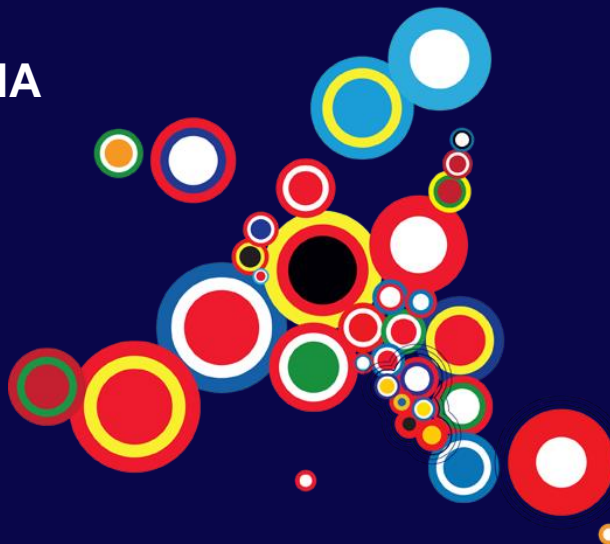




INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

BOSNIA AND HERZEGOVINA

EU for human rights and anti-discrimination



Action summary

The action will contribute to meaningful progress towards meeting the accession criteria on the protection of fundamental rights, in particular towards the most vulnerable and marginalized groups in Bosnia and Herzegovina (BiH).

The action will target effective implementation of the BiH Anti-Discrimination Law and the BiH Gender Equality Law, as well as support effective fight against torture and ill treatment of all persons deprived of liberty in BiH. Also as a result of the action, the awareness about human rights and anti-discrimination protection mechanisms in the BiH society will be increased.

Capacity building will be provided to the main institutional stakeholders that have a mandate in the area of protection of fundamental rights, to service providers as well as to victims and potential victims of discrimination, ill treatment and torture. An effective public awareness campaign on anti-discrimination mechanisms as well as strengthening of the system of monitoring and reporting of the Ministry of Human Rights and Refugees, the BiH Ombudsman institution and the Gender Equality Agency is also planned.

Action Identification	
Action Programme Title	Annual Action Programme for Bosnia and Herzegovina for the year 2017
Action Title	EU for human rights and anti-discrimination
Action ID	2017/040-524.05
Sector Information	
IPA II Sector	Rule of Law and Fundamental Rights
DAC Sector	15160 Human Rights
Budget	
Total cost	EUR 1 650 000
EU contribution	EUR 1 650 000
Budget line(s)	22.020101
Management and Implementation	
Management mode	Direct management
<i>Direct management:</i> EU Delegation <i>Indirect management:</i> National authority or other entrusted entity	EU Delegation to Bosnia and Herzegovina
Implementation responsibilities	EU Delegation to Bosnia and Herzegovina
Location	
Zone benefiting from the action	Bosnia and Herzegovina
Specific implementation area(s)	Bosnia and Herzegovina
Timeline	
Final date for concluding Financing Agreement(s) with IPA II beneficiary	At the latest by 31 December 2018
Final date for concluding delegation agreements under indirect management	N/A
Final date for concluding procurement and grant contracts	3 years following the date of conclusion of the Financing Agreement, with the exception of cases listed under Article 189(2) of the Financial Regulation
Final date for operational implementation	6 years following the conclusion of the Financing Agreement
Final date for implementing the Financing Agreement (date by which this programme should be de-	12 years following the conclusion of the Financing Agreement

committed and closed)			
Policy objectives / Markers (DAC form)			
General policy objective	Not targeted	Significant objective	Main objective
Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Aid to environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gender equality (including Women In Development)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Trade Development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reproductive, Maternal, New born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RIO Convention markers	Not targeted	Significant objective	Main objective
Biological diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Combat desertification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climate change mitigation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climate change adaptation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1. RATIONALE

PROBLEM AND STAKEHOLDER ANALYSIS

Bosnia and Herzegovina (BiH) faces many challenges regarding human rights and the protection of marginalized and vulnerable groups such as: Roma, elderly people, people with disabilities, returnees, children, persons deprived of liberty, women and men victims of wartime sexual violence, women in rural areas as well as lesbian, gay, bisexual, transgender and intersex persons (LGBTI). According to the Ministry of Human Rights and Refugees' (MHRR) Report on Occurrences of Discrimination in BiH adopted by the BiH Parliamentary Assembly in May 2016, discrimination is present in almost every sphere of life. According to the Annual Report of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina (Ombudsman BiH) "the registered number of cases does not reflect the real scale of the discrimination because such cases are not reported due to general lack of confidence in the institutions as well as due to fear of potentially negative consequences on the status of victims". Therefore, effective prevention of discrimination of vulnerable and marginalised groups needs to be tackled further.

The Anti-Discrimination Law of BiH (ADL) was adopted in 2009 (amended in 2016) and the Law on Gender Equality in BiH (GEL) was adopted in 2003 (amended in 2009). These two laws complement each other with the aim to fight and prevent discrimination and they are broadly in compliance with relevant international standards and the EU *acquis* in this area. The harmonisation of legislation at all levels of government (e.g. BiH Labour law, BiH Law on Civil Service, BiH Law on Police Officials) with the EU *acquis*, ADL and GEL needs to continue.

There are many obstacles towards the implementation of anti-discrimination legislation. According to the Report of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), the harmonisation of the domestic legislation with the GEL is not yet satisfactory. A comprehensive harmonization of legislation at all levels with the ADL and GEL as well as with the EU anti-discrimination *acquis* has not yet started. The enjoyment of rights by citizens is still hampered by excessive regulation at different levels in some policy areas, e.g. social protection, making it challenging for citizens to comprehend where and how to exercise a right or obtain protection against discrimination. Moreover, some domestic legislation includes standards and protection procedures not in line with the ADL ones which might create additional uncertainty with regard to protection of citizens (e.g. in the deadline for reporting discrimination in the entity-level Labour Laws).

The GEL defines the obligations of all governmental institutions to undertake appropriate and required measures to implement the provisions prescribed by this law and Gender Action Plan of Bosnia and Herzegovina (GAP BiH). Institutional mechanism in BiH on gender equality form a network which includes institutions at the municipal, cantonal, entity and state level both in the executive and the legislature. In order to implement measures, the government institutions must establish and implement active public policies and strategic measures to achieve gender equality. The integration of gender equality standards into all areas of social life (gender mainstreaming) is not only the obligation of gender equality institutions but of all competent institutions. The institutional capacity to implement normative frameworks for gender equality remains one of the most serious challenges in BiH, as there is a need to achieve fully operational systems of gender mainstreaming. Moreover, there is a need to strengthen the gender focal points in institutions and build their capacities to monitor the implementation of GEL and to produce analyses, indicators and monitoring reports. Some gender commissions at the cantonal and municipal level are not functional. It is necessary to strengthen their capacity to carry out activities under their mandate as well as those of relevant civil society organizations (CSOs) in order to address the issues of gender discrimination at the local level.

The Ombudsman Institution is established by the provisions of the Agreement on Human Rights, that is, Annex 6 of the General Framework Agreement for Peace in BiH, and it constitutes the fundamental guarantor for the realization of rule of law and protection of human rights and fundamental freedoms in BiH. In the framework of its mandate, the Ombudsman BiH processes complaints lodged by citizens or initiated *ex officio* whenever they identify human rights violations and lobbying for implementation of international human right standards, primarily in respect of human rights instruments ratified by BiH.

The Ombudsman BiH still records a low number of complaints of discrimination which are legally grounded in accordance with the ADL, comparing to the general public opinion of widespread discrimination in BiH

society. This is a consequence of the general public's lack of awareness of these laws and of the available protection mechanism to fight discrimination as well as of the unreadiness to report discrimination. The vast majority of victims of discrimination are not aware that they are discriminated, do not know how to report discrimination to the relevant authority, nor what protection mechanisms are available to them. The Open Society Fund BiH conducted a public opinion poll in 2011 on perception and experiences of citizens with discrimination which showed that more than a half of respondents (55.7%) were not familiar with the ADL. Only 8.3% of respondents had some knowledge on protection mechanism established by this Law and the majority of respondents (73.0%) stated that they have not taken any legal or other action after they faced discrimination. Moreover, there is no available comprehensive research identifying practical or legislative obstacles in the implementation of anti-discrimination legislation that could be addressed by educational and outreach programmes.

Although education on the fight against discrimination has been introduced (through educational programs of the entities' judicial training academies, delivered to judges and prosecutors, and law faculties' programmes to students), awareness about anti-discrimination laws remains low among law enforcement agencies and legal professionals. In addition, the analysis of the complaints submitted to the Ombudsman BiH, MHRR, Gender Equality Agency (GEA) and field work conducted by these three institutions, highlighted that civil servants and service providers lack knowledge on how to apply these laws. There is a lack of assessment on stakeholders' awareness on anti-discrimination legislation but this issue was partially assessed in the "Research on readiness of BiH institutions to implement obligations from the BiH Gender Equality Law" from 2013. This research showed that around 40% of respondents, civil servants in the BiH institutions, were familiar with the GEL standards, 33% of respondents were not sure, while 27% were not aware of this law at all. More concrete questions showed even less knowledge, ranging between 10-35% for some of the standards from the Law.

The lack of reliable data on discrimination cases still hampers effective policy-making. The number of registered discrimination complaints is not accurate, since the data is unconsolidated and there is no exchange of information among different BiH institutions. The existing unharmonized system of monitoring and reporting of MHRR (including GEA) does not reflect the real situation of human rights in BiH, neither does it reflect the changes which occurred over the time with this regard. Hence, there is a need to further strengthen the system of monitoring, evaluation and reporting in MHRR including GEA, in order to ensure result-based outcomes and a harmonized approach.

The establishment of a single database for monitoring and reporting on cases on discrimination in BiH is a legal obligation of the MHRR. This is being supported by the EU via an IPA 2011 project. The newly established database will enable the consolidation of data from different BiH institutions (currently collected independently), the use of such consolidated data for reporting to different international human rights bodies, as well as the systematic monitoring of all cases of discrimination on a number of indicators. Also as a result of IPA 2011 project, a Rulebook on methods for collection of data on cases of discrimination in Bosnia and Herzegovina has also been developed, and a technical system has been established; a methodology for the development of Guidelines for reporting on international obligations in the area of human rights is currently being developed. Therefore, there is a need for further support to the implementation of the Rulebook by strengthening the capacities of relevant institutions at all levels of government which are obliged to deliver information and statistical data in the newly established MHRR database. Such an instrument will provide a comprehensive picture of the state of discrimination in BiH and enable the development of adequate policies and strategies to tackle the issue.

As regards institutional capacities in the Fundamental Rights sub-sector, there is no systematic, coherent and coordinated approach in comprehensively addressing the problem of discrimination among the main coordinating domestic institutions (Ombudsman BiH, MHRR and GEA). A lack of clarity in institutional mandate and the absence of regular communication and cooperation leads to a certain overlap among the activities carried out by these institutions. The institutionalization of cooperation between Ombudsman BiH and MHRR/GEA should be further supported in order to enhance communication and ensure complementarity of future actions.

Bosnia and Herzegovina took over international obligation ratifying the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), envisaging the obligation to establish National Preventive Mechanism (NPM) in order to better protect and provide non-discriminatory treatment of all persons which are deprived of liberty. Taking into

account the number of complaints that required addressing issues of torture and ill treatment more systematically, the Ombudsman BiH in 2009 established the Department for the Rights of Prisoners and Detainees tasked with handling complaints and monitoring detention places. The Council of Ministers of Bosnia and Herzegovina (CoM BiH) with its conclusion from 2012, designated the Ombudsman BiH to take on the role of NPM; therefore, certain preparatory activities ensued, such as carrying out a needs assessment to establish this mechanism as well as the preparation of the legal framework in this regard. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) report highlighted the existence of widespread physical ill-treatment of detained persons conducted by law enforcement officials in institutions of both entities. Moreover, the CPT Report stressed that the legal safeguards in place to prevent ill-treatment, notably the right to receive legal assistance, remain ineffective. The absence of procedures in line with NPM mandate and the number of insufficiently trained employees of the Ombudsman BiH prevents this institution from carrying out more systematic and frequent visits to different detention places, including police stations, psychiatric hospitals, and asylum centres. This action should address these issues.

The main stakeholders of this action are: Ministry of Human Rights and Refugees BiH, the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina and the Gender Equality Agency. This action will aim to improve capacities of all three institutions since their employees will, by participating in the suggested activities, gain additional knowledge on how to effectively enhance mechanisms of protection of victims and prevention of discrimination as well as to coordinate their activities according to their mandates with that regard.

The most affected social groups by aforementioned problems, which will benefit from this action, are: women, minorities in particular Roma, elderly people, persons with disabilities, children, returnees, women and men victims of wartime sexual violence, women in rural areas, persons deprived of liberty, LGBTI etc. Furthermore, the professional community in the judicial sector such as: police, prosecutors and judges, legal professionals, gender focal points and committees, as well as CSOs that take active role in area of anti-discrimination, will benefit from this action.

OUTLINE OF IPA II ASSISTANCE

This action will improve the protection of vulnerable and marginalized groups against all forms of discrimination and ensure protection of fundamental rights as well as increase the effectiveness of the implementation of the ADL and GEL. Furthermore, the capacities of the Ombudsman BiH for combating torture and ill-treatment of all persons deprived of liberty will be strengthened.

This action will contribute to the establishment of a systematic and coherent approach that, for the first time after the legislation has entered in force, will involve all three key stakeholders (MHRR, Ombudsman BiH and GEA) jointly in comprehensively addressing the problem of discrimination and it will consequently ensure inter-institutional cooperation.

Two components will be built into the action:

1. A first component will include work with the institutions in charge of implementation of the ADL and GEL in accordance with domestic legislation focused on multisectoral and coordinated approach for protection of victims and potential victims of discrimination in cooperation with civil societies, and
2. Second component will increase capacities of Human Rights Ombudsman BiH as the main guarantor for the realization of rule of law and protection of human rights and fundamental freedoms in BiH.

The action will provide recommendations for harmonization of relevant legislation at all levels in BiH with anti-discrimination laws and the EU *acquis*. Moreover, the action will improve the effectiveness of the implementation of the ADL and GEL by providing capacity building and trainings for institutions, agencies and organizations at all levels of government that are in charge of providing services to the victims of discrimination. In addition, it will support the key stakeholders to conduct public awareness campaign with the aim to educate the public on how to properly submit the discrimination complaint and how to adequately report discrimination with the purpose of decreasing the number of cases that are not grounded in law or not qualified as discrimination.

In order to ensure quality monitoring and reporting on the status of human rights and combating discrimination, the system for monitoring and reporting of MHRR including GEA will be strengthened through capacity building based on the recommendations of the assessment of the current monitoring and reporting system. Furthermore, the action will provide capacity building of relevant institutions for monitoring and reporting with respect to data entry and utilization of the MHRR database system which is supported with the IPA 2011 project.

Additionally, the action will provide support to the Ombudsman BiH to build their capacity aiming to increase the level of their readiness to successfully take over the mandate of the NPM in the forthcoming period, which is one of the crucial international obligations of the BiH. Therefore, a Capacity Needs Analysis (CNA) will be conducted, and be used both for creating the most suitable model of NPM in Ombudsman BiH for prevention of torture and ill treatment observing EU and international standards as well as for developing and delivering training for the staff of the Department for the Rights of Prisoners and Detainees of the Ombudsman BiH.

RELEVANCE WITH THE IPA II STRATEGY PAPER AND OTHER KEY REFERENCES

This action responds to the priorities defined by the **Indicative Strategy Paper (ISP) for Bosnia and Herzegovina (2014-2017)** under the IPA II sector of Rule of Law and Fundamental Rights. ISP envisaged further support to be provided for the protection of fundamental rights through providing a monitoring and evaluation system for human rights, supporting the improvement of legal aid and minorities' access to justice. Furthermore, it has been emphasized that the support will be provided to 'mechanisms to prevent and eliminate torture, ill treatment, hate speech, gender and all other types of violence and pain-infliction in prisons.' In addition, according to the ISP, a further focus of the IPA II support will be 'on supporting of non-discrimination, gender equality, diversity, non-violent communication into education curricula, employment environments, health centres/institutions etc.'

The Commission's **BiH Report 2016** points out that the fragmented, overall incomplete and un-harmonised legal and institutional framework does not ensure equitable procedural rights and maintains discrimination in access to justice. National minorities continued to have a low presence and participation in political and public debates while Roma remained the country's most vulnerable and disadvantaged minority. With regards to the treatment of the persons deprived of liberty, according to the BiH Report 2016, reports of ill treatment of suspects in some police stations and of prisoners in some prisons and detention facilities remain a matter of serious concern which needs to be addressed. It has been further emphasized that statistical data is still not robust enough to provide enough insight on how the GEL is implemented. Furthermore, the lack of effective implementation of legislation on the prevention of and protection from gender-based violence, in particular domestic violence, remains a concern. Hence, priorities in this action are fully in line with BiH Report 2016 recommendations. Also, there is a common understanding by relevant state institutions about the need to work on further reform of the IPA II sector, Rule of Law and Fundamental Rights.

According to the **Gender Country Profile for Bosnia and Herzegovina (GCP) 2014** since gender trainings are still dominantly done outside the regular educational system, there is a constant need for additional awareness-raising of public in general on gender issues. However, the GCP also emphasizes that by providing more efficient education on gender and gender mainstreaming, it might lead to better qualified staff in different institutions. However, there are growing needs for activities and institutional cooperation in the area of gender equality since 'the more gender mainstreaming is present in society as a need and a demand, the more resources are needed to respond to those needs and demand.' Furthermore, as mentioned in the GCP there are still problems of 'harmonization of the laws, on a state level, and between different levels, since there are many issues where the lack of harmonization represents a serious impediment to the protection of human rights of women, such as in the case of victims of war crime.' In general, in the context of BiH society, there is a need to increase gender awareness of decision-makers, administration and general public. This action is completely in line with objectives of above-mentioned report.

With regards to the regional perspective, BiH is one of the initiators and a signatory of the **Regional Declaration on Cooperation of Institutional Mechanisms for Gender Equality in Western Balkan countries** which has been expanded to the Mediterranean countries. This Declaration emphasizes the need for development of a regional gender policy and establishment of gender mechanisms at the regional level. Signatory states are committed to realize continued activities in relation to the process of gender mainstreaming in macroeconomic policies as well as activities and exchange of experiences in regard to

gender reviews of the budgets and gender sensitive budgeting. This action is aligned to this regional Declaration since it will, through regional conferences, provide exchange of practices of different gender institutional mechanisms from Western Balkan. It will also provide trainings on gender mainstreaming principles for gender focal points in governmental institutions which will consequently improve institutionally related strategies and policies with regards to gender, and ensure institutional memory.

The 2015 **Report to the Government of Bosnia and Herzegovina on the visit to Bosnia and Herzegovina carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** (CPT Report) recommended to the authorities of Bosnia and Herzegovina to ensure that all psychiatric establishments are visited by an independent monitoring body (e.g. a judge or supervisory committee or Ombudsman) which is responsible for the inspection of patients' care. At present, there is 'no such independent body in Bosnia and Herzegovina visiting psychiatric establishments on a regular basis.' Furthermore, measures need be taken to 'increase the trust of prisoners in the complaints system. As well the prison management should be vigilant to guarantee the robustness of the complaints system and ensure that prisoners do not face threats and/or reprisals from prison staff for having exercised their right to lodge an application or a complaint.' The priorities identified in this action, in particular the one addressing the strengthening of the capacities of the Ombudsman BiH for combating torture and ill treatment of all persons deprived of liberty, are in line with recommendations provided in CPT Report.

According to the MHRR's **Action Plan 2016 for implementation of the proposed measures for the prevention of discrimination in Bosnia and Herzegovina** one of the key measures that the MHRR plans to conduct in the forthcoming period in order to address the issue of discrimination is to provide trainings to civil servants about all forms of discrimination. On the other hand, one of the three goals of the **Gender Action Plan BiH 2013- 2017** (GAP BiH 2013-2017) is to establish and strengthen the system, mechanisms and instruments for implementation of gender equality, in particular to monitor and improve the application of international and domestic standards for gender equality. The GAP BiH 2013-2017 emphasized the importance of strengthening and co-operation of institutional mechanisms for gender equality, raising the awareness of gender equality and monitor and assess a progress in the achievements of gender equality. So, the action is aligned to relevant strategies supported by the BiH authorities.

According to the **Operational Strategy of the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina** for the period of 2016 to 2021 some of strategic objectives with regards to discrimination envisage awareness raising of general public on the elimination of all forms of discrimination, promotion of the ADL in Bosnia and Herzegovina and associated legal remedies, monitoring of cases of discrimination before courts and other bodies, monitoring and analyzing positive legislation in the field of elimination of all forms of discrimination and other activities that should ensure effective prevention and fight against discrimination.

LESSONS LEARNED AND LINKS TO PREVIOUS FINANCIAL ASSISTANCE

Up to now, no financial assistance was provided for projects aimed to strengthening at the same time all three key stakeholders (MHRR including GEA and Ombudsman BiH) in order to build effective and efficient institutional response to combat discrimination in BiH. So far, financial assistance was mainly allocated to those projects which considered specific target groups (i.e. such as Roma, person with disabilities and children).

This action is coherent with the IPA 2011 project entitled "Technical strengthening of the capacity of the Ministry for Human Rights and Refugees and social services". This action is partially a follow up of that IPA 2011 project by means of providing tools for improving the system of monitoring and reporting of MHRR and GEA as well as by providing capacity building to relevant institutions which are obliged to deliver information for the purpose of utilization of the database established under the IPA 2011 assistance.

Bearing in mind that the outcomes of previous interventions in the area of the protection of fundamental rights were very limited and institutionally incoherent in terms of lack of cooperation between MHRR including GEA and Ombudsman BiH, the key stakeholders of this action came up with this systematic and coherent approach that will ensure inter-institutional coordination, address discrimination and enhance the implementation of the ADL and GEL.

Generally, despite substantial technical assistance provided for alignment with the EU *acquis*, the beneficiary continues to suffer from poor implementation and enforcement of laws and policies. A lesson learned for

further support is to ensure that the legislative drafting and policy-making processes ensure proper inter-ministerial coordination, impact assessment of proposed laws and policies as well as external (public) consultation of the relevant stakeholders.

2. INTERVENTION LOGIC

LOGICAL FRAMEWORK MATRIX

OVERALL OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS	SOURCES OF VERIFICATION	
To meaningfully progress towards meeting accession criteria in relation to the protection of fundamental human rights in line with the EU <i>acquis</i> and international standards	Progress made towards meeting accession criteria (Fundamental Rights)	EC reports on BiH	
SPECIFIC OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS	SOURCES OF VERIFICATION	ASSUMPTIONS
To improve protection of victims of all forms of discrimination and to strengthen capacities of institutional mechanisms addressing anti-discrimination and human rights	1.1 % of legally grounded complaints of discrimination submitted 1.2 % of ill treatment /torture cases submitted	Annual report on cases of discrimination of Ombudsman BiH Annual report on cases of discrimination of MHRR based on MHRR Database	BiH is committed to the process of EU integration. Programme to Combat Discrimination in BiH adopted Progress made in other areas of protection of fundamental rights
RESULTS	OBJECTIVELY VERIFIABLE INDICATORS	SOURCES OF VERIFICATION	ASSUMPTIONS
Result 1: Public awareness of all forms of discrimination and protection of fundamental rights enhanced Result 2: Capacities of municipal officials, gender equality bodies, service providers and vulnerable groups strengthened Result 3: Effectiveness of the implementation of the Anti-Discrimination Law and the Gender Equality Law in BiH is increased Result 4: Capacities of Human Rights Ombudsman BiH for combating torture and ill treatment of all persons deprived of liberty are strengthened	1.1 Level of public awareness on prevention and protection from discrimination 2.1 Number of individuals trained (municipal officials, gender equality bodies , service providers, education institutions etc.) 2.2 Number of individuals of different vulnerable groups trained 3.1 Operational MHRR and Gender Equality Agency monitoring and reporting system on discrimination cases 4.1 Number of monitoring visits to the places where persons are deprived of liberty	Targeted surveys Project reports Report on the MHRR Action Plan for implementation of the proposed measures for the prevention of discrimination in BiH Annual report on cases of discrimination of Ombudsman BiH Annual report on implantation of Gender Action Plan of BiH Gender Equality Agency Special Reports on visits to places where person are deprived of liberty produced by Ombudsman BiH	Other institutions active in the field of fundamental rights support the action The institutions are fully committed to cooperate together and there is a continuity in the management structure Communication tools for public campaigns chosen adequately to target various groups of the BiH society

DESCRIPTION OF ACTIVITIES

Activities to achieve Result 1: Public awareness on all forms of discrimination and protection of fundamental rights enhanced

- 1.1 Conduct research on the obstacles which prevent different groups in society to achieve equal rights and opportunities

The research findings and recommendations will provide basis for awareness raising campaign and any other type of activity that will lead to overcoming the identified obstacles. Special focus will be given to the status of Roma population in BiH.

- 1.2 Conduct campaign for raising public awareness on the prevention and protection from discrimination especially of vulnerable groups and individuals.

The wide-ranging campaign will address the most critical problems related to phenomena, forms, causes and consequences of discrimination, as well as target groups identified in the research (vulnerable groups, service providers, and wider public). It will also address the anti-discrimination mechanisms as well as EU and other human rights international standards. In accordance with findings, promotional activities plan will be developed with special focus on Roma population. Promotional material will be produced and disseminated, and more media contents introduced that promote tolerance and respect for diversity, and zero tolerance for any form of discrimination. In order to measure usefulness of public awareness campaign, an evaluation will be conducted prior to the campaign. In the final stage of this activity, an impact evaluation will be conducted also.

Activities to achieve Result 2: Capacities of municipal officials, gender equality bodies, service providers, vulnerable groups, strengthened

- 2.1 Conduct the assessment of capacity needs of executive municipality structures and their legislative gender equality bodies as well as civil society organizations with regard to prevention and protection against gender based discrimination

Based on the findings and recommendations of the assessment the selection of targeted municipalities and a plan for their capacity building will be produced

- 2.2 Provide capacity building on gender based discrimination to targeted local stakeholders

This activity will involve municipality officials, members of local gender commissions, and local CSOs dealing with gender issues. It will be implemented through series of capacity building exercises that will be determined according to the plan previously developed and exchange of information and best practices in dealing with discrimination issues at the local level. In order to ensure sustainability, training of trainers will be provided for interested individuals (municipal officials, gender equality bodies, CSOs) who participated in the series of above-mentioned capacity building exercises. The main aim of the proposed activity is to improve the work of municipal gender commissions, according to their mandates. In cooperation with local CSOs, they should be capable to influence the meaningful change in local communities towards achieving gender equality and elimination of any kind of gender based discrimination (by initiating harmonization of local legislation and policies, gender situation analyses, adoption or support to local gender action plans, and proposing measures for achieving gender equality in identified priority areas).

- 2.3 Provide capacity building to service providers (police, Centres for Social Work, CSOs) dealing with victims of discrimination

The activity will include:

- a) Develop training modules as per different target groups of service providers
- b) Organize series of capacity building exercises (trainings, seminars, workshops) for institutions, agencies and organizations at all levels of government: the relevant ministries, the police, judges and prosecutors, social work centres, healthcare facilities, educational institutions, institutions for legal aid, local government etc.

- c) Organize regional exchange of information and best practices in dealing with discrimination issues (through regional conference and meetings of gender institutional mechanisms from Western Balkans countries)

2.4 Provide guidelines and capacity building for vulnerable groups to recognize and report discrimination

This activity will include:

- a) Develop and disseminate user friendly guidelines for different vulnerable people, groups and population such as: refugees, internally displaced persons, national minorities with a special focus on Roma, migrant workers, disabled persons, elderly persons, rural women and LGBTI persons.
- b) Organize and deliver trainings, workshops for vulnerable groups on how to implement the guidelines through full engagement of CSOs that represent the interest of various vulnerable groups which will be a focus of this activity.

Activities to achieve Result 3: Effectiveness of the implementation of the Anti-discrimination Law and the Gender Equality Law in BiH is increased

3.1 Conduct analysis of the mandate/scope of work of all three key stakeholders (MHRR, GEA, Ombudsman BiH)

The findings of analysis and recommendations will provide basis for development of potential Protocol for cooperation /MoU that will define the way of cooperation between key stakeholders (GEA, MHRR, Ombudsman BiH) including their roles and responsibilities, joint and separate actions according to their mandates, as well as methods/means of exchange of information among three key stakeholders.

3.2 Provide recommendations for harmonization of relevant legislation with ADL and GEL

The activity includes the following steps:

- a) Analyses of laws, bylaws, policies and strategies in terms of compliance with Anti-discrimination Law Gender Equality Law (GEL) and EU Directives; in addition, the level of implementation of harmonized legislation by the respective institutions will be assessed. The state and entity level legislation will relate to areas where discrimination most often occurs: work and employment, education, access to services, goods and facilities, etc.
- b) Support to development of manuals / guidelines for the harmonization of legislation with ADL and GEL.
- c) Provide assistance to respective institutions in the process of harmonization of laws, policies and strategies with ADL and GEL.

3.3 Support to implementation of the Rulebook on methods for collection of data on cases of discrimination in Bosnia and Herzegovina

Capacity building of relevant institutions for monitoring and reporting with respect to data entry on cases of discrimination and reporting towards international human rights bodies for the purpose of utilization of the MHRR database system

3.4 Strengthen the MHRR and GEA system for monitoring and reporting

- a) Assess the system of monitoring and reporting in the MHRR including GEA and provide recommendations for further upgrade with a focus on policy and result-oriented outcomes
- b) Develop harmonized methodology and guidelines for data analyses and reporting for MHRR including GEA

3.5 Support to introduction of principles of gender mainstreaming in the scope of work in targeted institutions

- a) Produce analysis with recommendations on level of implementation of GEL and principle of gender mainstreaming in targeted institutions
- b) Organize and deliver trainings on gender mainstreaming in targeted institutions as per needs detected within produced analysis.

Activities to achieve Result 4: Capacities of Human Rights Ombudsman BiH for combating torture and ill treatment of all persons deprived of liberty are strengthened

4.1 Improve rules and procedures in the Department for the rights of prisoners and detainees of the Ombudsman BiH

The activity will be performed through the analyses of the rules and procedures in place. In the report, recommendations will be provided with regards to harmonization of the rules and procedures with Optional Protocol to Convention against torture, and other UN, EU and CoE standards.

4.2 Provide capacity building for the Ombudsman BiH

The activity includes the capacity needs analysis (CNA) of the Department for the rights of prisoners and detainees in the Ombudsman BiH. On the basis of the CNA, will develop and deliver a training programme for the staff of the Department including exchange of good practice with institution of Ombudsman in Member States countries that developed an effective mechanism for prevention of torture and ill-treatment.

4.3 Develop protocol for monitoring visits of all places where restricted freedom of movement according to EU and international standards

This activity will cover developing a Protocol of visits for pre-trial detention and prison facilities, immigration centres, psychiatric facilities, police stations and diplomatic and consular representation.

4.4 Raise understanding and knowledge of BiH public regarding the mandate of the Ombudsman BiH with particular focus on prevention of torture and ill-treatment

This activity will target various groups in the society - judicial sector actors, law enforcement agencies, persons deprived of liberty and public in general. Depending on the target group, different communication tools will be applied.

RISKS

At the level of the measures and the related activities of this action, the **assumptions** are as follows:

- Programme to Combat Discrimination in BiH adopted
- Other institutions active in the field of Fundamental Rights support this action under IPA II 2017;
- The institutions are fully committed to cooperate together and there is a continuity in the management structure as this also contributes to preserving the institutional memory;
- Communication tools in the public campaign will be chosen adequately targeting various groups in the BiH society. The chosen communication tools will respond to the need of the vulnerable groups.

Risks that may arise during the implementation of the proposed activities are:

- Lack of absorption capacities of key Beneficiaries –due to workload the employees cannot attend programme of trainings and be present at capacity building exercises in skills acquisition due to engagement in other relevant every-day work-related activities;
- Lack of political support at entity/municipality level for the implementation of the proposed activities in relation with the upcoming 2018 local elections;
- Lack of familiarity of CSOs with rules and procedures concerning IPA II Action implementation,

Mitigating measures to be undertaken will include:

- Appropriate and timely planning of the activities of the action in agreement with the main beneficiary institutions;
- Get support for the proposed training plan(s) by the higher management of Beneficiaries;
- Beneficiaries will appoint a motivated and capable focal point for the smooth action implementation;
- Appointed focal points and relevant TA will prepare jointly his/her scope of work that will be applied during the action implementation;
- Assessment of the political environment to be done in the inception phase of the action and appropriate interventions to be proposed;
- Particular attention to be paid to selection of CSOs active at local level (membership-based organisations, with experience in organising educative events, experience in project implementation – set of criteria to be identified at inception phase).

3. IMPLEMENTATION ARRANGEMENTS

ROLES AND RESPONSIBILITIES

Institutions competent for fundamental rights and particularly for implementation of GEL and ADL will be included in implementation of the proposed activities. If needed other institutions relevant to the achievement of the planned activities will be included in the implementation. The role and responsibilities of the institutions that will be involved in the implementation will be in accordance with their mandate.

In the management and implementation of this action following stakeholders in line with their institutional mandate will be involved:

Component 1 (Results 1, 2 and 3):

- The Institution of Human Rights Ombudsperson of Bosnia and Herzegovina;
- The Ministry for Human Rights and Refugees of BiH,
- Gender Equality Agency of BiH

Component 2 (Result 4):

- The Institution of Human Rights Ombudsperson of Bosnia and Herzegovina.

In line with the standard practice, in the inception phase of action implementation, a Steering Committee will be established to oversee progress in the implementation of activities. A Project Steering Committee will monitor the progress of action implementation, facilitate the access to relevant institutions, ensure their timely and sufficient inputs when required, provide advice and include main institutional stakeholders in accordance with common practice, under the chair of the EU Delegation to BiH.

Furthermore, if necessary, working groups of experts - representatives of the institutions - will be established for specific tasks under the proposed measures.

IMPLEMENTATION METHOD(S) AND TYPE(S) OF FINANCING

The EU Delegation to Bosnia and Herzegovina will be responsible for the overall management and implementation of the action under the direct management mode.

The action will be implemented through one twinning and one service contract. Specifically, Component 1 will be implemented through one service contract given the wide range of institutions and problems to be addressed. While the Component 2 will be implemented through a Twinning contract since the activities which are suggested through this action will provide institutional strengthening to Ombudsman BiH based on best practices of the selected Member states' institution and it will consequently enable an effective and efficient project implementation and sustainability.

For the Twinning Project a Steering Committee will be established. A separate Steering Committee will also be established for the implementation of the Service contract.

4. PERFORMANCE MEASUREMENT

METHODOLOGY FOR MONITORING (AND EVALUATION)

The European Commission may carry out a mid-term, a final or an ex-post evaluation for this action or its components via independent consultants, through a joint mission or via an implementing partner. In case a mid-term or final evaluation is not foreseen, the European Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision or on the initiative of the partner. The evaluations will be carried out as prescribed by the DG NEAR guidelines on linking planning/programming, monitoring and evaluation¹. In addition, the action might be subject to external monitoring in line with the European Commission rules and procedures set in the Financing Agreement.

This action will be regularly monitored by EU Delegation to Bosnia and Herzegovina. Internal monitoring will be implemented through steering committee's meetings, EU Delegation quarterly Implementation reviews, on-the-spot checks, meetings with beneficiaries and consultant companies/contractors. The external monitoring will be implemented through Result-oriented Monitoring (ROM).

¹ https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/financial_assistance/phare/evaluation/2016/20160831-dg-near-guidelines-on-linking-planning-progrming-vol-1-v0.4.pdf

INDICATOR MEASUREMENT

Indicator	Baseline (2015) (2)	Target 2020 (3)	Final Target (2022) (4)	Source of information
Indicator for the Overall objective				
Progress made towards meeting accession criteria (Fundamental Rights)	<i>Baseline will be established with the Opinion on BiH EU Membership application</i>	<i>Targets will be established depending on the baseline</i>	<i>Targets will be established depending on the baseline</i>	EC reports on BiH
Indicators for Specific Objective				
1.1. % of legally grounded complaints of discrimination submitted	159 ²	At least by 15%	At least by 30%	Annual report on cases of discrimination of Ombudsman BiH Annual report on cases of discrimination of MHRR based on MHRR Database
1.2. % of torture/ill treatment cases submitted	108 ³	At least by 20%	At least by 50%	Regular annual and special reports of Ombudsman BiH Special Reports of Ombudsman BiH on visits to places where person are deprived of liberty
Results indicators				
1.1. Level of public awareness on prevention and protection from discrimination	0	30%	60%	Targeted Surveys
2.1. Number of individuals trained (municipal officials, gender equality	0	At least 400	At least 800	Project reports Annual report on cases of discrimination of

² Annual report on cases of discrimination of Ombudsman BiH for 2015

³ Annual report on cases of discrimination of Ombudsman BiH for 2015. In 2016 this number increased to 166

bodies, service providers, educational institutions, etc.)				Ombudsman BiH Report on the MHRR Action Plan for implementation of the proposed measures for the prevention of discrimination in BiH Annual report of BiH Gender Equality Agency
2.2. Number of individuals of different vulnerable groups trained	0	At least 300	At least 600	Project reports Annual report on cases of discrimination of Ombudsman BiH Report on the MHRR Action Plan for implementation of the proposed measures for the prevention of discrimination in BiH Annual report of BiH Gender Equality Agency
3.1. Operational MHRR and GEA monitoring and reporting system on discrimination cases	Partially operational	Fully operational	Fully operational	Report on the MHRR Action Plan for implementation of the proposed measures for the prevention of discrimination in BiH
4.1. Number of monitoring visits to the places where persons are deprived of liberty	9 ⁴	30	60	Special Reports on visits to places where person are deprived of liberty produced by Ombudsman BiH Annual report on cases of discrimination of Ombudsman BiH

⁴ Annual report on cases of discrimination of Ombudsman BiH for 2015

5. SECTOR APPROACH ASSESSMENT

The current action is developed under the IPA II sector Rule of Law and Fundamental Rights and it will contribute in general to the Justice sector in BiH and protection of fundamental rights in Bosnia and Herzegovina. The institutional coordination as regards fundamental rights sub-sector is divided among the Ministry of Human Rights and Refugees, the Human Rights Ombudsman of BiH and the Agency for Gender Equality in BiH.

The relevant strategy for the Justice sector in BiH is the Justice Sector Reform Strategy (JSRS) 2014-2018 and its accompanying Action Plan which is not yet adopted. On non-discrimination policies, some steps were taken in order to develop an anti-discrimination policy document at State level. The mechanisms for sector coordination in planning and implementation of these policies need to be further reinforced. The monitoring and evaluation tools for the strategies need to be deployed evenly across the sector with clear focus on results, including a relevant performance assessment framework. Bosnia and Herzegovina was the first country in the region to adopt Gender Equality Law (2003), which enabled formation of the first gender mechanisms in Bosnia: FBiH and RS Gender Centers and the BiH Agency for Gender Equality (2004). In 2009 the Amendments to the Law on Gender Equality, initiated by the Agency, redefined provisions, terms and definitions of the Law on Gender Equality in BiH which are harmonized with international standards and directives in this field for the purpose of its simpler practical application. The Amendments to the Law on Gender Equality in BiH emphasized obligations of the authorities at all levels of governments and defined the obligation to establish a body, and/or appoint persons, who would within their capacity, consider all issues regarding implementation of the Law on Gender Equality in BiH and the GAP. The Law on gender equality also ensures equal representation of women and men at all levels and branches of government and even political parties. Gender Action Plan 2013-2017 prioritizes areas related to strengthening of the mechanisms and instruments to achieve gender equality, as well as strengthening co-operation and partnership.

. A Framework plan of activities for improving the health care of the prison population has also been developed. Bosnia and Herzegovina has ratified the 2002 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or degrading Treatment or Punishment of the United Nations General Assembly, which foresees that all signatories establish national mechanisms for the prevention (NPM) of torture which will put in places system of regular visits to institutions where people are deprived of liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. Although NPM has not been established yet, some efforts were made to perform these activities irrespective of the non-existence of a such mechanism.

Donor Coordination in the Justice Sector in BiH is particularly strong, and has been further enhanced by the Structured Dialogue on Justice. Cooperation with the Civil Society Organisations is maintained. The main donors in the rule of law area include: Sweden, Norway, US, UN, OSCE, Council of Europe, Switzerland and the United Kingdom. The international community frequently coordinates its activities through coordination fora dedicated to justice sector dialogue and anti-corruption activities.

The sub-sector budgets are easily traceable in the State and Entities' budgets. Three-year mid-term planning was introduced by the state-level institutions, which is as of 2016, linked with the budget planning process, allocating the necessary funds to the strategic objectives and underlying programmes and projects.

6. CROSS-CUTTING ISSUES

GENDER MAINSTREAMING

This action directly contributes to gender equality and gender mainstreaming processes in the country, by supporting implementation of GEL and GAP. Activities on providing recommendations for harmonization of relevant legislation with GEL and the EU *acquis* for gender equality, particularly with regards to directives related to prohibition of any kind of gender based discrimination, will create all necessary preconditions for elimination of identified inequalities between women and man in different areas of public and private life. Furthermore, the action envisages capacity building of gender equality bodies and of CSOs in local communities in order to fulfil their mandate. This action will specifically address appearances of gender based discrimination in economy, access to goods and services, land

entitlements etc. and on building up awareness of general public and women on mechanisms for protection of women-human rights.

EQUAL OPPORTUNITIES

Equal opportunities will be further encouraged in the activities planned under this action. The principles of equal opportunities are duly taken into consideration throughout the project and the action will continue to promote gender equality ensuring equal participation of women and men in all project activities. Thus, the proposed action is mainly dedicated to raising their awareness and capacities to recognize different forms of discrimination, unequal treatment and opportunities, and to use existing mechanisms for protection, as well as those established within the action. In addition, this action shall improve the treatment of persons deprived of liberty by strengthening the capacities of the Ombudsman BiH and thus ensuring better promotion of protection mechanism for combating ill treatment.

The whole action is about equality, tolerance, and promotion of diversity and equal opportunities. It is victims-oriented and puts institutional support in a way to achieve country-wide mechanism for combating discrimination and providing assistance with focus on vulnerable groups and people, men and women, addressing their specific needs and interests. Thus, the proposed action is mainly dedicated to raising their awareness and capacities to recognize different forms of discrimination, unequal treatment and opportunities, and to use existing mechanisms for protection, as well as those established within the action.

MINORITIES AND VULNERABLE GROUPS

Minorities and vulnerable groups such as: refugees, persons deprived of liberty, internally displaced persons, national minorities, migrant workers, disabled persons, elderly persons, Roma and LGBTI are key direct and indirect beneficiaries of this action.

The need to properly address the rights of minority groups and protection against discrimination, in particular Roma and LGBTI, is an integral part of the action's interventions and their concerns will be addressed through activities mainly envisaged under results 1, 2 and 3 of the action.

ENGAGEMENT WITH CIVIL SOCIETY (AND IF RELEVANT OTHER NON-STATE STAKEHOLDERS)

Inputs from the civil society organizations' reports on human rights and discrimination have been taken into consideration during the problem analysis phase and in designing this action.

All activities at local level will be implemented in cooperation with local CSOs and local government. CSOs will be a target group for trainings on gender equality and other vulnerable group issues, therefore the proposed activities under this action will further contribute to strengthening capacities of CSOs to better address the needs and to ensure participation of marginalized population, particularly in local communities. Cooperation between government and CSOs through already established strategic partnership will be further enhanced, in order to ensure proper use of each other capacities, competences and resources.

CSOs in BiH are engaged in the work of monitoring of violations of human rights as well as discrimination and their monitoring reports will be used periodically to assess the progress and final outcomes of the action.

ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)

Measures implemented under this AD will not have any specific activities regarding environment.

This action will take into account sustainable economic development principles and wherever appropriate take into consideration how to ensure that BiH implements environmentally friendly measures. Furthermore, the action will be delivered in the most environmentally friendly way possible.

Climate action relevant budget allocation: EUR 0
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7. SUSTAINABILITY

Bearing in mind the crucial role that reforms in the IPA II sector of Rule of Law and Fundamental Rights have in the process of integration in the EU, and the future EU accession negotiations, it can be assumed that all the institutions involved in the implementation of measures envisaged under this action (at all levels of government) are ready to benefit from the assistance. In this way, a consolidated, solid and the sustainable development in Fundamental Rights sub-sector will be ensured.

This action presents additional support to the ongoing efforts of the MHRR, GEA, and Ombudsman BiH to prevent and combat all forms of discrimination in BiH. Commitment of the government to the EU integration process together with establishment of systematic solutions, multisector approach and coordinated action of all responsible actors: line ministries, service providers, local self-governments and civil society on implementation of anti-discrimination policy will assure full ownership and sustainability in the future. The sustainability of the actions' results will, however, depend on the commitment of the beneficiary institutions.

All activities are set to be sustainable using strategic approach to the intervention. It aims to promote and improve legal and policy frameworks and institutional capacities in order to strengthen service delivery to the victims of discrimination for years to come, well beyond the scope of the action. It requires the coordinated commitment and support of all relevant actors, thus will further contribute to introduction of common practices and work routine that would lead towards a more victim-friendly institutional environment, and better institutional protection.

Knowledge management and development of capacities of service providers will present the main stream of this action. Therefore, it will contribute to sustainable and long term investment in human capital active in the field of ensuring more effective implementation of policies aimed to combat discrimination in BiH, thus ensuring sustainability through developing institutional memory. Trainings that involve a large number of representatives of different public administration institutions will preferably be organised in close cooperation with the relevant training institutions for the public administration.

Any development of new legislation/amendments will be carried out respecting all national procedures, especially those related to (fiscal/ regulatory) impact assessments, public consultations, inter-ministerial coordination; fast-track adoption procedures will be avoided. Prior to legislative drafting support, assistance will facilitate early stage stakeholder involvement, will provide analytical prerequisites (concept support, option analysis). Actual development of legislative outputs will be mainly done by the beneficiaries and even if particular textual drafting is partly done by experts, this work should be paired with capacity building of the beneficiary (introduction of international examples, detailed explanation of proposed texts etc.).

Training delivered to a group of public servants wider than just the staff of one specific organisation, the national training institutes for the public sector or the coordinating units in the government for government training will be consulted or at least kept informed about the training planned. Also reports about the key statistics will be sent also to the national training coordinators, in addition to sending these to the beneficiary and the contracting authority for the project.

Any manual/guidelines will be mainly developed by the beneficiary institutions and will be simple enough to be regularly reviewed and updated by the beneficiaries without further external support. Any guidelines or procedures developed within the framework of this action shall not contradict any legal provision of the country.

In years to come, success stories of women and men, beneficiaries of this action in local communities, as well as local NGOs, will serve as most visible instrument for role modelling, networking and therefore it will continuously capitalize message that vulnerable groups and persons have to realize their rights and equal opportunities to serve as social, economic and political force in BiH's reform process.

8. COMMUNICATION AND VISIBILITY

A comprehensive campaign is planned to be conducted throughout the country for different target groups. It will provide visibility of the intervention and thus the full visibility of the EU. A plan of promotional activities will be developed.

Communication and visibility will be given high importance during the implementation of the action. The implementation of the communication activities shall be funded from the amounts allocated to the action.

All necessary measures will be taken to publicise the fact that the action has received funding from the EU in line with the Communication and Visibility Manual for EU External Actions. Additional Visibility Guidelines developed by the European Commission (DG NEAR) will have to be followed.

Visibility and communication actions shall demonstrate how the intervention contributes to the agreed programme objectives and the accession process. Actions shall be aimed at strengthening general public awareness and support of interventions financed and the objectives pursued. The actions shall aim at highlighting to the relevant target audiences the added value and impact of the EU's interventions and will promote transparency and accountability on the use of funds.

