



Brussels, 8.5.2019
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COMMISSION IMPLEMENTING DECISION

of 8.5.2019

adopting an Annual Action Programme for Kosovo* for the year 2019 - Part I

* This designation is without prejudice to positions on status, and it is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

COMMISSION IMPLEMENTING DECISION

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adopting an Annual Action Programme for Kosovo* for the year 2019 - Part I

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012¹, and in particular Article 110 thereof,

Having regard to Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures of the implementation of the Union's instruments for financing external action² and in particular Article 2(1), thereof,

Whereas:

- (1) In order to ensure the implementation of **Annual Action Programme for Kosovo for the year 2019 – Part I**, it is necessary to adopt a financing decision, which constitutes the annual work programme, for 2019 Article 110 of Regulation (EU, Euratom) 2018/1046 establishes detailed rules on financing decisions.
- (2) The envisaged assistance is deemed to follow the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU³.
- (3) Regulation (EU) No 231/2014⁴ lays down the objectives and main principles for pre-accession assistance to beneficiaries listed in Annex I to that Regulation.
- (4) In accordance with Article 7 of Regulation (EU) No 231/2014, the assistance should be implemented through annual or multi-annual, country-specific or multi-country programmes. These programmes should be drawn up in accordance with the framework for assistance referred to in Article 4 of Regulation (EU) No 231/2014 and the relevant country or multi-country indicative strategy papers referred to in Article 6 of that Regulation.

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¹ OJ L 193, 30.7.2018, p.1.

² OJ L 77, 15.3.2014, p. 95.

³ www.sanctionsmap.eu Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website it is the OJ version that prevails.

⁴ Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (OJ L 77, 15.03.2014, p. 11).

- (5) The Council established an Accession Partnership or a European Partnership for all beneficiaries listed in Annex I to Regulation (EU) No 231/2014. The Commission adopted an Indicative Strategy Paper for Kosovo for 2014-2020⁵ on 20 August 2014, revised on 10 August 2018⁶ which provides indicative allocations for the sectors for pre-accession assistance.
- (6) Considering the proposals for action submitted by the beneficiaries concerned, the Annual Action Programme for Kosovo for 2019 – part I aims at providing assistance for actions in the following sector: environment, climate action and energy.
- (7) The Commission should acknowledge and accept contributions from other donors pursuant to Article 21(2) of Regulation (EU, Euratom) 2018/1046, subject to the signature of the relevant agreement. Where such contribution are not denominated in euro, a reasonable estimate of conversion should be made.
- (8) The Commission should authorise the launch of a call for tender by means of a suspensive clause before the adoption of this Decision.
- (9) It is necessary to allow for the payment of interest due for late payment on the basis of Article 116(5) of Regulation (EU, Euratom) 2018/1046.
- (10) In order to allow for flexibility in the implementation of the programme it is appropriate to allow changes which should not be considered substantial for the purposes of Article 110(5) of Regulation (EU, Euratom) 2018/1046.
- (11) The action programme provided for by this Decision is in accordance with the opinion of the IPA II Committee set up by Article 13 of Regulation (EU) No 231/2014⁷,

HAS DECIDED AS FOLLOWS:

Article 1

The Programme

The annual financing decision, constituting the annual work programme for the implementation of Annual Action Programme for Kosovo for the year 2019 – Part I under the Instrument for Pre-accession Assistance (IPA II), as set out in the Annex , is adopted.

Article 2

Union contribution

The maximum Union contribution for the implementation of the programme referred to in Article 1 is set at EUR 38 000 000⁸ and shall be financed from the appropriations entered in the following line of the general budget of the Union:

EUR 38 000 000 from the budget line 22.02.01.02

The appropriations provided for in the first sub-paragraph may also cover interest due for late payment.

⁵ Decision C(2014)5772, adopted on 20.08.2014.

⁶ Decision C(2018)5031, adopted on 20.08.2018, amending Commission Decision C(2014)5772, adopted on 20.08.2014

⁷ The Member States have declared, recalling the Council Conclusions of 18 February 2008, that the adoption of this programme does not prejudice the position of each individual Member State on the status of Kosovo, which will be decided in accordance with their national practice and international law.

⁸ This amount must include the appropriations corresponding to assigned revenue, if they are available at the time the financing decision is adopted.

Article 3

Flexibility clause

The following changes shall not be considered substantial, within the meaning of Article 110(5) of Regulation (EU, Euratom) 2018/1046, provided that they do not significantly affect the nature and objectives of the actions:

- (a) increases⁹ or decreases for not more than 20% of the maximum contribution set in the first paragraph of Article 2, and not exceeding EUR 10 million;
- (b) cumulated reassignments of funds between specific actions not exceeding 20% of the maximum contribution set in the first paragraph of Article 2;
- (c) extensions of the implementation and closure period;
- (d) within the limits of 20% referred to in points (a) and (b) above, up to 5% of the contribution referred to in the first paragraph of Article 2 of this financing decision may serve to finance actions which were not foreseeable at the time the present financing decision was adopted, provided that those actions are necessary to implement the objectives and the results set out in the programme.

The use of contingencies shall be taken into account in the ceiling set by this Article.

The authorising officer responsible may adopt such non-substantial changes in accordance with the principles of sound financial management and proportionality.

Article 4

Procurement

Launching a call for tender under a suspensive clause before the adoption of this Decision shall be authorised as of the date set out in the Annex

Done at Brussels, 8.5.2019

For the Commission

Johannes HAHN

Member of the Commission

⁹ These changes can come from external assigned revenue made available after the adoption of the financing decision.

ANNEX
to the
COMMISSION IMPLEMENTING DECISION
ADOPTING AN ANNUAL ACTION PROGRAMME FOR KOSOVO* FOR THE
YEAR 2019 – PART I

<p>Annual Work Programme This document constitutes the annual work programme in the sense of Article 110(2) of Regulation (EU, Euratom) 2018/1046</p>

1 IDENTIFICATION

Beneficiary	Kosovo
Basic act: CRIS/ABAC Commitment references and budget line(s):	Instrument for Pre-accession Assistance (IPA-II) 2019 / 041 707 / EUR 38 000 000 22.02 01 02
Total cost: EU Contribution:	EUR 38 000 000 EUR 38 000 000
Method of implementation	Direct management by the European Commission
Final date for concluding <u>Financing Agreement(s)</u> with the IPA II beneficiary	31 December 2020
Final date for contracting, including the conclusion of contribution/delegation agreements	3 years following the date of conclusion of the Financing Agreement
Indicative operational implementation period	6 years following the date of conclusion of the Financing Agreement.
Final date for implementing the Financing Agreement (date by which this programme should be de-committed and closed)	12 years following the conclusion of the Financing Agreement.

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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:

Under the Action Programme for Kosovo for the Year 2019 part I, the following sectors will be supported: environment, climate action and energy.

The action proposed under **environment, climate action and energy** aims to contribute to Kosovo's compliance with its own legislation and plan for reduction of emissions. It also aims to be aligned with the *acquis* on environment, namely the Large Combustion Plants Directive and the Industrial Emissions Directive as required by the Energy Community Treaty for reduction of emissions (dust particles and NOx) at Kosovo B Thermal Power Plant.

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

The action builds on past EU assistance delivered through IPA I and IPA II 2014-2017: lessons learned from past evaluations and audits were taken in account when designing the action herein, as well as complementarity with actions financed from other donors.

Previous EU funded support has contributed to institutional development and reform promotion in the **energy** (sub)sector including energy market regulatory framework development, alignment of the legal framework with the *acquis*, strategic planning in energy efficiency and renewable energy sources. Significant assistance was provided to Kosovo B power plant under the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) instrument from 2000 to 2006 totalling to EUR 177.5 million. The investment included emergency repairs, overhaul, spare parts, fire-damage repair, refurbishment of filters etc. The IPA I instrument continued with support to the policy making process including legislation on transposing the EU directive on energy services (2006/32) and on the implementation of energy efficiency measures in public buildings (67 schools and 3 hospitals). Kosovo institutions, World Bank, USAID, KfW and other donors have supported the development of the energy sector. They have supported, inter alia, preparation of strategy papers, legislation, and technical studies. The most important projects are: the realisation of the 400 kV line between Kosovo and Albania; the preparation of the 'Kosova e Re' Power Plant project package; the implementation of the cogeneration project Kosovo B and; the implementation of the cogeneration project in Gjakova.

List of Actions foreseen under the selected Sectors/Priorities:

Sector/Priority/Action	Direct management	Indirect management	
		With entrusted entity	With IPA II beneficiary
Environment, climate action and energy			
Action " EU support to clean air in Kosovo – Phase 2"	EUR 38 000 000	n/a	n/a

TOTAL	EUR 38 000 000	n/a	n/a
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2.2 DESCRIPTION AND IMPLEMENTATION OF THE ACTIONS

The envisaged assistance to Annual Action Programme for Kosovo for the year 2019 part I is deemed to follow the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 TFEU¹.

SECTOR	Environment, climate action and energy	EUR 38 000 000
Action	EU Support to clean Air in Kosovo – Phase 2	Direct Management

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

- Description of the action and objectives

The main objective of this action is to support the environmental aspects of the energy sector by reducing the environmental impact of the largest power plant in Kosovo – known as Kosovo B. The action will aim at reducing air pollution by replacing/rehabilitating environmental components of Unit B2 of the Thermal Power Plant (TPP) Kosovo B (dust filters, internal ash transport system and Nitrogen Oxides (NOX) emission reduction equipment). Hence, the action will support Kosovo in complying with its legislation and plan for reduction of emissions and will allow to be aligned with the acquis on environment, namely the Large Combustion Plants Directive (LCP) and the Industrial Emissions Directive (IE), as required by the Energy Community Treaty for reduction of emissions. This action will complement previous action under IPA 2018 Annual Action Programme consisting in replacing/rehabilitating environmental components of Unit B1 of the Thermal Power Plant (TPP) Kosovo B.

Expected results of this action include:

- Dust emissions reduced.
- Nitrogen Oxides (NO_x) emissions reduced.

Key indicators include:

Compliance with LCP and IE Directives measurement for:

- Dust emissions: < 20 mg/Nm³, and
- NO_x emissions: < 200 mg/Nm³)

(2) Assumptions and conditions

Kosovo is a member of the Energy Community, and starting from 1 January 2018, all international regulations related to emission levels are applicable.

¹ https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_en

The preconditions that have to be fulfilled include:

- Kosovo has confirmed that Kosovo B power plant will remain under the public ownership for a period of at least 10 years (ref. letter from Kosovo government dated 20/10/2017);
- A detailed planning of all activities to be carried out on site must be prepared by KEK to avoid overlap of activities which would cause delays and other contractual implications;
- Any potential delays caused by other works undertaken by KEK in the plant will be borne entirely by KEK.
- A KEK-Kos B TPP coordination team needs to be set-up, meet regularly actively follow-up all activities planned to be implemented under this action.

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.

The following assumptions are considered:

- Reliable technology is selected and works are properly and timely implemented, supervised and verified.
- Timely completion of the works in accordance with technical specifications.

(3) Implementation modalities:

(3)(b) Direct management (project approach)

Procurement:

- Replacement of dust filters (Electrostatic Precipitators/ESPs) on both generation units of Kosovo B Thermal Power Plant (TPP) including the internal ash transport system;
- Construction of De-NO_x facilities on both generation units of Kosovo B Thermal Power Plant (TPP).

For the selection of the works contractor an international restricted tender procedure following a pre-qualification procedure will be launched in Q1 under a suspensive clause prior to the adoption of this decision. The tender procedure will include the works financed under IPA 2018 related to one of the two units of Kosovo B and the works presented in this action related to the second unit financed under IPA 2019.

The use of the suspensive clause is justified because the call for tender will be launched before the signature of the two financing agreements.

The budgetary envelope reserved for procurement of this IPA 2019 action is EUR 38 000 000.

(4) Scope of geographical eligibility for procurement and grants

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply.

3 BUDGET

3.1 INDICATIVE BUDGET TABLE - ANNUAL ACTION PROGRAMME FOR KOSOVO

		Direct management	Total EU contribution (EUR)	IPA-II beneficiary or other third party contribution (EUR)	Total (EUR)
		EU contribution (EUR)			
Objective 2	05: Energy	EUR 38 000 000	EUR 38 000 000	/	EUR 38 000 000
	Action: EU support to clean Air for Kosovo – Phase 2	EUR 38 000 000	EUR 38 000 000	/	EUR 38 000 000
	Evaluation of actions				
	TOTAL	EUR 38 000 000	EUR 38 000 000	/	EUR 38 000 000

4 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 Indicative 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 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.

5 EVALUATION

Having regard to the importance of the action, a mid-term, a final or an ex-post evaluation may be carried out for this action or its components via independent consultants, through a joint mission or via an implementing partner. It will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that its findings may inform the preparation of new activities in the same sectors.

In case an evaluation is not foreseen, the 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 evaluation reports shall be shared with the IPA II beneficiary and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the IPA II beneficiary, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.