Enabel

Executive summary

Evaluation report on the Support Project for Strengthening Justice to Combat Impunity (PARJI)

BFA 20003_ALI-J

Burkina Faso

ADE

Final report

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Agence belge de développement

enabel.be

Presentation of the evaluation

The final evaluation of the Support Project for Strengthening Justice to Fight Impunity in Burkina Faso (PARJI) was based on evaluative questions covering the six DAC criteria of the OECD, with a focus on effectiveness and relevance. The evaluation took place in a national context marked by the security challenges faced by the country which has been confronting terrorist attacks across almost its entire territory for nearly a decade. The evaluation aims to provide useful information to the European Union, the Enabel agency, the project team, the authorities of Burkina Faso and specifically the actors in the judicial system, as well as any institution wishing to provide technical and financial support to the Burkinabe justice sector.

The evaluation was conducted in the following four phases:

Initiation Phase

During this phase, the inception report was drafted, detailing the methodology, data collection tools and timetable. The kick-off meeting and preparatory meetings enabled the evaluation team to finalise preparations for the field phase in consultation with local partners.

Data Collection Phase

The data collection phase was mainly based on a documentary review and individual face-to-face interviews, supplemented by online interviews and focus groups. The document review was carried out using materials provided to the consultants via Enabel's document-sharing and archiving platform. The team also consulted various publications and research on the Burkinabe justice system or related or comparable countries, providing useful data for the evaluation.

The interviews with key stakeholders took place in the intervention area of Enabel, represented by the jurisdiction of the Ouagadougou Court of Appeal, covering 7 administrative regions and 14 High Courts. The security situation and accessibility were verified during the inception phase with the latest available information. Based on this, face-to-face interviews were conducted with 8 High Courts. Interviews were also held with specialized institutions such as the National Agency for the Management and Recovery of Seized or Confiscated Assets (ANAGRASC), the Legal Assistance Fund (FAJ), judicial units specialized in the fight against terrorism and cybercrime, judicial interpreters, the National School of Administration and Judiciary (ENAM), the National Land Observatory (ONF), village land conciliation commissions, as well as with experts and Civil Society Organizations (CSOs).

The sampling aimed to achieve the highest level of representativeness while considering the conditions of the field mission, which was of limited duration, and the travel difficulties. Priority was given to in-depth meetings with representatives of central justice sector institutions, with a significant number of judges and prosecutors from the courts of the capital, Kaya, Koudougou, Manga, Po, Yako, and Ziniaré, as well as with individuals and organizations likely to provide relevant information from the perspective of litigants. Throughout all interviews, the parties were assured of the confidentiality of the information provided and the evaluations conducted. At the end of the data collection phase, an initial synthesis of the main results was presented through two "on-the-spot" debriefing sessions.

Analysis and drafting phase

This stage involved analysing and summarising the results to answer the evaluation questions. The answers to the questions are based on the triangulation of the methods and sources of information collected. The draft version of the report shared with Enabel was finalised based on comments from the reference group.

Written and oral comments and observations made during the debriefing meeting were taken into account to draft the final report.

Debriefing Phase

The final phase includes the presentation of the results, conclusions, and recommendations. A meeting was organized via video conference, gathering the project's key stakeholders. A PowerPoint presentation was provided to Enabel prior to the meeting to share the various results, conclusions, and recommendations. Comments were discussed and included where applicable in the final version of the report.

Findings and conclusions

Coherence	A	**PARJI has demonstrated a satisfactory ability to ensure complementarity, harmonization, and coordination with other international actors active in Burkina Faso's justice sector. Enabel regularly coordinated its actions with Coginta, the United Nations Development Program (UNDP), and the International Development Law Organization (IDLO), with a view to sharing experiences and harmonizing practices on specific points** where there was synergy among beneficiary groups. However, no actions led to resolving issues. Additionally, **Enabel established a good working relationship with IDLO**, which helped avoid duplication and enabled the distribution of areas of intervention. This contributed to the concentration of efforts and synergy with the activities of the "access to justice" component. Coordination meetings allowed stakeholders supporting legislative reforms to mutually complement and enrich their respective proposals. **Enabel, IDLO, and the American Bar Association - Rule of Law Initiative (ABA-ROLI) successfully implemented specific coordination efforts in the field of legal aid. A coordination initiative with Belgian organizations was launched** to establish links with international centers of expertise in forensic medicine and various other areas. **Coordination with the EU can be considered satisfactory.**
Relevance	A	**The relevance of the project is very high, both in its overall design and in defining specific objectives.** This high degree of relevance is primarily related to the choice of a **sector and action priorities where the country's needs are relatively clear and where the likelihood of blockages related to short-term political priorities is lower.** Among the choices that contributed to achieving a very satisfactory performance in terms of relevance is the identification of objectives that do not necessarily require legislative intervention and for which it is relatively easy to find examples of best practices and reference models in other countries, given that these are common issues in most judicial systems. **Regarding local justice, relevance is ensured by the increasing importance of certain categories of disputes and by the fact that the chosen institutions represent junction points between state justice and traditional systems.** Moreover, decisions based on customary rules were made within the framework of essential guarantees of the rule of law. The validity of the substantive choices is demonstrated. Indeed, **changes at the level of the Ministry of Justice and Human Rights, responsible for relations with institutions (MJHRRI) have not impacted the implementation of activities**, and good collaboration with various implementation partners has continued. **The**

		project's activities remain relevant to the main challenges, concerns, and needs of partners and contribute to addressing them. All the objectives are fully aligned with sectoral policies. The design of the intervention appears to remain quite relevant, even in the light of the currently known lines of reform in the field of criminal procedure. PARJI has constituted and remains a strategic action structure for updating the knowledge of actors on legislative developments with an immediate impact on the proper administration of justice. **Strengthening the criminal justice chain, a key aspect in the project's design, was a major need for the actors in the Burkinabe judicial system**, as uniformly represented on several occasions by partners/institutions, civil society organizations, and litigants. The relevance of targeted action to strengthen state justice is reinforced by the development of various forms of private justice in several localities in the country, accompanied by widespread dissatisfaction with judicial institutions. **The project's design is closely aligned with the needs and priorities of the country, as evidenced by the emphasis on strengthening the capacities of justice actors**, particularly magistrates and clerks. This posed a major structural challenge given the limited financial resources of the department. Specific aspects have also significantly contributed to estimating the overall level of relevance as very high: **activities that facilitated the establishment of a judicial interpreter pathway within the nomenclature of public service jobs in Burkina Faso**, with the effective start of initial training for the first two cohorts; and the inclusion of awareness-raising actions initiated for the benefit of the population through the FAJ within the project's structure. The project's alignment with primary needs in terms of ensuring an effective fight against forms of crime that pose greater risks to the rule of law can be easily affirmed concerning activities aimed at improving the work of the ECOFI/BCLCC unit, which have strengthened the skills of staff as well as the material and IT resources of the structures. **The emphasis placed in the project's design on land conflicts and the difficulties in managing them is another important element contributing to a very high level of relevance**. The activation of Village Land Conciliation Commissions (CCFV) was an essential step in mitigating the congestion of courts in certain jurisdictions, despite the absence of formal institutional anchoring due to the lack of a text establishing the existence of CCFVs within local authorities. Law No. 034-2009/AN on rural land tenure focuses in Article 96 on "local bodies usually responsible for managing land conflicts" and establishes that "considering local circumstances, local land charters may provide for the establishment of ad hoc local bodies responsible for managing rural land conflicts." In the absence of a strong political initiative to establish CCFVs across the country, the effectiveness of any proximity justice action remains inevitably limited.
Effectiveness	B	**The project has produced significant results during its implementation, although these results vary according to specific objectives**. The outcomes involving strong technical engagement from the State have only been partially achieved, primarily concerning the results related to support for hearings (OS 1).

		Despite the changes at the MJHHRI (two ministers in less than a year) and in the team, the project has managed to maintain good collaboration with various partners. **Regarding support for hearings, the results are satisfactory in terms of relieving the workload of correctional chambers**. Except for the High Court of Pô, all functional jurisdictions under the jurisdiction of the Ouagadougou Court of Appeal have benefited from PARJI support. While the backlog has been reduced through intervention, it has been difficult to establish the proportion of pre-existing cases handled due to the unavailability of statistical data. The project has supported discussions for implementing sustainable solutions to reduce congestion in criminal courts. Legislative support activities have led to the inclusion of a mediation mechanism in the draft reform of the Code of Criminal Procedure. **The project has increased the participation and presence of witnesses and victims at extraordinary hearings.** One of the central contributions of the project has been the capacity-building of actors (magistrates, clerks, police officers) on various topics addressing their theoretical and practical needs. This includes both initial training and continuous professional development. **Support for the consultation frameworks of the actors in the criminal chain from various High Courts jurisdictions is particularly appreciated by stakeholders.** Additionally, these consultation frameworks contribute to improving communication and coordination among the actors in the criminal chain within the jurisdictions. **The PARJI has assisted the Judicial Assistance Fund (FAJ) in equipping the Judicial Assistance Commissions (CAJ) located in the High Courts. The project has also enabled the training of local actors such as members of Village Development Committees and has carried out awareness-raising actions for community leaders and the general public**. Thanks to this intervention, **Burkina Faso has formalized the body of judicial interpreters, with the first two cohorts currently in training at ENAM**. The project has established regulatory instruments in this area, recruited students, made curricula available, and provided classrooms and teaching materials. The national languages currently involved are Mooré, Gourmanchté, Fulfuldé, and Dioula. **The project initiated and promoted the creation of consultation frameworks for all actors in the criminal chain**. These frameworks bring together a wide range of stakeholders, including experts likely to contribute to the proper administration of criminal justice. The consultation frameworks have received technical support for their facilitation. However, **the expanded format of the consultation frameworks remains costly, and the sustainability of this action at the end of the project is at risk due to the lack of a budget line to finance the activity**. Given the benefits of the consultation frameworks for actors in the criminal chain, the Ministry of Justice has decided to formalize this framework in a restricted format through the adoption of a decree for this purpose**. One of the notable successes of the project has been operationalizing the ANAGRASC and ensuring its effective functioning.** As noted by several interlocutors, without the intervention of PARJI, the ANAGRASC would not have become a reality. The project has played a decisive and useful role in equipping the jurisdictions with office and In addition to providing an opportunity

		to share experiences, these consultation frameworks have improved communication, dialogue and coordination between stakeholders**. It has highlighted the work of forensic doctors as contributors to better case management.** The project has, among other things, equipped the medical-legal centers in Ouagadougou and Ouahigouya, integrated forensic doctors into the consultation frameworks as experts in the criminal chain and initiated the training of three new doctors.
Efficiency	B	**Following dialogue between the EU and Enabel on adjusting performance indicators, the project aims to achieve the results defined in the revised logical framework**. At the time of the field mission, **the remaining activities were continuing normally, and they should enable the project to complete the agreed actions within the allocated time and available resources, overall satisfactorily.** **The intervention mechanisms and inputs/resources provided by the EU were adequate** to achieve the expected major results. The project team managed the allocated funds efficiently and flexibly, considering the difficulties and new needs expressed by the actors. However, the late agreement on reallocating funds initially allocated for the sessions of the criminal chambers of the Court of Appeal impacted the adjustment of activities. This led to the non-consideration or implementation of certain activities during the contractual duration of the project from May 2021 to April 2024. **The cost-free extension of the project until October 2024 allows PARJI to fill this gap and respond to relevant needs expressed by field actors to strengthen and even sustain the achievements.** The exclusion of infrastructure development from the eligible activities package limited the achievement of objectives in certain jurisdictions. Despite the changing context (constitutional revisions in 2022) and the temporary suspension of activities for civil society organizations in October 2022, the project has managed to maintain its momentum and complete the planned activities.
Sustainability	B	**Given the nature of the activities and the context in which judicial institutions operate, the project presents characteristics that contribute reasonably satisfactorily to the sustainability of the improvements made in terms of accessibility and quality of justice, particularly concerning the fight against crime.** Thanks to advocacy carried out by the project and IDLO, the Ministry of Justice has formalized a decree allowing each High Court to establish a consultation framework for the actors in the criminal chain. The project plans to assist certain jurisdictions in operationalizing the restricted frameworks that will be established in accordance with the decree. In terms of support for specialized judicial poles ECOFI and structures involved in combating economic and financial crime, the project has supported the operationalization of the ANAGRASC. To date, members have been appointed, and the institution has been provided with an office space. Judicial interpretation has been formalized, and the recruited individuals will be integrated into the public service as a fully-fledged profession. To ensure effective work, a lexicon of legal terms in national languages has been developed for the stakeholders.

Impact	B	**From a human rights perspective, the intervention has improved the respect for the rights of individuals in custody, compliance with deadlines, and the fight against cases of torture through visits initiated by prosecutors in police stations and gendarmeries**. PARJI has also ensured fair trials for litigants through judicial interpretation. Furthermore, the project has helped combat mistreatment and other abuses faced by populations due to the rise of private justice in certain localities, leading to an improvement in the perception of litigants who have regained trust in the justice system. Regarding gender equality, it is worth noting that the intervention has allowed, thanks to the involvement of forensic doctors, a more effective repression of cases of gender-based violence (GBV). The intervention has improved access to justice despite the security context, thanks to the activation of proximity justice, awareness-raising among populations about their rights, and legal and judicial assistance provided to witnesses and victims.

Conclusions

Relevance

1. Support for the criminal justice chain remains a priority even without a revision of the legislative framework.
2. An approach based on mutual reinforcement between formal justice and local/traditional justice used by PARJI will also be the model applied in Burkina Faso in the future.
3. The interaction between retributive and restorative justice on which the project is based is aligned with the current legislative direction in Burkina Faso, where a broad application of criminal mediation can be expected, according to guidelines yet to be identified.
4. The focus on strengthening forensic medicine addresses very specific and urgent needs of the judicial system.
5. The need to strengthen the role of interpreters in the judicial system, which is already based on essential priorities related to access to justice, is likely to grow with the new status of national languages recently introduced into the constitution. This results from the weakening status of French and the need to allow litigants to use the new official languages of the country.

Effectiveness

6. PARJI was able to instill in the justice culture of actors a focus on good practices in court management, judicial administration, and a sensitivity to work organization and planning. These experiences could provide important management tools to court leaders.
7. PARJI's work has developed a useful knowledge base for the ongoing revision of the 2019 Criminal Procedure Code as well as for the general improvement of the legal framework in criminal matters.
8. PARJI contributed to the real operationalization of local justice in land conflict management, although this operationalization remains theoretical in several areas.
9. PARJI helped establish effective communication between judicial actors, instill awareness of forensic medicine as an investigative tool, and prepare the strengthening of judicial interpretation capacities.
10. PARJI significantly contributed to preparing a more effective prosecution for specific categories of criminal actions (e.g., economic and financial offenses, organized crime, gender-based violence).

11. Capacity-building activities could be affected in the future by the new structure of relations between the judiciary and the executive.
12. Limiting interventions in the justice sector to only one region of the country may not be viable in the long term due to the risk of reactions from judicial personnel in other regions, who may feel unfairly disadvantaged.

Impact-gender-human rights

13. The project involves an overall improvement in access to justice, with positive effects on the protection of various categories of human rights, primarily procedural rights (the right to a fair trial including the right to legal assistance, interpretation, and a trial within a reasonable timeframe), but also the right to liberty and security (prohibition of arbitrary arrests); and more generally, equality of treatment and non-discrimination.
14. The project includes various activities that immediately benefit vulnerable women and could further develop its gender perspective.
15. No unintended effects observed.

Success factors

16. Pragmatic and flexible approach of the team and the project.
17. High adaptability of the project and concrete response to the real needs of stakeholders.
18. The project's focus on technical aspects of justice that are relatively less sensitive to changes in the political context.

Challenges

19. Possible changes to the legislative framework during the process. For example, the introduction of extremely broad applications of criminal mediation could lead to new priorities.
20. Difficulties in launching local justice due to delays in operationalizing competent commissions at the local level in many parts of the country.
21. Tensions between the judiciary and political actors (as seen in the repercussions of the recent reform of the Supreme Council of the Judiciary), which could affect the commitment of justice professionals in implementing reforms.

Recommendations

Recommandation	Related conclusion(s)	Targeted actor(s)	Level	Priority	Type
In the formulation of any future project, prioritize intervention areas (such as land law, family law, minor criminal law) where there is interaction between state judicial institutions and traditional or customary dispute resolution instruments, in order to maximize or enhance effectiveness in dispute resolution.	2, 8, 20	Enabel HQ /EU DEL / (in coordination with partner Government institutions in BF)	3 and 4	Long term	Strategic
In the formulation of any future project, consider how to better include intervention modes in the judicial system that take into account the possibility of a shift towards widespread recourse to criminal mediation or other forms of restorative justice to maximize the decongestion of the judicial system through alternative forms of justice.	3	Enabel HQ /EU DEL / (in coordination with partner Government institutions in BF)	3 and 4	Long term	Strategic

In the formulation of any future project, identify opportunities for international partnerships or other forms of technical support to strengthen forensic medicine.	4,9	Enabel BF/EU DEL	4 and 2	Short term / Medium term	Strategic
In the formulation of any future project, capacity-building actions should include useful tools to motivate heads of jurisdictions to ensure their effective commitment to improving the performance of the judicial services under their direction.	6, 21	Enabel HQ /EU DEL / (in coordination with partner Government institutions in BF)	3 and 4	Medium term	Strategic
Future forms of intervention regarding the role of interpreters in justice and their training must take into account the new constitutional status of national languages.	5	Enabel HQ/EU DEL	3 and 4	Medium term	Strategic
The planning of future criminal justice actions focused on the most serious forms of crime should always consider all components of the system, including judicial institutions, police forces, and any other institutions involved in investigative or enforcement activities (e.g., ANAGRASC).	10	Enabel HQ /EU DEL / (in coordination with partner Government institutions in BF)	3 and 4	Medium term	Strategic
The gender impact could be strengthened in future interventions by including activities aimed at improving gender equality in recruitment and career advancement within the judicial system, as well as for litigants.	14	Enabel HQ /EU DEL / (in coordination with partner Government institutions in BF)	3 and 4	Medium term	Strategic
In future interventions, explore the possibility of other forms of support for the justice sector that do not limit activities to a single region of the country.	4, 2, 8	Enabel HQ /EU DEL / (in coordination with partner Government institutions in BF)	3 and 4	Medium term	Strategic

Lessons learned

The main lesson to be drawn from the PARJI experience is the value of **flexible planning and execution adapted to the context, not tied to an abstract idea of "the rule of law",** while ensuring the protection of fundamental rights. Indeed, the PARJI project starts from the awareness that the reality of justice, both criminal and civil, cannot be reduced in Burkina Faso to legislative data. The project decided to invest, on the one hand, in non-state institutions and, on the other hand, in the self-organization capacities of professional elites within the jurisdictions.

This operation was not without risks, particularly because while the involvement of magistrates in training activities may be relatively easy, the voluntary introduction of work methodologies that directly affect the internal dynamics of offices in the daily life of jurisdictions can present challenges. This perspective was complemented by the inclusion of targeted actions (strengthening forensic medicine and interpretation) addressing areas with major structural weaknesses.

The choice of an approach that does not focus on strengthening legislation or merely providing training has led to implementation difficulties. Indeed, intervening in the work methods of judicial staff requires engaging experts who have a detailed understanding of the concrete functioning of the country's jurisdictions and can make reliable predictions about the feasibility and usefulness of proposals. In such a perspective, international experts, no matter how qualified, may struggle to navigate practical realities. By

choosing this approach, another issue was the difficulty of building valid success indicators, unlike projects aimed at achieving legislative innovation or providing training, both of which are subject to uncertainties regarding their feasibility but can be verified once completed.

In the case of PARJI, identifying the reduction of court backlogs as one of the results to be achieved involved a certain degree of risk, given the complexity of the present variables. An additional contextual difficulty was that a significant portion of the project's implementation occurred during a period of great political volatility.

The experience of PARJI highlights the value of justice sector assistance projects in complex contexts that are designed and implemented with a stable presence of teams of experts who possess a solid understanding of judicial practice and the reality of the work of the courts in the country, as well as a wide network of relationships; without indiscriminately proposing foreign models of "case management," with the inclusion of practical support for the involved jurisdictions beyond "knowledge transfer."