

## Information Note

### Update on IDLO's Contribution to the Implementation of the Vienna Programme of Action for Landlocked Developing Countries

Date: 31 March 2022

IDLO's activities in support of the implementation of the Vienna Programme of Action (VPoA) for Landlocked Developing Countries have focused on two main priority areas under the programme, (i) Infrastructure Development and Maintenance and (ii) Structural and Economic Transformation.

#### 1. Priority Area: Infrastructure Development and Maintenance

The VPoA recognises the role that information and communications technology (ICT) infrastructure plays in helping LLDCs lower transaction costs and in facilitating access to services. This consideration is true also when applied to the provision of justice services for the resolution of commercial disputes. The increased digitalization of the commercial justice sector contributes to a more efficient and effective administration of justice, increasing the confidence of investors in the ability of court-based adjudicative processes and Alternative Dispute Resolution (ADR) mechanisms to settle commercial disputes. In turn, such an improvement contributes to the creation of an enabling environment for investment, thus lowering transaction costs and improving good governance, transparency, and accountability.

Against this background, IDLO has been supporting the transition of the justice sector towards e-justice in targeted LLDCs. Programmatic interventions are focused on strengthening transitions towards e-justice, by focusing on digital case management and administration support and enhancing ADR mechanisms for the settlement of commercial disputes. Such activities have been implemented in line with priority area 2 of the VPoA, and priority area 2.2 "ICT Infrastructure and Digital Connectivity" of the Roadmap for the Accelerated Implementation of the VPoA

#### **Jordan**

In 2020, IDLO supported the establishment of an expert advisory group tasked with reviewing the justice challenges resulting from the COVID-19 pandemic, and responsible for developing recommendations related to access to justice for emergency pandemic response and recovery. The recommendations developed highlighted the need to strengthen ADR, including mediation, to reduce the burden on domestic courts, as well as to improve infrastructure for electronic means within the regular courts and other justice facilities and expand electronic services within the Sharia and Ecclesiastical courts. The group also highlighted the importance of raising awareness and building capacity among stakeholders on the benefits of e-justice. The findings of the expert advisory group were shared with Jordanian policy-makers to help develop a way forward to enhance the effectiveness of justice services in Jordan in the context of the COVID-19 recovery.

#### **Kyrgyzstan**

In December 2021, IDLO successfully completed a project that accelerated the transition of the justice sector in Kyrgyzstan towards e-justice, through the provision of capacity development support and

technical assistance for digital case management and administration components. Following IDLO's intervention, all courts in Kyrgyzstan now have internet access and publish judicial decisions online. By the end of 2021, more than 80% of all judicial acts were posted online, using a de-personification system that anonymises sensitive personal data. This not only makes judicial decision-making more transparent and easily accessible, but also allows legal professionals, academics, journalists, and participants in court proceedings to analyse judicial practice, produce data-driven materials and develop a common understanding of how legal proceedings are handled.

## **Moldova**

In cooperation with the European Bank for Reconstruction and Development (EBRD), IDLO is providing support to the Government of Moldova to promote and facilitate the use of commercial mediation on a national scale. To achieve this objective, in collaboration with the Mediation Council, the Mediation Centre, and other local counterparts, IDLO developed legal instruments to strengthen the existing legal framework for mediation and developed the capacity of judicial actors in commercial mediation and advocacy skills. Furthermore, in the field of arbitration, the project is improving access to arbitration and judges' skills, with the overall goal of making the use of ADR methods a business norm in Moldova.

## **2. Priority Area: Structural Economic Transformation**

Unlocking private investment, including foreign direct investment (FDI), is a key condition for LLDCs to achieve structural economic transformation, in accordance with the objectives of the VPoA. Attracting and retaining FDI, however, rests on the creation of a favourable business environment, based on legal frameworks that are clear, transparent, and supportive of national sustainable development objectives.

Against this background, IDLO supported LLDCs in creating an enabling environment for private sector development and FDI. It did so by focusing on: (i) strengthening LLDCs' ability to attract and manage foreign direct investment (FDI) through IDLO's Investment Support Programme for Least Developed Countries (ISP/LDCs); and (ii) strengthening the ability of judicial actors in LLDCs to settle commercial disputes in an efficient and effective manner. Relevant activities have been implemented in line with Priority Area 5 of the VPoA, as well as Priority Area 3.2 "Attracting and Facilitating Investment" of the Roadmap for the Accelerated Implementation of the VPoA.

### **a. *Strengthening LLDCs' ability to attract and manage FDI***

IDLO's ISP/LDCs provide on-demand *ad hoc* direct legal assistance and capacity-building to LLDC governments and SMEs on investment-related matters, including preparation and implementation of PPPs and/or related legislation, international investment law and dispute settlement, investment contract negotiation, and other foreign investment-related laws and regulations. Assistance is provided at no cost and at the express request of the beneficiaries.

## **Ethiopia**

Between June and September 2021, IDLO supported the Ethiopian Investment Commission (EIC) with the implementation of targeted capacity development activities focusing on international investment law and sustainable development. The training sessions covered the fundamentals of international investment law and arbitration and dedicated specific attention to developing trends in the reform of the international investment law systems, the preparation of Model Bilateral Investment Treaties (BIT), and the negotiation of BITs with foreign investors. Participants highlighted how the support received was fundamental to providing them with the skills and knowledge needed to ensure that national investment

laws and policies are fully aligned with Ethiopia's development objectives and implemented in such a way as to achieve sustainable development.

## **Malawi**

IDLO has provided legal assistance to a State-Owned Enterprise (SOE) in Malawi on the preparation of a joint venture agreement (JVA) template to be used in the negotiation of agricultural investment projects with foreign investors. The preparation of the template was an essential step to facilitate the SOE's engagement with investors interested in doing business in the agricultural sector. The template can be used to help the beneficiary in the identification of their priorities and in designing a strategy to guide future negotiation efforts with potential foreign investors.

## **Uganda**

In 2021, IDLO provided support to the Uganda Law Society (ULS) in delivering capacity development activities to over 100 private sector lawyers on the implementation of FDI transactions in Uganda. Initial training was focused on project finance, covering both the fundamentals of international finance and the international financial system as well as hot topics of cryptocurrencies and central bank digital currency. Follow-up training provided an overview of the fundamentals of mergers and acquisitions law, with specific attention paid to the structuring of the deal and the negotiation and drafting of relevant contracts.

## **Rwanda**

IDLO is currently supporting the Ministry of Commerce of Rwanda (MINICOM) through: (i) the provision of technical support in the preparation of an assessment study on the relationship between Rwanda's investment framework and broader regional and continental approaches; and (ii) capacity development on the negotiation of international investment agreements (IIAs) and Investor-State Dispute Settlements (ISDS). These activities are designed to strengthen government officials' understanding and ability to manage the legal framework applicable to foreign direct investment, with a view to better aligning it with national sustainable development objectives.

### *b. Strengthening LLDCs' ability to settle commercial disputes*

IDLO has supported the judicial sectors in several LLDCs in further strengthening commercial mediation as a tool to facilitate dispute resolution for business, and in building the capacity of judicial actors in the enforcement of decisions in commercial cases.

## **Armenia**

In cooperation with the European Bank for Reconstruction and Development (EBRD), IDLO provided technical assistance to the Supreme Judicial Council of Armenia on the operational structure and processes of the specialised insolvency court. It also provided complementary capacity development support to insolvency judges, with a view to strengthening the quality and uniformity of the administration of justice and the predictability of court decisions in the insolvency sector.

## **Jordan**

IDLO supported women entrepreneurs to better understand key legal matters and barriers that negatively impact their ability to establish and develop their businesses, and to improve access to justice institutions to resolve commercial disputes. The capacity development support included a Training of Trainers

component, which empowered a group of selected trainers in building the capacity of other entrepreneurs with a focus on legal matters related to running their businesses and channels for dispute resolution.

### **Central Asia: Kyrgyzstan, Tajikistan, and Uzbekistan**

IDLO is supporting judicial institutions and private sector entities in Kyrgyzstan, Tajikistan, and Uzbekistan through the provision of technical assistance and complementary capacity building seeking to strengthen the use of ADR and mediation to resolve commercial disputes. In cooperation with regional governments, IDLO is supporting a functional analysis of the mediation system in beneficiary countries. With respect to the private sector, IDLO is supporting Small and Medium-Sized Enterprises (SMEs) in the use of online mediation as a preferred method of dispute resolution, both during and after the COVID-19 pandemic period. IDLO is also providing relevant capacity building activities to judicial and private sector entities, highlighting the role that ADR mechanisms can play in supporting efforts to recover from the pandemic.