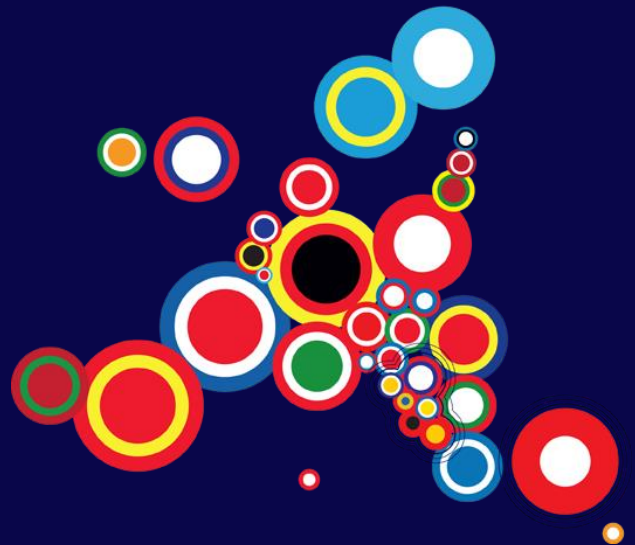




## INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

**Kosovo\***

EU Support to the  
Ombudsperson Institution



### **Action summary**

This Action aims to increase impact and effectiveness of the Ombudsperson Institution of Kosovo (OIK) in promoting and protecting human rights and fundamental freedoms. The support will be twofold: It will enforce the capacities of the OIK to perform its mandate and will increase the role of the OIK as the main guardian for protection and promotion of human rights in Kosovo in view of recent changes in relevant legislation. This will also involve strengthening the institutional and administrative capacity of the institution. Secondly the Action will substantially increase the awareness and understanding of the mandate and role of the OIK in Kosovo among average citizens, key partners and stakeholders and build trust for the institution.

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

<b>Action Identification</b>	
<b>Action Programme Title</b>	Annual Action Programme for Kosovo for the Year 2017 – Part I
<b>Action Title</b>	EU Support to the Ombudsperson Institution
<b>Action ID</b>	IPA 2017/040505/06/Kosovo/Ombudsperson
<b>Sector Information</b>	
<b>IPA II Sector</b>	1) Reforms in preparation for EU approximation - Rule of law and fundamental rights
<b>DAC Sector</b>	15160 Human Rights
<b>Budget</b>	
<b>Total cost</b>	EUR 3.0 million
<b>EU contribution</b>	EUR 3.0 million
<b>Budget line(s)</b>	22.020101
<b>Management and Implementation</b>	
<b>Management mode</b>	Direct management
<b>EU Delegation</b>	EU Office Kosovo
<b>Implementation responsibilities</b>	<i>European Union Office in Kosovo</i>
<b>Location</b>	
<b>Zone benefiting from the action</b>	Kosovo
<b>Specific implementation area(s)</b>	Kosovo
<b>Timeline</b>	
<b>Final date for concluding Financing Agreement(s) with IPA II beneficiary</b>	At the latest by 31 December 2018
<b>Final date for concluding delegation agreements under indirect management</b>	At the latest by 31 December 2018
<b>Final date for concluding procurement and grant contracts</b>	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
<b>Final date for operational implementation</b>	6 years following the conclusion of the Financing Agreement
<b>Final date for implementing the Financing Agreement (date by which this</b>	12 years following the conclusion of the Financing Agreement

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

# 1. RATIONALE

## PROBLEM AND STAKEHOLDER ANALYSIS

Kosovo shares a European perspective with other countries in the region and participates in the Stabilisation and Association Process for the Western Balkans. The Stabilisation and Association Agreement (SAA) between European Union (EU) and Kosovo entered into force on 1 April 2016. To meet its obligations under the SAA, among others, Kosovo will need to enforce the protection and promotion of rule of law and fundamental rights.

The Constitution of the Kosovo provides a good base for protection of human rights. Even, if Kosovo is still not part of Council of Europe or United Nations, article 22 of the Constitution lists international human rights agreements, which are directly applicable and form an integral part of the legal framework. Implementation remains still a challenge, the justice sector institutions are not functioning efficiently enough to fully enforce the laws and as per assessment of the European Commission of 2016 the judiciary is at an early stage of development. The public administration is yet to transform into an efficient body at the service of the citizens, corruption is a challenge and accountability of public official is considered too low.

In this situation non-judicial institutions that increase accountability and human rights protection play a key role. To enforce the non-judicial human rights protection framework, a human rights law package was adopted in 2015, which included the Law no. 05/L-019 "On the Ombudsperson", the Law no. 05/L-021 "On Protection from Discrimination" and the Law no. 05/L-020 "On Gender Equality". The secondary legislation related to the Law on the Ombudsperson is already in place, while drafting and adoption of other related secondary legislation has seen delays.

The Ombudsperson Institution of Kosovo (OIK) is a constitutional non-judicial institution responsible for protection and promotion of human rights that complies with the UN standards of the "Principles relating to the Status of National Institutions" (The Paris Principles). In order to fulfil its mandate, the OIK collaborates with other institutional structures, both in central and local level, including the justice sector, civil society organizations, media and academic institutions. Despite the positive aspect of having this wide range of structures dealing with human rights, coordination amongst them and implementation of existing laws remains a challenge, the human rights structures at municipal level still need to be properly regulated.

The OIK was established in 2000 by United Nations Mission in Kosovo (UNMIK) Regulation no. 2000/38, providing the institution with a mandate to investigate complaints against UNMIK and local public administration. With the entering into force of the Constitution of the Kosovo (2008), it is constituted as an independent institution. The Law on the Ombudsperson of 2015 further strengthened its mandate and independence.

The mandate of the Ombudsperson includes investigation of complaints received from any natural or legal person related to alleged violations of human rights as defined under the Constitution, laws and other regulations, and international instruments of human rights, specifically the European Convention on Human Rights, including actions or inactions that constitute abuse of authority. It has the competence to investigate either to respond to the complaint submitted individually, or on its own initiative (ex-officio).

The internal structure that has been put in place from January 2017 onwards reflects the new competencies that the OIK has received through the above mentioned Human Rights Law package of 2015. Recruitment of staff was initiated in February 2017 to improve performance of the institution, not only through increasing the number of staff (from 53 to 78 employees), but also through recruitment of additional professional capacities. The new staff will mainly have a legal background and will be deployed in Departments that are also going to be newly established. The OIK will seek to ensure that the new staff is

recruited in line with principles of equal gender representation, using affirmative measures if necessary, in accordance with Law no. 05/L-020 On Gender Equality.

Even though the implementation of the new mandates is a challenge, the OIK was able to improve its performance already. The institution developed and approved the "Strategy and Development Plan of the Ombudsperson Institution for 2017 to 2019". Staff working for the office has improved its expertise through different trainings, especially on European standards and practices during investigations. And even if the number of complaints in 2016 was slightly lower than in 2015, the number of cases investigated by the OIK increased. According to data as of 31.12.2016, the number of complaints for 2015 has been 1995 and in 2016 the number was 1694. From these, the number of cases investigated for the year 2015 was 727 and in the year 2016 the OIK investigated 893 cases. The number of cases investigated by the OIK initiative (ex officio) has been increased by almost 100 % as compared to 2015. In 2016, there were 56 cases compared with 30 cases for 2015. During 2016, the OIK issued 173 recommendations to responsible institutions, compared to 57 recommendations issued in 2015, increasing the number with more than 200%.

Despite the progress made, the OIK faces several obstacles to fully realise its role as an effective human rights protection institution. Problems include limited capacities, a low number of staff and lack of in-depth trainings, tools and methods for reporting that are not aligned to the new mandates, but also more generally lack of understanding of about the mandate and role of the OIK in the population at large and even government institutions.

While there was an increase in the number of recommendations implemented by responsible institutions for 2016, there is still a lack of proper responsiveness at the side of government institutions. However, most of the institutions to which the Ombudsman has addressed recommendations fail to report on actions carried out in response to those recommendations (though required by the Law).

The Office of Good Governance, human rights, equal opportunities and non-discrimination (Office on Good Governance, OGG) within the Prime Minister's Office and also the respective Assembly Committee have a role in monitoring of the implementation of these recommendations and follow up with line Ministries. The role of both institutions in relation to this aspect must be enforced. Currently the annual report of the Ombudsperson is not even debated in Assembly, but just approved by vote. To address this concern, the Ombudsperson issued the Report with recommendations no 536/2016, dated 30.09.2016 to the Assembly.

This issue is addressed as well as by SIGMA in Baseline measurement report: "The principles of public administration", stressing that: "*Standing committees of the Assembly should reinforce and enhance the good practice of discussing law implementation reports, and integrate it into the regular working routine*"<sup>1</sup>. The Report goes further, suggesting that: "*The Parliament and the Ombudsman Institution, in co-operation with the Government, should develop mechanisms to increase the level of recommendations implemented*".<sup>2</sup>

Better coordination between institutions is also one of the objectives of the Public Administration Reform (PAR) programme 2014-2020 that is also under discussion for EU sector support.

There are no effective means to force institutions to implement its recommendations and to report on actions taken to address them. Therefore it is necessary to work also with the Assembly to use its role on holding the public authorities accountable for addressing OIK's recommendations and to report on actions taken.

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<sup>1</sup>[http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Kosovo.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Kosovo.pdf), pg 29

<sup>2</sup>[http://www.sigmaweb.org/publications/Baseline\\_Measurement\\_2015\\_Kosovo.pdf](http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Kosovo.pdf), pg 62

Finally, there are no mechanisms/surveys in place to assess citizens' satisfaction and trust in the OIK and in public administration. In this regard, the action may engage with civil society organisations or other professional bodies active in this field.

## **OUTLINE OF IPA II ASSISTANCE**

The support provided by this action will be two-fold; (i) it will enforce the capacities of the OIK to perform its mandate and (ii) will increase awareness about the role of the OIK as the main guardian in protecting and promoting human rights in Kosovo. Activities will include development of a strategic approach to training and capacity building of staff and implementation of such kind of activities, development of IT tools like databases able to produce reports disaggregated by gender and other relevant categories, drafting of internal administrative documentation for management of the office, Standard Operating Procedures, security policies, reporting templates etc. Coordination and structured cooperation between different departments within the OIK and between OIK and other stakeholders will be strengthened. In order to increase the role of the OIK and the trust in the institution, awareness raising will be supported through different tools starting from baseline assessments and surveys on citizens' perceptions on the role and mandate of the OIK to information campaigns.

Activities aim to increase capacities of staff to perform their roles in line with European standards and best practices, increase the number of the OIK implemented recommendations and to shorten the number of days needed to respond to an individual complaint. It will develop capacities of the staff in specific issues such as: applying the case law of the European Court of Human Rights (Article 53 of the Constitution), properly implement the obligations from new legislation, improving writing skills and legal reasoning, increase the knowledge of the citizen's in human rights and mandate of the OIK and also improving the collaboration with the central institutions, municipalities, civil society organisations, media and universities.

The direct beneficiary of this Action is the OIK. However, other institutions, such as central, including the Assembly, and local institutions, civil society organisations, media and universities and of course the population at large and in particular marginalised and disadvantaged groups will indirectly benefit from the implementation of the activities of this Action.

## **RELEVANCE WITH THE IPA II STRATEGY PAPER AND OTHER KEY REFERENCES**

The Action will help to address the challenges identified by main Strategic documents in the field of human rights focusing on the Ombudsperson Institution of Kosovo, as follows:

Indicative Strategy Paper (2014-2020) gives direct reference to the need to further strengthen and streamline the structures responsible for the protection, promotion, enforcement of and reporting on fundamental rights, both in central and local level. "By 2020, the legal framework for the protection of human rights and protection of minorities should be effectively implemented. IPA II will support Kosovo in strengthening the capacity of its institutions in charge of coordinating human rights policies and monitoring. Education and awareness-raising about fundamental rights and non-discrimination will be supported, including through civil society".<sup>3</sup>

The Kosovo 2016 Report stated that 'Some progress was made in the area of human rights, with steps taken to implement the 2015 package of human rights laws and declarations of support for the rights of LGBTI

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<sup>3</sup> Indicative Strategy Paper for Kosovo\* 2014-2020, pg 25

persons. However, implementation continues to be hindered by a lack of resources and political commitment, in particular at local level”.<sup>4</sup>

The Kosovo 2016 Report recognised the improvement of the OIK performance. “While follow-up to the Ombudsman’s recommendations has increased, central and local level institutions need to do so more consistently”.<sup>5</sup> Further the European Commission recommended strengthening influence of the institution in the policy development in the area of human rights: “The establishment of the Inter-Ministerial Coordination Group for Human Rights in May 2016 is a first step in establishing high-level coordination to devise an overarching human rights strategy and to steer its implementation effectively. The Ombudsman should play an important role in designing, monitoring and advising on this work.”<sup>6</sup> Another important aspect under the mandate of the OIK is its role as "National Preventive Mechanism" against torture: “The authorities will need to address the forthcoming recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment”.<sup>7</sup>

Also the "National Programme for Implementation of the Stabilisation and Association Agreement" (NPISAA), approved by the Assembly of Kosovo in March 2016 contains a strong commitment to support the OIK in "its constitutional mission to be the protector of the rights of the citizens of Kosovo vis-à-vis the actions of public authorities" <sup>8</sup>

The Strategy and Development Plan of the Ombudsperson Institution 2017-2019, outlines the main objectives of the OIK for the period 2017-2019 as follows:

- Increase of trust of citizens to the Ombudsperson Institution on the promotion and protection of human rights and fundamental freedoms;
- Protection of human rights and fundamental freedoms, with special focus on systematic issues which are more important to the citizen’s interest and concerns;
- Increase of the degree of implementation of recommendations of Ombudsperson Institution;
- Empowerment of the Ombudsperson Institution capacities in order to increase the impact and effectiveness in the protection of human rights and fundamental freedoms.

The objectives of the Strategy are fully reflected in the Medium Term Expenditure Framework of the Institution for the period 2017-2019. The Action may contribute to address recommendations of the Strategies approved by the government, such as: Strategy on Modernisation of Public Administration 2015-2020, Better Regulation Strategy 2017-2021 and the Strategy for Improving Policy Planning and Coordination in Kosovo 2017-2021.

## **LESSONS LEARNED AND LINK TO PREVIOUS FINANCIAL ASSISTANCE**

Since its establishment, the OIK has benefited from international support, through different projects. This Action will build on the results achieved and the recommendations of these projects. The most recent are:

***“Support to the implementation of the European Human Rights Standards in Kosovo and the Reform of the Ombudsperson Institution”***, funded by the Kingdom of Norway and Swiss Government and implemented by the Council of Europe, ended in February 2017. In frame of this project a report “On the impact of the “Human Rights Laws Package” on the structure, mandate and functioning of the

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<sup>4</sup> 2016 Communication from the Commission on EU Enlargement Policy, pg 29

<sup>5</sup> Kosovo\* 2016 Report, pg 9

<sup>6</sup> Kosovo\* 2016 Report, pg 22

<sup>7</sup> Kosovo\* 2016 Report , pg 23

<sup>8</sup> [http://www.mei-ks.net/repository/docs/3\\_pkzmsa\\_miratuar\\_nga\\_kuvendi\\_final\\_eng\\_.pdf](http://www.mei-ks.net/repository/docs/3_pkzmsa_miratuar_nga_kuvendi_final_eng_.pdf)

Ombudsperson Institution in Kosovo (OIK)” is issued in February recommending that *“it is of fundamental importance that authorities under ombudsman jurisdiction take the institution very seriously. The administration should not be careless about ombudsman recommendations just because they are not binding”*.<sup>9</sup>

***“Enhancing Human Rights Protection on Kosovo”/EHRP***, funded by European Union and implemented by Council of Europe in the period 2012-2014, aiming to *“improve the implementation of standards under the European Convention on Human Rights, the standards and findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Framework Convention for the Protection of National Minorities in Kosovo”*. Some of the recommendations of this project that need to be still addressed are as follows:

- Policy development is not based on a proper needs assessment or situation analysis. Moreover, the institutions do not systematically collect internal data or use statistics as a policy tool even when available;
- A lack of public awareness as to the mandate and work of human rights mechanisms also hampers the possible contribution of, and the participation by, civil society in the policy making process;
- There is also a lack of any substantial and lasting cooperation between the institutions charged with promoting human rights and civil society organisations, as well as a general perception that the human rights structures are just a tool to promote the government and not the rights of citizens. The latter is undoubtedly reinforced by the low level of implementations of the recommendations of the OIK by authorities;
- The rising level of complaints to the OIK might indicate some diminution in the lack of confidence in this institution, but the failure to pursue a significant number of admissible ones suggests that the problem is not resolved. Moreover, the overall volume of complaints is still relatively low given the obstacles to using judicial mechanisms;
- Continuous training should be provided for staff, which is directed to their particular responsibilities, thus covering not only the technical aspects of human rights standards but also policy making and implementation, organizational management, monitoring and reporting, and non-judicial human rights structures should be provided with facilities that are suitable for the tasks that they are expected to perform;
- It should be ensured that the findings of monitoring activities - both that by governmental bodies and by others such as the OIK and the relevant committees of the OIK - are fully taken into account in the development of future policies, strategies and action plans;
- Promotional activities that have been undertaken have suffered from inadequate funding, lack of depth and non-existent or insufficient coordination of efforts by, and cooperation between, the different non-judicial structures, as well as limited evaluation of their effectiveness;
- The OIK itself should increase its outreach efforts - including by utilising social media to reach out to the younger generation - in order to ensure that its competence is better known and understood, as well as used;
- The OIK’s powers to deal with discrimination and gender equality should be strengthened;

***“Support to the Implementation of the European Human Rights Standards in Kosovo and the Reform of the Ombudsperson Institution”***, aiming to enhance the capacity of legal professionals as regards the

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<sup>9</sup> Report on The impact of the “Human Rights Laws Package” on the structure, mandate and functioning of the Ombudsperson \*Institution in Kosovo (OIK)”, pg 14



application of the European Convention on Human Rights and to strengthen judicial and non-judicial mechanisms of human rights protection in Kosovo. The implementation period is March 2015 to February 2017. It is funded by the Kingdom of Norway and Swiss Government and implemented by the Council of Europe. The OIK is one of the beneficiaries and the support is currently limited to capacity building as regards its new competencies. The project has provided around 12 training sessions for the OIK staff, mostly dealing with implementation of European standards/European Convention on Human Rights principals in cases of discrimination.

The OIK staff has been supported also by other international organisations, such as Organisation for Security and Cooperation in Europe (OSCE), mainly financing awareness campaigns and capacity building programmes.

Assistance envisaged under this Action will take the overall horizontal public administration reform efforts into consideration and will integrate the key principles of public administration and the 'Better Regulation' approach. This will also have a positive effect on sustainability of outcomes.

## 2. INTERVENTION LOGIC

### LOGICAL FRAMEWORK MATRIX

<b>OVERALL OBJECTIVE</b>	<b>OBJECTIVELY VERIFIABLE INDICATORS (*)</b>	<b>SOURCES OF VERIFICATION</b>	
To strengthen the capacity of the Ombudsperson Institution of Kosovo (OIK) in order to increase, impact and effectiveness in promoting and protecting the human rights and fundamental freedoms.	Number of investigated cases/ admissible complaints <sup>1</sup>	Kosovo report OSCE reports CoE reports OIK Annual Report Reports from Kosovo Survey	
<b>SPECIFIC OBJECTIVE</b>	<b>OBJECTIVELY VERIFIABLE INDICATORS (*)</b>	<b>SOURCES OF VERIFICATION</b>	<b>ASSUMPTIONS</b>
<p>To support the Ombudsperson Institution to effectively protect and promote the human rights, and fundamental freedoms of citizens by enforcement of institutional capacities and introduction of new tools and methods.</p> <p>To raise awareness among citizens (women and men), public authorities and civil society on the role of the Ombudsperson Institution in promotion and protection of human rights.</p>	<p>Percentage of priorities of the OIK Strategy and Action Plan achieved.</p> <p>Percentage of the recommendations of OIK fully implemented by central governmental institutions<sup>2</sup>.</p> <p>Percentage of recommendations of OIK implemented by other institutions</p>	<p>Annual report of the OIK</p> <p>Kosovo report Reports from the data base of OIK</p> <p>Reports from the Kosovo survey</p> <p>OIK Strategy and Action Plan</p> <p>Staff Performance Appraisal Report</p>	<p>Protection and promotion of human rights are considered as priority from Kosovo institutions;</p> <p>The citizens (women and men) are willing to participate in the activities organised by the OIK;</p> <p>A continued coordinated effort between all stakeholders, including international donors is in place;</p>
<b>RESULTS</b>	<b>OBJECTIVELY VERIFIABLE</b>	<b>SOURCES OF</b>	<b>ASSUMPTIONS</b>

<sup>1</sup> Indicators in bold are those that are also included in the Indicator Measurement Table (page 15)

<sup>2</sup> The indicator used also in the Public Administration Reform Sector Reform Contract as disbursement indicator

	INDICATORS (*)	VERIFICATION	
<p><b>Result 1: Institutional Capacity Development of Ombudsperson Institution in core areas strengthened</b></p> <ul style="list-style-type: none"> <li>• Capacities of OIK staff to perform the mandate of the OIK in accordance with best European standards are improved;</li> <li>• IT systems put in place for tracking and reporting on the work of the OIK, in line with new mandates and used, necessary security installations, supplies tendered and procured;</li> <li>• Strategy of the OIK under implementation;</li> <li>• Structured cooperation between OIK and civil society and experts established</li> <li>• Collaboration with Kosovo institutions enforced;</li> <li>• Internal systems of case handling, internal quality control, standard operating procedures, internal instructions and guidelines for a systematic, efficient and predictable handling of discrimination cases, including reporting and gender disaggregated statistics are developed;</li> <li>• An efficient system for monitoring the implementation of the Convention on the Rights of the Child and promote the mandate of the institution for handling of the complaints of possible violation of the rights is established;</li> </ul> <p><b>Result 2: Internal administration and management of the OIK strengthened</b></p> <ul style="list-style-type: none"> <li>• A strategic management planning to implement the OIK mandate developed and implemented;</li> <li>• The cooperation between internal departments within</li> </ul>	<p>Number of case reports analyzed in accordance with European standards;</p> <p>Percentage of cases positively resolved, in accordance with the complainants request</p> <p>Number of days to investigate a complaint</p> <p>Number of <i>ex-officio</i> reports with recommendations</p> <p>Percentage of investigated cases compared to overall complaints</p> <p>Number of positive individual assessment of the Ombudsperson Institution staff</p> <p>Number of activities implemented according the internal management plans of the Institution and its Departments;</p> <p>Number of surveys, opinion polls and reports</p>	<p>Annual report of the OIK</p> <p>Kosovo report</p> <p>Reports from the data base of OIK</p> <p>Participants checklists</p> <p>Certificate of acceptance for the equipment</p> <p>Minutes of the meetings</p> <p>Webpage of the OIK</p> <p>Reports from Kosovo survey</p>	<p>Readiness of OIK employees to continual training and improvement</p> <p>Respective authorities and institutions have sufficient capacities and are willing to cooperate on the issues linked with implementation;</p> <p>Established cooperation with Kosovo institutions in central level, municipalities, media, civil society organizations and universities engaged in the protection of human rights protection;</p>

<p>the OIK improved as well as between OIK and other stakeholders is improved;</p> <p><b>Result 3: Public awareness about the role and importance of the institution increased</b></p> <ul style="list-style-type: none"> <li>• Regular monitoring instruments established to track citizen's awareness of the mandate of the OIK;</li> <li>• Awareness on mandate and activities of the OIK among citizen's increased;</li> <li>• Communication tools and channels to increase awareness on human rights and OIK mandate in place and functional</li> </ul>	<p>on citizen's awareness on OIK mandate, disaggregating findings by gender</p> <p>Number of key stakeholders participating in awareness raising events like trainings, workshops or conferences (data aggregated by men and women)</p> <p>Number of complaints from disadvantaged and marginalised groups (for example women, LGBTI , elderly people, ethnic minorities etc...) to the OIK increased</p>		
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## **DESCRIPTION OF ACTIVITIES**

### **Result 1: Institutional Capacity Development of Ombudsperson Institution in core areas strengthened**

**Activity 1.1** Enhance capacities of the Ombudsperson Institution to implement monitor and report on protection of human rights, in accordance with the best European standards and practices:

- Staff training needs assessment, training and training of trainer programmes, will include: Applying the case law of the European Court of Human Rights in dealing with cases (according to the Article 53 of the Constitution), the new mandate of Amicus Curiae on discrimination cases, writing skills and legal reasoning, handling discrimination cases in the private sector, policy dialogue on human rights sector reform and other. The trainings programme will reflect the needs of the institution to address the objectives foreseen in the Strategy and Action plan of the OIK as well as recommendations from international partners.
- Developing internal systems of case handling, internal quality control, standard operating procedures, internal instructions and guidelines for a systematic, efficient and predictable handling of discrimination cases, including reporting and statistics gender disaggregated
- Establishment of an efficient system for monitoring the implementation of the Convention on the Rights of the Child at the Department of the Rights of the Child and promote the mandate of the institution for handling of the complaints of possible violation of the rights.
- Promote international exchanges and networking for the Ombudsperson and the staff of the institution.
- Set up an internal system for effectively monitoring follow-up of recommendations issued including closer cooperation with Assembly in monitoring/pressuring Government to follow-up recommendations, and clear/evidenced based monitoring of actions undertaken by Kosovo institutions.
- Set up structured instruments to enforce collaboration with civil society organizations and experts on protection and promotion of human rights as well as increase involvement of the civil society organisations during drafting and implementation of main documents of the OIK, including signature and implementation of Memorandums of Understandings with active organisations working with human rights in Kosovo.

**Activity 1.2:** Develop a new data base system with categorized (gender disaggregated) statistical information and description of activities and steps of handling the cases in accordance with best European practices

- Assess staff IT needs for improvement of the data base systems to fit the new mandates provided by the human rights law package ( adopted in July 2015)
- Provide training on the use of the new database/s
- Develop manuals of use for the new database/s
- Procure required supplies
- Ensure maintenance of the new database/s

### **Result 2: Internal administration and management of the Ombudsperson Institution strengthened**

**Activity 2.1** Develop a vision and sequenced strategic management planning to implement the mandate of the institution in medium and long term.

**Activity 2.2** Develop guidelines and internal instructions on internal communication between departments (especially legal departments and administration with the aim of proper and effective communication and

coordination) and cooperation with administration on municipal and central level as well as with civil society.

### **Result 3: Public awareness about the role and importance of the institution increased.**

**Activity 3.1** Conduct assessments/surveys of citizen's knowledge/expectation on the role and responsibilities of the Ombudsperson as well as accessibility of the offices and quality of services.

**Activity 3.2** Raise awareness regarding roles and activities of the Institution directed at general public, specific vulnerable groups and their representative organisations in civil society, relevant expert bodies, religious leaders, public officials and civil servants, justice and security sector representatives, members of Parliament, youth and other relevant bodies. The awareness campaign will also address the challenges/recommendations of the annual surveys.

**Activity 3.3** Develop and integrate in a sustainable manner communication tools and channels, including through social media in line with best international practices, targeting as well the vulnerable groups based on their potentially unique communication needs.

## **RISKS**

### **Main assumptions for the implementation are:**

- A high level of ownership by the OIK: This is required to ensure effective implementation of the Action. It must have the appropriate absorption capacity, make relevant staff available and ensure necessary budget for the development and follow up of activities. This is crucial given the extended implementation period and the number of results to be achieved.
- Good cooperation from other stakeholders, such as central institutions, municipalities, civil society organisations, university and media: They must be committed to participate in the activities of the Action and ready to use its outcomes in their working activity.
- The commitment of the Kosovo government to implement the reforms in human rights sector: This will entail leadership for respective reform initiatives, for example regular meetings of the Inter-Ministerial Coordination Group for Human Rights, relevant increase in the budget of the OIK to enable the institution to fulfil its new mandates and other required measures.
- Overall political stability: Political crisis or even conflicts would have a detrimental effect on the ability of the OIK or government to take necessary action for improving the human rights situation in Kosovo.

### **The risks to be considered are as follows:**

- The election of the new Ombudsperson in the year 2020. In order to mitigate this risk, the Action will target all staff of the institution and aim for sustainable measures and maximum transparency to communicate all achieved results. From the political side the EU will also closely follow the election procedure to ensure merit-based and credible replacement to the current Ombudsperson.
- The changes of priorities at the side of the OIK during the implementation period. To mitigate this risk, the activities foreseen in the Action must be in line with the Strategy and Action Plan of the OIK 2017-2019 and the Action technical team will work closely with the institution to review and update the Strategy as required.
- Lack of human resources, if staff in the OIK is unable to participate in the activities due to other commitments. In order to mitigate this risk, the work plan for implementation of the Action will be drafted in collaboration with the OIK and the activities will be communicated to the OIK well in advance.

- Political stability, including the boycott of the Assembly by certain parties can influence the implementation of some activities of the Action. To mitigate related risks, the OIK maintains intensive cooperation with the Committee of human rights, public, media and civil society and relies also on the cooperation with the Inter ministerial Committee for human rights.
- During the implementation the beneficiary will provide suitable premises in which modern IT equipment can be installed (dry, save with proper temperature, stable electricity) and sufficient appropriate office space for technical assistance staff. Two offices will be in disposal for the technical assistance staff and the conference room of the OIK can be also used for the activities foreseen under this Action.

## **CONDITIONS FOR IMPLEMENTATION**

Key conditions for implementation of the action have already been put in place:

- The "Strategy and Development Plan of the Ombudsperson Institution 2017-2019" has been adopted and a basis for planning of the action to ensure coherence between the objectives of the OIK Strategy and the activities foreseen in this Action;
- Relevant sublegal acts have been adopted, namely Regulation No. 01/2016 “On the organization and systematization of job positions in Ombudsperson institution” and the Regulation No. 02/2016 ‘On Rules of procedures of the Ombudsperson Institution’. The first Regulation defines internal organization of the Ombudsperson institution and the second one establish the setup and functioning of the Ombudsperson Institution as well as detailed rules of procedure concerning implementation of OIK mandate.

## **3. IMPLEMENTATION ARRANGEMENTS**

### **ROLES AND RESPONSIBILITIES**

The beneficiary institution of the Action is the Ombudsperson Institution of Kosovo. Its main role is to monitor and protect human rights and freedoms of legal and natural persons from unlawful and irregular actions or inactions of the public authorities. The roles of this Institution have been further clarified and extended through the Law on Ombudsperson, approved in 2015.

During the implementation of this Action, the OIK will collaborate with other stakeholders such as justice sector and central/governmental institutions, human rights units in municipalities, civil society organisations, media and representatives from academic institutions. An important role will have the Inter-Ministerial Coordination Group for Human Rights (IMCGHR), as the governmental body responsible for overseeing the policy in human rights sector and promote the implementation of the recommendations from the Ombudsman in line ministries. In his capacity as member of the Coordination Group the Ombudsperson will use all the institutional and legal instruments to foster the work of this Group aiming to achieve concrete results.

The European Union office in Kosovo will manage the procurement, quality control, and the implementation of the activities and can take remedial actions if and when needed. Contractors and experts deployed for implementation will have the responsibility to run the activities on a day to day basis in cooperation with the beneficiary and under the supervision of the OIK and the EU office, aiming to reach the objectives of the

Action. In line with the Law on Gender Equality, procurement will encourage equal representation among different genders on the contractor's team.

A joint management structure, such as a Steering Committee will be set up and will be responsible for the overall supervision of the Action. It will comprise representatives from OIK, EU Office and the Ministry of European Integration and other relevant. Relevant stakeholders, including international organisations can be invited to participate in the meetings. The Steering Committee will assess the progress of the Action implementation and discuss possible changes (if needed) in reaching Action objectives.

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

EU Office in Kosovo is the Contracting authority for the proposed action. This Action will be implemented in direct management mode, through Service Contracts for technical assistance and complementary services of monitoring, audit etc. and supply contracts for relevant equipment to enable the implementation of the Action. Both international and local expertise is required to implement this Action.

### **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 Directorate General for Neighbourhood and Enlargement Negotiations (DG NEAR) guidelines for evaluations including gender analysis. In addition, the Action might be subject to external monitoring in line with the European Commission rules and procedures set in the Financing Agreement.

Action monitoring will be conducted through direct participation of the Steering Committee as well as regular reporting provided by the implementing agency. The action further foresees monitoring from the EU Results Oriented Monitoring (ROM) team.

The implementing authority will provide regular reporting on the implementation of the Action, and on ensuring the OIK needs and concerns are met and addressed. The implementing authority will ensure the flexibility of accommodating the needs within the framework of the Action's mandate. The assessment will be used to provide suggestions for the future implementation of similar programming and draw out lessons learned from the current phase.

The Action may be evaluated at the interim or ex-post stages under the supervision of the Commission's Evaluation Unit. The Action may be audited by the Court of Auditors – in line with the standard European Commission procedures.

The monitoring of the Action will be based on the indicators set in this document.



## INDICATOR MEASUREMENT

Indicator	Baseline (2016)	Target 2020	Final Target 2022	Source of information
Percentage of the recommendations of OIK implemented by central governmental institutions <sup>12</sup>	16%	66%	75%	Annual report of the OIK Kosovo report Reports from the data base of OIK
Percentage of recommendations of OIK implemented by other institutions <sup>13</sup>	18%	60%	75%	Annual report of the OIK Kosovo report Reports from the data base of OIK
Percentage of cases positively resolved, in accordance with the complainants request	62%	80%	85%	Annual report of the OIK Kosovo report Reports from the data base of OIK
Percentage of investigated cases compared to overall complaints	53%	65%	80%	Annual report of the OIK Kosovo report Reports from the data base of OIK
Number of ex-officio reports with recommendations	56	70	80	Annual report of the OIK Kosovo report Reports from the data base of OIK

<sup>12</sup> The indicator used also in the Public Administration Reform Sector Reform Contract as disbursement indicator

<sup>13</sup> The goal is to reflect the real percentage comparison between the work volume of OIK with number of recommendations addressed in relation with the work volume of responsible authorities in regard to implemented OIK recommendations. (Example: if OIK address 50 recommendations from which 15 will be implemented from responsible authorities, in the end the statistics show that 30% of recommendations has been implemented. But, if OIK address 150 recommendations (which tell us that OIK increased the work volume) from which 30 are implemented, the statistics show that 20% of recommendations has been implemented, therefore, in this case we have decrease of the percentage.)

## 5. SECTOR APPROACH ASSESSMENT

The Action reflects the main objectives of the EU in the human rights sector, especially those related with the Copenhagen criteria and the Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo\*, of the other part. More specifically it is in line with the political Copenhagen criteria, aiming to address the main challenges in the field of human rights and respect for and protection of minorities. The Action aims to address challenges related to the Article 4 of the Stabilisation and Association agreement which stipulates that *“Kosovo commits to abide by international law and instruments, in particular, but not only, related to the protection of human and fundamental rights, to the protection of persons belonging to minorities, and without discrimination on any ground”*.

In order to better address the above mentioned challenges and aiming to have a sector approach in the human rights sector, the Ombudsperson suggested to the government drafting of an overarching Strategy on Human Rights, which could provide more efficient and effective overall sector management and a unified vision as regards protection of the human rights. The Strategy should include a gender perspective in accordance with the Law on Gender Equality and the EU Gender Action Plan. In terms of internal development strategies, the OIK, has approved its "Strategy and Development Plan of the Ombudsperson Institution 2017-2019", which includes the main strategic objectives of the OIK and results to be achieved in this period.

An Inter-Ministerial Coordination Group for Human Rights (IMCGHR) was established with Decision Nr. 06/87 of 13 May 2016, chaired by the Prime Minister and composed of respective Ministries, Agencies, including the Ombudsperson and civil society. The group conducted – with some delays - its first meeting in February 2017. This Group has the following tasks and responsibilities:

- Enhancing the coordination of all ministries and competent government authorities in the field of human rights;
- Monitoring implementation of policies and strategies in the field of human rights;
- Reporting to the Kosovo Assembly on the protection and respect of human rights in the Kosovo;
- Information and data exchange as well as implementation of recommendations contained in the reports of the United Nations, the Council of Europe, the European Union and other international organizations;
- Budgeting and setting policy priorities on human rights; and making proposals to advance legal framework in the field of human rights and other relevant proposals to developing the human rights in the Kosovo.

The OIK budget is included in the 3-year rolling Medium Term Expenditure Framework for Kosovo. For human rights monitoring OIK cooperates with the Office of the Good Governance in Prime Minister Office, which is also responsible for monitoring and follow up so that the OIK recommendations are implemented by respective governmental structures. The Parliamentary Commission on Human Rights, Gender Equality, Missing Persons and Petitions oversees on behalf of the Assembly the implementation of the recommendations of the OIK.

Overall, the level of compliance with the main criteria of the Sector Approach still remains a challenge related to the field of Human Rights in Kosovo due to the large number of stakeholders and the complexity of the issues at stake. The legal infrastructure is considered to be largely compliant with

European and international standards, with the Inter-Ministerial Coordination Group for Human Rights (IMCGHR) established in 2016 a sector coordination body has been provided with the potential to develop, manage and monitor in a comprehensive and transparent way an overarching human rights policy. However lack of human and financial resources, of professional expertise and administrative barriers hamper proper implementation and delays in initiating a first meeting of the group also point to a certain lack of political commitment by the government to address the human rights challenges in a comprehensive manner.

## **6. CROSS-CUTTING ISSUES**

### **GENDER MAINSTREAMING**

In Kosovo women's rights are still not sufficiently protected in all spheres of life. Problematic areas include the right to own property, equal treatment and participation in the labour market, protection against domestic violence and other issues. There is a considerable difference in terms of awareness of rights but also enforcement in the capital and outside the capital. While the legislation is considerably improved, as outlined already, implementation remains a challenge. The participation of women in public life is low and this is reflected also in the number of complaints presented to OIK by them. 78% of the complaints to the OIK offices for the year 2016 have been done by men, which indicate that among women the awareness about their rights and OIK is still low.

The OIK with it reach into many municipalities and permanent presence can play a key role to support especially on municipal level to better understand and enforce their rights. The Action aims to increase the knowledge of the citizens on human rights and OIK mandate (results 3). In this regard, particular attention will be paid to participation of women in awareness campaigns aiming to increase their knowledge in human rights as well as OIK and other institutions dealing with protection of human rights in Kosovo. This can lead to an increase of the number of complaints from women.

Moreover, OIK will mainstream gender in all strategies, internal policies and day to day work, in accordance with the Law on Gender Equality, taking into account the potential different needs that women and men may have regarding the services that this institution provides.

### **EQUAL OPPORTUNITIES**

The Ombudsperson is a mechanism for promoting, monitoring and supporting equal treatment without discrimination on any grounds as per provisions of the Laws on Gender Equality and the Anti-Discrimination Law. Among others, the implementation of the Law on Gender Equality is under the responsibilities of the OIK. The OIK issued 2 recommendations for the Agency for Gender Equality in the year 2016, which are still to be implemented.

Through this Action, equal representation of women and men in all conferences, meetings, seminars and trainings inside and outside Kosovo will be ensured. Gender-disaggregated data and statistical information will be recorded, registered, and processed by the new data base.

The action should ensure gender balance of participants selected for events financed under this Action. Both men and women should be represented equally in training sessions, programmes and activities organized by this Action. If the participation of any gender remains to a certain extent underrepresented, the Action should take measures to boost their involvement. This Action will take into account that

specific needs of both women and men should be incorporated into the development of all training modules in order to ensure equal accessibility to both target audiences.

The Action will take due care that people with disability have appropriate access to all activities and can fully take part in the implementation.

### **MINORITIES AND VULNERABLE GROUPS**

The Action will primarily focus in enhancing capacities of the OIK to protect and promote the human rights, especially of the marginalized groups, such as persons with disabilities, Lesbian Gay Bisexual Transsexual and Intersex (LGBTI) persons, ethnic minorities, people with disabilities and also children and youth. The OIK is responsible to draft and adopt specific procedures for receiving and handling complaints from children, and the creation of a specialized team for children's rights and a permanent program for children, to become aware of their rights and the role of Ombudsperson institution in their protection.

As regard the ethnic background of citizens that made a complaint to the OIK for the year 2016, the data shows that the highest number of complaints is done by ethnic Albanians (85%). 9 % from ethnic Serbs, 2% from Ashkali community and 4% belongs to other ethnic groups. The activities of the Action, especially those related with Result 3 will be focused in increasing the knowledge of all ethnic and vulnerable groups on human rights and OIK mandate. The regional offices of OIK will play a crucial role, not only through identifying these groups but also through including them to awareness campaigns and organising specific meetings/workshop to inform them on human rights and OIK mandate.

As regard the Roma Ashkali and Egyptian community, the number of complaints is very low. Only 2% from Ashkali and 1% from Roma communities, while the number of complaints from Egyptians is even lower. It is obvious that these communities face difficulties to understand their rights and to approach the OIK as the guardian of their rights.

These groups will be the final beneficiaries of the Action. In order to address their needs, the Action foresees some activities such as structured surveys on citizens' perception on the OIK role as well specifically targeted awareness campaigns. The Action will promote and encourage participation of persons from the minority communities and marginalised groups at all levels.

All relevant materials produced and published from this Action, should be accessible and available in all Kosovo official languages.

### **ENGAGEMENT WITH CIVIL SOCIETY (AND IF RELEVANT OTHER STAKEHOLDERS)**

Civil society organizations will be indirect beneficiaries of this Action. They are an important stakeholder in promotion and protection of human rights. The OIK has already a good collaboration with a number of civil society organizations established and has signed Memoranda of Understanding with some of them. NGOs are invited to contribute in different cases. As stipulated in Article 16 of the Law on Ombudsperson, OIK cooperates with social partners and non-governmental organizations dealing with issues of equality and non-discrimination, as well as similar international bodies like the Ombudsperson.

Considering civil society as one of the key partners of the OIK, through this Action it is foreseen to set up a forum for structured cooperation with a diverse range of civil society organisations dealing with

human rights. It will be chaired by the Ombudsperson and will be considered as a practical tool to discuss the challenges on human rights in Kosovo. This forum will help to increase the collaboration between the OIK and the civil society as a “watch dog” for human rights. On the other hand members of civil society will benefit from trainings on the human rights. A consolidated civil society can support the work of the OIK in protecting and promoting human rights in Kosovo. They can be involved during the monitoring of implementation of the recommendations of the OIK by responsible institutions as well as during the awareness campaigns as well.

On the other side the relevant NGOs will be invited to contribute even during the drafting of strategic documents of the OIK.

## **ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)**

The Action does not directly aim to impact on the environment. However, environmental rights are an issue in Kosovo that will be addressed indirectly by the Institution because structural violations, for example through pollution of environment and air, improper waste management etc. have a negative impact on the population and especially children and marginalised groups. 24 complaints are addressed to the OIK for this issue in the year 2016, or around 2% of the complaints. Considering the situation with the environment in Kosovo, the Ombudsperson has already started to assess how to deal with these kinds of violations. The Action, especially through fostering cooperation with civil society, will support the institution to more efficiently address violation of environmental rights.

## **7. SUSTAINABILITY**

The Action will focus on the long-term feasibility and sustainability of each intervention throughout the Action implementation. Special attention will be paid to the strengthening of the institutional capacities and the framework for regular cooperation with other stakeholders, in order to ensure long term-sustainability and the effective realisation of commitments by all actors.

The Action will produce a sustainable effect due to several factors. It will be in line with the objectives of the OIK Development Strategy for the period 2017-2019. It will address the needs of the institution through a long term approach to technical assistance. Trainings will be based on a long-term training and human resources development strategy, which could be implemented in cooperation with the Kosovo Institute for Public administration, upon the request of the OIK. This will promote transfer of knowledge and know-how to the Institute which may propose similar training in the future, without need for further external assistance. All the staff of OIK Office will participate in the implementation of the action and trainings will be designed according to specific needs of the staff.

It will be essential to increase local ownership of the Action’s outputs. Training modules, materials, publications produced within the framework of the Action will be elaborated in close collaboration with main stakeholders in the field and all competent authorities. The ownership over these achievements will help to ensure sustainability of the Action efforts.

Sustainability will also be ensured through the organisation of Training of Trainers (ToT) seminars for the representatives of OIK and other stakeholders at central and local level, academia, media and civil society, which will allow the creation of pools of trainers who will pass on the newly acquired

knowledge to their peers. The local trainers constitute a resource which will last beyond the duration of the Action.

In addition, promotion materials will be prepared and published in order to set up a valuable and lasting source of information for all the interested parties, including citizens.

The OIK will foresee in its budget the necessary financial means for the maintenance, operational costs and budget for personnel to sustain all outputs that are delivered under this Action beyond the end of implementation.

Finally, in order to ensure sustainability of outputs and outcomes, the action will respect the following methodological conditions:

- Internal procedural manuals or guidelines will be developed with the direct involvement of those who are expected to use them; procedural manuals and guidelines will be simple enough to be regularly updated and changed by the staff of the beneficiary organisations without external support; any guidelines or procedures developed will not contradict with any legal provision of Kosovo.
- Publication of monitoring reports will be encouraged; the action will also check the respect of minimum quality requirements of reports, i.e. the identification of institutions subject to complaints and how they have managed the Ombudsman's recommendations, and where necessary it will support improvements;
- Any development of registries, databases, management information systems and other IT systems shall respect Kosovo standards for interoperability. In cases when these are missing, relevant consultations with the coordinating authority for ICT should be a prerequisite before launching any tender.

## **8. COMMUNICATION AND VISIBILITY**

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. 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.

Communication and visibility will play a key role during the implementation of the action since outreach and awareness campaigns on the mandate of the OIK and human rights are core activities throughout the implementation. It is the responsibility of the beneficiary and the contracted party to keep the EU Office and the Commission fully informed of the planning and implementation of the

specific visibility and communication activities. The beneficiary shall report on its visibility and communication actions in the report submitted to the IPA monitoring committee and the sectorial monitoring committee.