including those managed through the Global Gateway, can also support longer term planning to address structural issues that lead to conflict including with respect to context analysis, fragility and the integrated approach.

In DRC, transitional justice programming has been linked to broader programming related to supporting the development of a Green Corridor Kivu-Kinshasa, an initiative of the Global Gateway. In this context, transitional justice is understood as a tool for conflict prevention and to increase peace and stability in regions affected by the conflicts in the East of the country located in the Green Corridor in order to strengthen the impact of support and investment components of the project that pursue development objectives.

3. Capacity

The EU and MS should build on their strength as a knowledge repository with significant practical experience in the field of transitional justice. The EU and MS could more effectively bring to bear its own experience on transitional justice, and its wealth of experts in academia and practice, to support transitional justice programs. While EU support should stay focused on supporting national policies and empowering national experts, MS experience on transitional justice could assist in identifying and supporting transitional justice in the programmatic activities of the EU. Increased support and acknowledgment of the role of transitional justice, particularly by senior EU and MS officials, was also

seen as having an additional benefit – ensuring that partner countries notably in sub-Saharan Africa see a genuine commitment and interest by the EU in the policies it is promoting abroad. MS transitional justice strategies, where present, may also support this process including by relying on specific sections or knowledge hubs in the ministries of foreign affairs focused on transitional justice such as in Germany.

Case Study: Building and Identifying Capacity

In The Gambia, it was noted that contact with colleagues in CAR who had worked on similar issues helped to identify and engage with transitional justice processes. In other settings, it has been observed that transitional justice projects are more likely to be implemented where a staff member has prior experience with transitional justice, but that this situation is often a coincidence rather than an intentional, institutional decision to assign staff to a specific EUD.

In DRC, in the context of the EU-funded, CSO consortium-led Global Initiative Against Impunity project, TRIAL International commissioned in 2024 the drafting of a report on the progress, challenges and prospects of the Congolese judicial system in addressing international crimes. When the report was published, a presentation of the report was organised in front of the Inter-Donor Group on Justice and Human Rights in Kinshasa, an informal working group led by the EUD in Kinshasa and regrouping EU, MS and other relevant actors (states and UN) with the aim to align international donors' priorities and activities in the fields of justice and human rights including on transitional justice (see also below "Best Practice: Coordination Mechanisms in DRC"). The objective of the presentation was to rely on a resource produced by the Global Initiative Against Impunity project to build the knowledge of the EUD and MS and feed the current discussions of the working group on how to best support transitional justice in the DRC. More systematically identifying opportunities for the work products of the Global Initiative Against Impunity project or other EU funded projects to build the knowledge or capacity of EU and MS in countries can support better implementation of the framework.

4. Coordination

In the context of transitional justice, coordination is of particular importance to ensure access to existing but limited capacity within the EU and to reflect the cross-cutting nature of the EU TJ Policy Framework.

For example, setting out formal coordination or discussion mechanisms at the country level can improve implementation of the framework. While it is clear that "*more coordination is not always better coordination*", EUDs and MS representatives have reported challenges on coordination in the field of transitional justice at the partner country level. This includes a lack of common understanding of what transitional justice means and what it implies in the specific country context, an absence of coherent messaging at the political level and an absence of coordination on programming to avoid duplication and build on lessons learned. EUD and MS coordination should also be extended to technical implementing partners to avoid overlaps and the risk of diverging or contradictory technical advice that has the potential to harm national transitional justice process.

Enhanced, focused dialogue between EUDs and MS representatives at the country level on transitional justice should therefore be encouraged either by the creation, where possible and appropriate, of transitional justice partner coordination mechanisms or by relying on existing coordination mechanisms. While each national setting is different, EUDs will frequently be well situated to play a more proactive role as a leader in support to transitional justice activities including cooperation between different international partners. One component to improve coordination at the country level is also the need, discussed above, to encourage MS to align their vision and priorities in capitals and

Headquarters level to provide more coherent guidance to MS representative in countries. Without such concrete guidance, and increased understanding of the role of the EU TJ Policy Framework, interlocutors noted that it may risk being used “*as a piece of paper rather than an implementable framework*”.

Another possible area to improve coordination is to ensure reference to the EU TJ Policy Framework. CSOs have observed in this regard that MS and EU funding is often completely distinct from the EU TJ Policy Framework, with no mention or reference to the EU TJ Policy Framework (or transitional justice). It was noted in this regard that reference, or engagement, with the policy framework may help MS to more effectively coordinate with each other and with EUDs insofar as it forms a common platform or reference point on transitional justice

MS representatives in countries have further noted that as there is only a handful of prominent foreign representatives in conflict-affected or fragile countries, and that a relatively small number of personnel are required to handle numerous duties relating to political, economic, security and human rights concerns, additional support can be essential to promote a coordinated approach. Modest but possible improvements could be made with respect to effective coordination with EUDs and like-minded MS in countries, including through TED, clearer instructions and guidance from the EU at the headquarters level and MS at the Capital level on support to transitional justice in country and consideration of joint projects, field visits or development of common indicators to try to promote greater cooperation.

Best Practice: Coordination Mechanisms in DRC

The EU and several MS (including Netherlands, Belgium, Sweden, France, and Germany) have actively supported transitional justice related activities in the DRC for many years. It was noted by several interlocutors that - until recently – there was minimal coordination in approaches and programming in the field of transitional justice between the EUD and MS contributing to a lack of awareness between partners on respective programming, including overlapping activities and divergent support to implementing partners. To address these concerns, a pre-existing working group - the Inter-Donor Group on Justice and Human Rights regrouping EU, MS and other relevant actors (states and UN) - was revitalised at the end of 2023. Led by the EUD in Kinshasa, with CSOs also regularly invited to present and share their views, the group aims to align international donors’ priorities and activities in the fields of justice and human rights including on transitional justice. EUD coordination was seen as beneficial in this context given the importance of the EU as a donor and the limited human capacity of MS.

The group led, for example, a coordinated mapping of activities carried out by each of the members. It aligned understandings that MS and like-minded States were - directly or indirectly - in DRC or at the Headquarters level providing support to components of transitional justice. It also identified lack of coordination in programming and possibly divergent approaches. A MS representative stated that this group positively affected programming by avoiding duplication and allowing more targeted programming and more efficient partnerships.

Building on this coordination, a Team Europe Initiative with a specific focus on transitional justice is on the process of being established. The initiative would potentially involve MS that have an interest in supporting transitional justice in DRC and other non-EU countries. To establish the foundation of an initiative focussing on transitional justice in DRC, consultants recruited by the initiative will map ongoing transitional support initiatives and develop a general transitional justice support strategy accompanied by concrete operational tools to guide members in their engagement choices. The ultimate objective of the initiative on transitional justice in DRC is to

strengthen the coherence, coordination, and complementarity of EU actions in support of transitional justice.

Bibliography

- African Union (2019). [Transitional Justice Policy: an Integrated, Prosperous and Peaceful Africa](#). [online]
- African Union (2020). [Roadmap for the Implementation of the African Union Transitional Justice Policy in Response to the Assembly Decision/AU/Decl.5 \(XXXII\) on the Adoption of the Policy](#). [online]
- Avocats Sans Frontières (2024). [Position Paper on EU Support to Transitional Justice - Informal COHOM Meeting of 18-19 April 2024](#).
- European Commission (2008). [Comprehensive Approach to the EU Implementation of the UN Security Council Resolutions 1325 and 1820 on women, Peace and Security](#). [online].
- European Commission (2016). [Joint Communication to the European Parliament and the Council: Elements for an EU-wide Strategic Framework to Support Security Sector Reform](#). [online].
- European Commission (2020). [Gender Action Plan – Putting Women and girls’ Rights at the Heart of the Global Recovery for a gender-equal World](#). [online].
- European Parliament (2018). [European Parliament Resolution of 31 May 2018 on the Implementation of the Joint Staff Working Document \(SWD\(2015\)0182\) – Gender Equality and Women’s Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020 \(2017/2012\)](#)[online]
- European Union (2012). [Consolidated Version of the Treaty on European Union](#). [online] Official Journal of the European Union.
- European Union External Action Service (2015). [The EU’s Policy Framework on Support to Transitional Justice](#). [online] European Union.
- European Union External Action Service (2018). [EU Guidelines on Promoting Compliance with International Humanitarian Law](#). [online] European Union.
- European Union External Action Service (2020). [EU Guidelines on Violence against Women and Girls and Combating All Forms of Discrimination against Them](#). [online]
- European Union External Action Service (2024). [EU’s Annual Report on Human Rights and Democracy in the World 2024](#). [online].
- European Union's Directorate-General for International Partnerships (2020). [Evaluation of EU State Building Contracts \(2012-2018\)](#). [online] European Union.
- European Union's Directorate-General for International Partnerships (2022). [Evaluation of the European Union Support to Rule of Law and Anticorruption in Partner Countries \(2010-2021\)](#). [online] European Union.
- Federal Government of Germany (2019). [Interministerial Strategy to Support ‘Dealing with the past and Reconciliation \(Transitional Justice\)’ in the Context of Preventing Crises, Resolving Conflicts and Building Peace](#). German Federal Foreign Office.
- General Secretariat of the Council of the European Union (2011). [Council Decision 2011/168/CFSP of 21 March 2011 on the International Criminal Court and Repealing Common Position 2003/444/CFSP](#). [online].
- General Secretariat of the Council of the European Union (2015a). [Council Conclusions on EU’s Support to Transitional Justice](#). [online] Council of the European Union.
- General Secretariat of the Council of the European Union (2015b). [EU Action Plan on Human Rights and Democracy \(2015-2019\)](#). [online] Council of the European Union.

- General Secretariat of the Council of the European Union (2018). [Council Conclusions on the Integrated Approach to External Conflicts and Crises](#). [online]
- General Secretariat of the Council of the European Union (2019). [EU Action Plan on Women, Peace and Security \(WPS\) 2019-2024](#). [online]
- General Secretariat of the Council of the European Union (2020). [EU Action Plan on Human Rights and Democracy \(2020-2027\)](#). [online].
- General Secretariat of the Council of the European Union (2025). [Working party on public international law \(COJUR\): report on the EU guidelines on promoting compliance with international humanitarian law: January 2024 - December 2024](#). [online].
- Inter-Agency Standing Committee Reference Group for Mental Health and Psychosocial Support in Emergency Settings (2007). [IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings, 2007](#) | IASC. [online] interagencystandingcommittee.org.
- Inter-Agency Standing Committee Reference Group for Mental Health and Psychosocial Support in Emergency Settings (2010). [IASC Guidelines on Mental Health and Psychosocial Support: What Should Humanitarian Health Actors Know? \(2010\)](#). [online] interagencystandingcommittee.org.
- International Federation of the Red Cross and Red Crescent Societies (IFRC) and International Committee of the Red Cross (ICRC) (2021). [Mental Health Matters: Progress Report on Mental Health and Psychosocial Support Activities within the International Red Cross and Red Crescent Movement](#). [online]
- Ministry of Foreign Affairs of The Netherlands (2023). [Policy document Human Rights and Democracy – The International Legal Order](#).
- Office of the United Nations High Commissioner for Human Rights (2009). [Rule of Law Tools for Post-Conflict States](#). [online] United Nations.
- Ramírez-Barat, C. (2011). [Making an Impact: Guidelines on Designing and Implementing Outreach Programs for Transitional Justice](#). [online].
- Swedish International Development Cooperation Agency (SIDA) (2024). [Transitional justice – a technical note](#). [online] SIDA - Technical Unit.
- United Nations (2022). [Transitional Justice in Peace Processes: United Nations Policy and Challenges in Practice](#). [online]
- United Nations Secretary-General (2010). [Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice](#). [online] United Nations Digital Library System.
- United Nations Secretary General (2023). [Transitional Justice: A Strategic Tool for People, Prevention and Peace | UN Peacemaker](#). [online].
- United Nations Secretary-General (2004). [The Rule of Law and Transitional Justice in Conflict and post-conflict Societies: Report of the Secretary-General](#). digitallibrary.un.org. [online].
- United Nations Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (2024). [A/79/180 - Report of the Special Rapporteur on the Promotion of truth, justice, Reparation and Guarantees of non-recurrence](#). [online]
- Van der Merwe, H. and Masiko, N. (2020). [Addressing Diversity and Inclusion through Transitional Justice](#). [online] CSVr.

The report also relies on a set of confidential documents in particular the reports produced by the Facility on Justice in Conflict and Transition covering five of the six case-study countries (Burundi, the Central African Republic, Ethiopia, Liberia and The Gambia).

Implemented by



Implemented by



Programme/project title: Team Europe Democracy Initiative

E: secretariat@teamdemocracy.eu

I: <https://capacity4dev.europa.eu/projects/team-europe-democracy-ted>

Published by:

TED Secretariat (Deutsche Gesellschaft für Internationale

Zusammenarbeit GmbH and Enabel)

Layout: EYES-OPEN K15 GmbH

Photo credits: © GIZ

This publication was co-funded by the European Union. Its contents are the sole responsibility of the authors and do not necessarily reflect the views of the TED Secretariat or the European Union.