

ANNEX

to Commission Implementing Decision adopting an Annual Action Programme for Turkey under the Instrument for Pre-accession Assistance (IPA II) for the year 2017

1. IDENTIFICATION

Beneficiary	Turkey
CRIS/ABAC Commitment references	IPA/2017/40201
Total cost	EUR 313 085 421
EU Contribution	EUR 123 100 000
Budget line	22.02.03.01
Management Mode/ Entrusted entities	<p><i>Indirect management with Turkey:</i> The Operating Structure responsible for the execution of the actions is the Central Finance and Contracts Unit (CFCU) at the Under-Secretariat of the Treasury</p> <p>Action 1 – EU Support to Participation in Union Programmes and Agencies: implementation will consist in the payment of the IPA part of the financial contribution to the programmes by the National Fund.</p> <p>Action 2 – Supporting Fundamental Rights Reforms in Turkey</p> <p><i>Direct management by the European Commission:</i> Action 2 - Supporting Fundamental Rights Reforms in Turkey (evaluation)</p>
Final date for concluding Financing Agreements with the IPA II beneficiary	At the latest by 31 December 2018
Final date for concluding procurement and grant contracts	3 years following the date of conclusion of the Financing Agreement, with the exception of the cases listed under Article 189(2) Financial Regulation
Final date for operational implementation	6 years following the date of conclusion of the Financing Agreement.
Final date for implementing the Financing Agreement	12 years following the conclusion of the Financing Agreement.
Programming Unit	NEAR A.5 – Turkey unit
Implementing Unit/ EU Delegation	EU Delegation to Turkey

2 DESCRIPTION OF THE ACTION PROGRAMME

2.1 SECTORS SELECTED UNDER THIS ACTION PROGRAMME

- ***Rationale for the selection of the specific sectors under this programme:***

With the aim to concentrate financial assistance for Turkey from the Instrument for Pre-Accession Assistance (IPA II) on current key political priorities, the proposed Annual Action Programme for 2017 falls under a sub-sector identified in the Indicative Country Strategy Paper for 2014-2020 (ISP) for Fundamental Rights. It also includes co-financing for Turkish participation into Union Programmes and Agencies under the sector Democracy and governance.

The Commission 2016 Report on Turkey¹ recorded backsliding in a number of areas, notably rule of law, and fundamental rights and freedoms. It is of importance to consider the overall political situation in Turkey, how it evolved through previous and will evolve over the next period as well as how it will influence the impact of fundamental rights programmes. The full respect of the rule of law and of fundamental rights and freedoms are crucial for EU assistance.

The Commission and Turkey have maintained a frank, open and constructive dialogue including in the framework of high level sectorial dialogues. The Commission has maintained close contact with the Council of Europe, which has itself broadened and intensified its dialogue with Turkey. Turkey is a candidate country and the EU stands ready to support Turkey in dealing with the challenges it faces and coping with the current situation, in line with European standards. Financial assistance to Turkey in the areas of rule of law and fundamental rights aims at supporting Turkey in its efforts to meet the obligations it has committed to as a candidate country as well as a member of the Council of Europe.

Furthermore, the Presidency conclusions on Enlargement of 13 December 2016, paragraph 23 stated that regarding Turkey: "*(...) The Council notes the Commission's intention to intensify its efforts to redirect IPA funds to support activities in the sector of the rule of law, human rights and freedom of expression, with a particular focus on civil society.*" Similar calls on the Commission were also included in resolutions of the European Parliament adopted on 24 November 2016 and 6 July 2017.

While the EU recognises the need to take proportionate action in its efforts to bring the culprits of the attempted coup to justice, Turkey, as a candidate country and a signatory of the European Convention on Human Rights, must respect the rule of law and fundamental rights and the right for everyone to have a fair trial and address the serious shortcomings in the areas of rule of law and fundamental rights and freedoms.

¹ The Report is available at the following link: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf

In line with this position, and the further challenges in a post-coup situation, the programme is designed to support activities in the sectors of Democracy and Governance and Rule of Law and Fundamental Rights giving strong focus on the sub-sector of fundamental rights including freedom of expression and media. The programme furthermore includes the action to co-finance Turkey's participation in Union programmes and agencies.

Participation in Union programmes and agencies is an important element covered under the sector **Democracy and Governance**, an area where Turkey has been active and developed capacities. Turkey's participation in Union programmes which allows for exchange between Turkish and EU citizens, serves the engagement of actors promoting European values, provides opportunities and fosters strong links for those in Turkey who share European values and see the EU as an anchor for reforms. It is an important complementary measure in this regard. Allowing for exchanges between Turkish and EU citizens, some of the Union programmes can also contribute to civil society dialogue. Continuing participation in Union programmes and agencies is important for both Turkey and the EU.

Rule of law and fundamental rights lie at the heart of the enlargement strategy. The fundamental rights sub-sector aims at enhancing the full enjoyment of all fundamental rights and freedoms by all individuals without any discrimination through strengthening the institutional capacity of the relevant institutions and enhancing effective cooperation between all stakeholders, including civil society organisations. The non-exhaustive list of thematic areas in the context of the Fundamental Rights in Turkey are the protection and promotion of fundamental rights and freedoms, particularly freedom of expression, freedom of thought, conscience and religion, freedom of assembly and association, protection of personal data, women's rights, children's rights, lesbian, gay, bisexual, transgender and intersex (LGBTI) people's rights, gender equality, protection of vulnerable individuals as well as prevention of torture and ill-treatment.

This action prioritises four thematic areas, i) Strengthening the institutional capacity of the National Human Rights and Equality Institution including its function as national preventive mechanism under the Optional Protocol to the Convention against Torture ii) Enhancing freedom of expression and freedom of media in line with European standards, iii) Protection of children's rights in line with the United Nations convention on the rights of the child and the EU guidelines for the promotion and protection of the rights of the child and iv) strengthening sector coordination for fundamental rights in Turkey.

- ***Overview of past and on-going EU, other donors' and/or IPA II beneficiary's actions in the relevant sectors:***

Through the IPA pre-accession programme the EU is the main donor of financial assistance, as relatively few international donors provide grant support to Turkey.

For the fundamental rights sub-sector, the Council of Europe and UN Agencies (e.g. United Nations Development Programme – UNDP, International Organization for Migration – IOM, United Nations Population Fund – UNFPA, United Nations Children's Fund – UNICEF, UN Refugee Agency – UNHCR) are the international organisations who have traditionally

provided substantial support, together with relevant Turkish and international non-governmental organisations (NGOs) working on human rights, civil society development and other right-based areas, such as Union of Bar Associations, bar associations, trade unions and NGOs (Gender Equality Monitoring Association – CEID, International Centre for Migration Policy Development – ICMPD, the Joint Platform for Human Rights – IHOP, Civil Society Development Center – STGM, etc.). The Council of Europe has also been implementing various EU funded projects and programmes especially in the judicial area, supporting Turkey in fulfilling the Council of Europe standards in the field of human rights, rule of law, and democracy.

Fundamental rights have been at the core of programming and project implementation of previous IPA actions, also as important cross-cutting elements of other sectors such as Judiciary, Home affairs, Education, Employment and Social Policies and Public Administration. As stated in the latest thematic evaluation on Judiciary and Fundamental Rights (2012), IPA projects addressed key gaps in the understanding and implementation of European human rights instruments by the judiciary and in the promotion and protection of fundamental rights in general. In the current post-coup environment, progress in this field is all the more urgent and necessary. Furthermore, financial execution should be improved through better forecasting, procurement and planning.

In order to avoid overlapping assistance, the Commission systematically consults with Member States' embassies, International financing institutions (IFIs) and IOs (International Organisations (IOs) with the aim of improving donor coordination at sector level. The EU Delegation has organised meetings with Member States on a quarterly basis. The Delegation presents the draft IPA programmes to representatives of Member States embassies on a yearly basis and organises additional ad-hoc information sessions at sector level. These meetings include exchanges about complementary of bilateral funding from Member States, even though bilateral grant financing is very limited compared with the IPA allocations. In fields of joint interest, technical level meetings are organised.

EU has supported Turkish participation into EU programmes since 2001. The Framework Agreement on the General Principles for the Participation of Turkey in Community Programmes entered into force in 2002. Thus, Turkey's participation was governed by separate Memoranda of Understanding until 2014. Under IPA II (2014-2020) Turkey and the European Commission signed new international agreements on the participation of Turkey in the next generation of Union programmes.

Union programmes and agencies form part of the move towards ever closer relations between the partners within the EU and those in Turkey; the foster understanding of policies and working methods while facilitating exchanges of experience and best practices. Overall, Turkish participation in Union programmes and agencies has been positive for both Turkey and the EU.

List of Actions foreseen under the selected Sectors:

Democracy and Governance (in million EUR)

INDIRECT MANAGEMENT WITH THE IPA II beneficiary		OTHER IMPLEMENTATION ARRANGEMENTS	
Action 1 – Support to participation in Union Programmes and Agencies	EUR 110,1		N/A
TOTAL	110,1		TOTAL

Rule of Law and Fundamental Rights (in million EUR)

INDIRECT MANAGEMENT WITH THE IPA II beneficiary		OTHER IMPLEMENTATION ARRANGEMENTS	
Action 2 – EU support for Fundamental Rights	EUR 12,74	Action 2 – EU support for Fundamental Rights	EUR 0,26
TOTAL	12,74	TOTAL	0,26

2.2 DESCRIPTION AND IMPLEMENTATION OF THE ACTIONS

SECTOR	DEMOCRACY AND GOVERNANCE		EUR 110 100 000
Action 1	Support to participation in Union programmes and agencies	Indirect management	EUR 110 100 000

(1) Description of the Action, objective, expected results and key performance indicators

The action's objective is to ensure participation of Turkey in Union programmes and agencies by co-financing the costs of the entry-tickets / participation fees to be paid in areas such as education and youth, research and innovation, SMEs, social policy, customs and fiscal policy, etc.

Expected results of the action are as follows:

- i. Enhanced participation of Turkey in Union programmes and agencies, including increased exchanges with EU Member States;
- ii. Strengthened capacity, ownership and responsibility of Turkey (including in financial terms) for participation in Union programmes and agencies.
- iii. Strengthened EU-Turkey citizens' involvement in the European integration project in complementarity with institutional and political cooperation.

The following *key indicators* will be considered for the performance measurement of this action:

- Number of programmes for which an International Agreement has been concluded;
- Turkey's participation rates in the different Union programmes.

(2) Assumptions and conditions

The participation of the IPA II beneficiary in Union programmes, including payment by the country of the entry ticket / participation fees, shall follow the specific terms and conditions set out for each programme in the relevant International Agreement.

Failure to comply with the requirements set out above may lead to a recovery of funds under this programme and/or the re-allocation of future funding.

(3) Implementation arrangements for the action: Indirect management with Turkey.

(3)(a) Entity entrusted with budget implementation tasks

This action will be carried out by the National Fund.

(3)(b) Short description of the tasks entrusted to the entity

Implementation will consist in the payment of the IPA part of the financial contribution to the programmes by the National Fund.

The National Fund is responsible for the pre-accession financial assistance share of the financial contribution to be paid by the country to participate in Union programmes and agencies.

Upon entry into force of the Financing Agreement, the National Fund may request from the Commission the transfer of the full amount of pre-accession financial assistance. The Commission will time the transfer taking into account the principle of sound financial management. These funds must be used to pay the EU share of the financial contribution to be paid by Turkey to participate in Union programmes and agencies.

Turkey shall pay its total financial contribution as stipulated in the relevant international agreements signed between Turkey and the European Commission, and within the deadlines specified in those agreements. In case the Financing Agreement has not entered into force by the deadline, IPA funds will be transferred to the National Fund on the basis of its request upon the entry into force of the Financing Agreement and shall be used to reimburse the financial contribution paid by Turkey.

IPA 2017 funds will co-finance entry tickets / participation fees for the Union programmes and agencies Horizon 2020, COSME, Customs 2020, Fiscalis 2020, Employment and Social Innovation (EaSI), Civil Protection Mechanism, European Monitoring Centre for Drug and Drug Addiction (EMCDDA), European Environment Agency (EEA) for the year 2018 and 2019, and Erasmus+ for the year 2018 only.

SECTOR	<i>RULE OF LAW AND FUNDAMENTAL RIGHTS</i>		<i>EUR 13 000 000</i>
Action 2	<i>Supporting Fundamental Rights Reforms in Turkey</i>	<i>Indirect Management</i>	<i>EUR 12 740 000</i>
		<i>Direct management</i>	<i>EUR 260 000</i>

(1) Description of the Action, objectives, expected results and key performance indicators

This action will consist of four activities: 1) strengthening the institutional capacity of the National Human Rights and Equality Institution of Turkey; 2) promoting freedom of expression in line with European standards; 3) supporting children's rights in Turkey and 4) strengthening the Fundamental Rights Sector Coordination .

The overall objective is to achieve measurable progress towards the full enjoyment of all fundamental rights and freedoms by all individuals without discrimination in all areas. The specific objective is to support the promotion and protection of Fundamental Rights Reforms.

Expected results of the action are as follows:

- i. Institutional Capacity for Fundamental Rights reforms improved;
- ii. Increased awareness of the rights of media professionals and journalists;
- iii. Care services for children improved and combatting child labour strengthened in the best interest of the child;
- iv. Strengthened Fundamental Rights Sector Coordination.

The following *key indicators* will be considered for the performance measurement of this action:

- Degree of progress in the implementation of the Action Plan on prevention of ECHR violations
- Extent to which implementation and monitoring capacity in the Fundamental Rights increased
- Number of Monitoring, Coordination and Consultation mechanisms including civil society
- Degree of well-being of the children benefitting from different kinds of child care services
- The extent of the implementation of the action plan for combatting child labour
- Number of staff with increased skills

(2) Assumptions and conditions

Assumptions:

- Stakeholders' dedication to participate and cooperate throughout the process; implementation arrangements require strong, reliable and committed partners among Turkish institutions;
- Continued commitment to the EU accession process and to the political and judicial reform agenda;
- Ministries and other relevant public institutions lend high level support for the measures;
- Adequate number of staff appointed for the trainings and for the management of the support mechanisms.

Conditions:

The implementation of the action requires continued commitment by the Turkish authorities, including political support to achieve the actions objective and expected results as well as sufficient and stable staffing of the beneficiary institutions allocated to project implementation. Activities 1 and 2 are conditional upon the strong commitment of the UNDP and the Council of Europe; on allocation of sufficient own staff resources to prepare and implement the activities; assignment of direct counterparts per activity at the Headquarters as high level responsible for overall implementation. Activities 3 and 4 are conditional upon the strong coordination with stakeholders on behalf of the lead institution in this sector.

Failure to comply with the requirements set out may lead to a recovery of funds under this programme and/or the re-allocation of future funding.

Activity 1

At the start of the activity, the National Human Rights and Equality Institution must be on the way to become fully operational and shall act in line with the Paris principles. The basis for the relevant analysis will be the Country Report as well as assessments by relevant international institutions and civil society organisations.

Activity 2

The activity is conditional upon strong political support for implementation by all key stakeholders including law enforcement, judicial bodies and the regulatory authorities. The sector lead institution will be in charge of providing the necessary assessment of this pre-condition in the form of a report. Relevant international institutions (including the Council of Europe) and civil society organisations will provide additional evaluations in this regard.

Activity 3

The activity should be implemented taking into account the major elements of the rights-based approach and focus on the best interest of the child. Synergies with the Human Resources Development Operational Programme should be monitored in the design and implementation of the activity.

Providing alternative care in line with the relevant UN instruments and guidelines as well as the EU Guidelines for the Promotion and Protection of the Rights of the Child is recommended. Furthermore, the commitment of the Ministry to work with civil society organisations is essential. The sector lead institution will be in charge of providing the necessary assessment of this pre-condition. Relevant international institutions (including the Council of Europe) and civil society organisations will provide additional evaluations in this regard.

Activity 4

The activity is conditional upon strong political support for implementation by all key stakeholders including law enforcement bodies and other bodies in contact with the public and civil society. The lead institution will be in charge of providing the necessary assessment of this pre-condition in the form of a report.

An evaluation of the activities will be carried out in line with DG NEAR guidelines for evaluation.

(3) Implementation arrangements for the action

Activity 1-4 within this action will be carried out under indirect management by the IPA II beneficiary, Turkey.

The evaluation of activities within this action will be carried out under direct management by the European Commission (EU Delegation in Turkey).

(3)(a) Entity entrusted with budget implementation tasks

Activity 1-4 within this action will be carried out under indirect management by the CFCU as the operating structure.

(3)(b) Short description of the tasks entrusted to the entity

The entrusted entity shall be responsible for carrying out all the tasks relating to the implementation of the action. In particular, the entrusted entity shall be responsible for the contracting, implementation, information and visibility, monitoring and reporting of IPA II activities, and the evaluation thereof whenever relevant, in accordance with the principle of sound financial management, and for ensuring the legality and regularity of the expenditure incurred in the implementation of the programme.

The Ministry of EU Affairs is designated as the Lead Institution for the Fundamental Rights in accordance with the IPA II Framework Agreement between Turkey and the EC. As the Lead Institution, Ministry for EU Affairs is responsible for overall programming, monitoring and evaluation in the sub-field.

The Lead Institution will liaise closely with other relevant institutions and in particular with the National Human Rights and Equality Institution and Ministry of Family and Social Policies. The Ministry of Family and Social Policies is responsible for the implementation of policies directly benefiting vulnerable children in Turkey in line with national strategy documents and international legal instruments.

(3)(c) Essential elements of the action (for direct management)

Procurement:

a) the global budgetary envelope reserved for procurement: EUR 260 000

b) the indicative number and type of contracts:

- One specific contract based on an existing framework contract

c) indicative timeframe for launching the procurement procedure: 2019 Q2

3 BUDGET

3.1 INDICATIVE BUDGET TABLE - COUNTRY ACTION PROGRAMME FOR TURKEY

	Indirect Management with the IPA II beneficiary				Other implementation arrangements					
		EU Contribution	IPA II beneficiary Co-financing	Total expenditure		EU Contribution	IPA II beneficiary Co-financing	Total expenditure	MM	Total programme
Objective 1 2017/040-201	1. Democracy and Governance	110 100 000	189 985 421	300 085 421						300 085 421
	Action 1 Support to participation in Union Programmes and Agencies	110 100 000	189 985 421	300 085 421					IMBC	
	2. Rule of Law and Fundamental Rights	12 740 000	0	12 740 000	Rule of Law and Fundamental Rights	260 000	0	260 000	IMBC and Direct Management	13 000 000
	Action 2 Supporting Fundamental Rights Reforms in Turkey	12 740 000	0	12 740 000	Action 2 Supporting Fundamental Rights Reforms in Turkey	260 000	0	260 000		
	TOTALS	122 840 000	189 985 421	312 825 421		260 000		260 000		313 085 421

4 IMPLEMENTATION MODALITIES AND GENERAL RULES FOR PROCUREMENT AND GRANT AWARD PROCEDURES

INDIRECT MANAGEMENT:

This programme shall be implemented through indirect management by Turkey in accordance with Article 58(1)(c) of the Financial Regulation and the corresponding provisions of its Rules of Application.

The general rules for procurement and grant award procedures shall be defined in the Financing Agreement and the relevant delegation agreements between the Commission and the entrusted entity implementing such action.

DIRECT MANAGEMENT:

Part of this programme shall be implemented through direct management by the EU Delegation to Turkey in accordance with Article 58(1)(a) of the Financial Regulation and the corresponding provisions of its Rules of Application.

Procurement shall follow the provisions of Part Two, Title IV Chapter 3 of the Financial Regulation No 966/2012 and Part Two, Title II, Chapter 3 of its Rules of Application.

Grant award procedures shall follow the provisions of Part Two Title IV Chapter 4 of the Financial Regulation No 966/2012 and Part Two Title II Chapter 4 of its Rules of Application.

Under the Financial Regulation, Parts One and Three of the Financial Regulation and its Rules of Application shall apply to external actions except as otherwise provided in Part Two, Title IV.

The European Commission may also use services and supplies under its Framework Contracts concluded following Part One of the Financial Regulation.

5 PERFORMANCE MONITORING ARRANGEMENTS

As part of its performance measurement framework, the Commission shall monitor and assess progress towards achievement of the specific objectives set out in the IPA II Regulation on the basis of pre-defined, clear, transparent measurable indicators. The progress reports referred to in Article 4 of the IPA II Regulation shall be taken as a point of reference in the assessment of the results of IPA II assistance.

The Commission will collect performance data (process, output and outcome indicators) from all sources, which will be aggregated and analysed in terms of tracking the progress versus the targets and milestones established for each of the actions of this programme, as well as the Country Strategy Paper.

In the specific context of indirect management by IPA II beneficiaries, National IPA Coordinators (NIPACs) will collect information on the performance of the actions and programmes (process, output and outcome indicators) and coordinate the collection and production of indicators coming from national sources.

The Ministry of EU Affairs is designated as the Lead Institution for the Fundamental Rights in accordance with the IPA II Framework Agreement between Turkey and the EC. As the Lead Institution, the Ministry for EU Affairs is responsible for overall programming, monitoring and evaluation in the sub-field.

The overall progress will be monitored through the following means: a) Result Orientated Monitoring (ROM) system; b) IPA II Beneficiaries' own monitoring; c) self-monitoring performed by the EU Delegations; d) joint monitoring by the European Commission and the IPA II Beneficiaries, whereby the compliance, coherence, effectiveness, efficiency and coordination in implementation of financial assistance will be regularly monitored by an IPA II Monitoring committee, supported by Sectoral Monitoring committees, which will ensure a monitoring process at sector level.