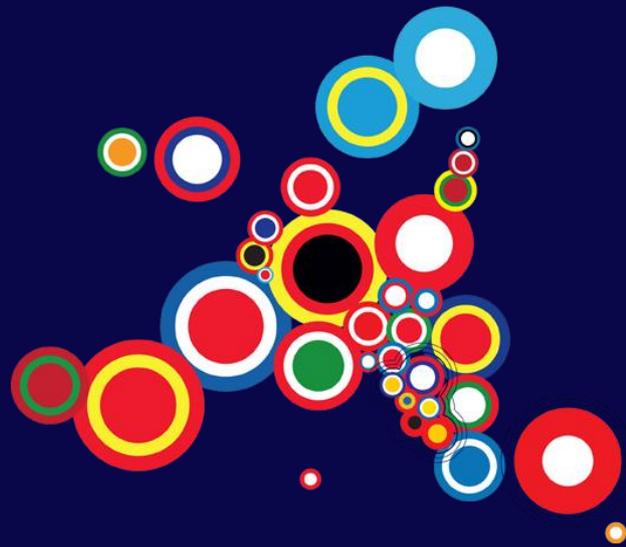




INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

Kosovo*

EU Support to the Kosovo Competition Authority and the State Aid Commission



Action summary

The overall objective is to contribute towards ensuring a competitive environment in Kosovo and a higher level of discipline in state aids by increasing and strengthening the efficiency and effectiveness of administrative capacities in the fields of competition and state aid and ensuring the approximation of legislation in these fields with the EU legal framework. Competition policy is important to maintain an internal market which can ensure that regulatory barriers to trade which have been removed are not replaced by private or other public restrictions. It aims at preventing a Government from protecting or promoting companies to the detriment of competitors within Kosovo. The term 'State Aid' encompasses all forms of assistance provided by the State (or its organs) to particular businesses or industries.

The envisaged Action will contribute to increase the transparency and efficiency of Kosovo budget expenditures to support the economy's entities.

*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

Action Identification	
Action Programme Title	Action Programme for Kosovo for the Year 2017 – Part I
Action Title	EU Support to the Kosovo Competition Authority and the State Aid Commission (
Action ID	IPA 2017/040505/04 / Kosovo / Competition & State Aid
Sector Information	
IPA II Sector	1. Democracy and governance
DAC Sector	43010
Budget	
Total cost	EUR 3.0 million
EU contribution	EUR 3.0 million
Budget line(s)	22.020101
Management and Implementation	
Management mode	Direct management
<i>Direct management:</i> EU Delegation Indirect management	European Union Office in Kosovo
Implementation responsibilities	European Union Office in Kosovo
Location	
Zone benefiting from the action	Kosovo
Specific implementation area(s)	Kosovo
Timeline	
Final date for concluding Financing Agreement(s) with IPA II beneficiary	31.12.2018
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	6 years following the conclusion of the Financing Agreement

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

1. RATIONALE

PROBLEM AND STAKEHOLDER ANALYSIS

The Treaty Provisions for State Aid assign to the European Commission (EC) broad powers to regulate actions which can distort or threaten to distort competition by favouring certain undertakings in so far as it affects trade between EU Member States, be incompatible with the internal market. The EU Competition policy concerns the applying of rules to make sure businesses and companies compete fairly with each other. It encourages enterprise to be more efficient, creates a wider choice for consumers and helps reduce prices and improve competition.

The EU's Competition Policy is an integral part of the establishment of an internal market. It is also essential for achieving a sustainable development in Europe based on a balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

Through the enforcement of rules, a key element of the Competition Policy is to ensure that regulatory barriers to trade are removed and not replaced by private or other public restrictions which would have the same effect.

The Treaty Provisions for State Aid belong to the core provisions of the EU Treaty and complement the European Union Treaty Provisions on antitrust and merger control regimes. The provisions aim is at preventing Member States from protecting or promoting companies to the detriment of competitors within the EU. The term 'state aid' encompasses all forms of assistance provided by the state (or its organs) to businesses or industries.

Support is needed for the Kosovo Competition Commission (KCC), the Kosovo Competition Authority (KCA) and the State Aid Office (SAO) to develop their capacities as Institutions in order to be able to advise on economic policy based on close coordination with Member States' economic policies, on internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition. The existing legislation in Kosovo needs to be further aligned with the EU *acquis* and effectively implemented in order to fulfil the conditions stipulated in the SAA.

The following deadlines need to be met by Kosovo government if they want to successfully implement the SAA:

- Compile a comprehensive inventory of “existing” State aid schemes within 3 years of the entry into force of the Agreement, i.e. April 2019;
- Alignment of “existing” State aid schemes with the State aid rules within 3 years of the entry into force of the Agreement, i.e. April 2019;
- Use of maximum state aid limits under the category of regional State aid within 5 years of the entry into force of the Agreement i.e. April 2021;
- Completion of a “state aid mapping” exercise with the European Commission within 4 years of the entry into force of the Agreement, i.e. April 2020.

The current Legal Framework for Competition and State Aid,

The Law on the Protection of Competition, with regard to anti-trust and mergers, was amended in February 2014 so as to further align Kosovo legislation with the EU *acquis*. Within the amendments, the provisions on mergers and acquisitions, the definition of abuse of dominant position and the scope for block exemption were amended.

Currently there are 5 pieces of secondary legislation on competition in place with a need for at least 6 or 7 new guidelines on competition to be adopted (e.g. on block-exemptions for vertical agreements, on block-exemptions for horizontal agreements, on block-exemptions for insurance sector etc.)

The new Law on State Aid Control was adopted by the Parliament of Kosovo on 23th December 2016. This Law stipulates the election of a new State Aid Commission (SAC) by the end of 2017. A State Aid Department is being established within the Ministry of Finance.

The Kosovo Competition Authority:

The Kosovo Competition Authority (KCA) has been reorganized and now includes a decision-making body - the Kosovo Competition Commission (KCC), with its Secretariat and its administrative and investigation body.

The KCC was established by the Assembly of Kosovo on 7th November 2008 based on the Competition Law no. 2004/36. It is an independent body and is responsible for law enforcement and the promotion of competition among undertakers as well as the protection of consumers in Kosovo.

KCC is composed of five members: The President of the Commission and four Commissioners. They were appointed by the Assembly of Kosovo on 9th of June 2016. From November 2013 to June 2016, the KCC had not been operational due to delays in the appointment of all five members as their mandate had expired. In October 2016, the government decided to re-locate the KCA in new, more adequate premises, allowing the institution to conduct its activities more efficiently and to hire the adequate staff. The Ministry of Public Administration has been assigned to provide the premises and the KCA moved in last February.

The KCA, as a constitutional, lawfully assigned institution, should operate as an independent public institution, free of any political and economic or financial influence. It should aim at gaining confidence among the Kosovo business community and at consolidating its public profile.

The State Aid Department / State Aid Commission

In accordance with the new Law on State Aid, the State Aid Commission (SAC), as an independent decision-making body, will assess the compatibility of any state aid provided in Kosovo.

The State Aid Department (SAD) is being established within the Ministry of Finance and will be responsible for assessing and monitoring state aid, for collecting data on provided state aid, maintaining the state aid register, cooperating with state aid providers and preparing the annual report. The SAC needs legal and technical assistance in order to be able to fulfil its responsibilities.

The difficulties faced by the competition and state aid authorities of Kosovo in the last years have not allowed the EU to provide any assistance.

Needs

This Action will enable the transfer of EU best practices and will support the adoption and implementation of the *acquis communautaire*. Experience from EU Member States will be tailored to the specificity of Kosovo economy, taking into account the competition rules and regulations of the Treaty, especially Articles 101 and 102.

Competition:

In order to meet its obligations, the Kosovo Competition Authority (KCA) will need:

- to be fully functional and to adopt credible decisions,
- have staff properly trained, especially in the field of research and market analysis,

- increase awareness raising on competition among the Kosovo civil society, the industry and business communities, and
- cooperation with other competition institutions.

Article 24 of the Law on Competition (LoC) establishes the KCA as the competent authority to conduct investigations into competition. As an Authority, it is also responsible for proposing ‘by-laws’ and sub-legal acts in competition matters (Article 67 LoC). KCA reports to the Kosovo Parliament (Assembly) and its members are appointed by and dismissed by the Parliament (Article 27).

The KCA is composed of thirteen civil servants in accordance with its organisational structure plan. However, their capacity is too low compared to the tasks currently assigned to the KCA.

KCA Staff lacks appropriate training, particularly in market investigation. There is a need for adequate internal control systems and information systems to be established providing quality information to support management decision-making and to ensure that information is classified, recorded, maintained and reported in compliance with legal requirements.

The five newly appointed members of the Kosovo Competition Commission need appropriate training on competition and mergers legislation in order to increase their decision-making capacity. Training on Competition and Mergers is of high importance. The EU has more than 50 years’ accumulated experience reflected in a high volume of competition and merger jurisprudence which can benefit the Kosovo competition authorities.

In order to be operational, KCA staff must be properly trained and have knowledge on competition, merger laws and practices at local and international level.

A further gap has been identified which will require training for the judiciary dealing with competition cases and merger control.

Training should cover:

- Building the capacity to conduct Gap analyses and drafting amendments of the existing LoC;
- Building the competence in drafting by-laws necessary for the efficient implementation of the LoC;
- Learning and sharing EU experience and individual experiences of EU Member States or associated countries (in particular countries of the region) in the field of Competition and Mergers through workshops and on-the-job trainings;
- Training the staff in order for them to be able to provide informational and consultative assistance to the Kosovo industry, business associations and other associations of industry and consumers;
- Study visits and placements for Kosovo officials at Competition bodies in EU Member States, the European Commission and/or Competition bodies in other countries;
- Study visits and Seminars for KCA on EU best practices, competition policy schemes and appropriate Competition measures.

Building awareness of the Kosovo business community as well as the general public (women and men consumers) is a priority of the KCA. It is very important as the work of the Authority is demand driven and the competences and activities of KCA are well known and publicised. This is a priority for private individuals, companies, business and consumer’s association rights if they want to lodge complaints or need to request relevant information on competition. Such awareness raising initiatives should target the business community, lawyers and other interested parties and should also include intensive training of businesses and stakeholder organisations.

To develop and maintain its competencies, the KCA needs to work with EU and International competition and merger institutions and organisations. This includes participation at Competition/Merger Annual Conferences and support for the attendance by the representatives of KCA at international events.

State Aid:

The new Law on State Aid was adopted in December 2016. In the provisions of the Law, a State Aid Commission should be adequately staffed and functional by the end of February 2017. According to the new Law, a provisional State Aid Commission will be in charge until the end of 2017. Members of the Commission should be appointed by the Parliament for three years for the period 2018-2021, including a balance of women and men. The State Aid Office, previously within the KCA, has been transferred to the Ministry of Finance as a State Aid Department. It is currently understaffed, but up to 5 new employees will be contracted in 2017. In order to increase human resources capacities of the newly established State Aid Department, priority will be given in the recruitment process as much as possible to women and men Young Cell Scheme (YCS) graduates¹ (within the foreseen conditions based on the YCS contract).

The State Aid Department lacks capacity to screen existing aid schemes. It still does not receive any information on aid schemes granted by other central or local administrations in a systematic way due to a lack of awareness on "state aid" in Kosovo.

State Aid providers have yet to be identified among the main ministries. Decision-making staffs in line ministries, as well as future case-handlers (persons who will be in charge for sending notifications) have to be included in training on basic state aid issues.

The alignment of State aid policy is at a very early stage of development and there is no track record of implementation. The Law, even as a framework law sufficiently in line with EU standards, will enable and ensure the basis for a fully functioning State Aid System in Kosovo.

The Kosovo 2016 Report makes general remarks concerning provisions of the existing State Aid Law as well as ISSTE recommendations concerning the compatibility of the existing Law on State Aid. The Report concludes that the existing Law on State aid needs to be revised. Furthermore, the Report proposes further actions that need to be performed in the field of secondary legislation. It outlines the need for scope of and outline structure of the bylaws to be adopted in the area concerned. Finally, it suggests that, in order to reach the objectives laid down in SAA, particular focus should be given to legislative activities and the establishment of a fully functioning state aid control and monitoring system.

The actions and activities to be completed include:

- Completion of the legal framework for the State Aid System in Kosovo and enforcement of State Aid Control;
- Completion of an inventory of existing state aid measures;
- Completion of a Programme of adjustment of existing State Aid measures;
- Strengthening of the institutional system of State Aid, improvement of human resources management systems and awareness raising activities;
- Enhancing and strengthening international cooperation on State Aid.

With regard to the legislative measures, besides the recent adoption of the new Law on State Aid, there is a need for drafting the following by-laws:

- Regulation on Manners and Conditions for providing State Aid;

¹ post-graduate scholarship programme in Kosovo that obliges the awarded grantees with a 3-year employment contract in the public administration upon their return from the MA studies

- Regulation on Notification of State Aid to the Commission for State Aid (or amending the existing Regulation from 2012);
- Regulation on De Minimis Aid;
- Regulation on Aid for Services of General Economic Interest

The following activities need to be undertaken in order to strengthen the institutional system of state aid, to improve human resources management system, to raise awareness as well as to develop international co-operation and improve the functional capacity of the State Aid Commission:

- Appointment of staff for the SAC and SAD;
- Development of training programmes and curricula;
- Training of the members of SAC and the staff of SAD
- Training of the staff of the key State Aid providers;
- Provision of information, consultation and technical assistance to the State Aid providers

There should be an active use of Donor Projects to assist the development of the State Aid system and to share EU experience and experience of EU Member States or associated countries (in particular countries of the region) in the field of State aid.

The Action will cooperate closely with the Public Administration Reform (PAR) programme. Kosovo has developed a comprehensive public administration reform agenda with the support of the EU and is currently implementing it. Among the main issues, the Strategy on Modernisation of Public Administration 2015-2020 recognises shortcomings in the legal framework regulating organisational structures of public administration. There will be a need to coordinate with the key administration leading the PAR, notably the Council of Ministers for Public Administration Reform (CMPAR), the Coordination Group for Modernization of Public Administration and the Department for Management of Public Administration Reform.

In addition, the Action will coordinate with the Ministry of European Integration (MEI) especially on transposition of the EU acquis.

OUTLINE OF IPA II ASSISTANCE

The need to support Competition and State Aid in Kosovo is highly relevant. The Action will be the first donor assistance in these fields and will support Kosovo government to fulfil its commitments and obligations as stated in the SAA.

As identified in the Kosovo 2016 report, Kosovo is at an early stage in the area of competition. There was some progress in this field as the members of the Kosovo Competition Commission (KCC), a decision-making body of the Kosovo Competition Authority (KCA), have finally been appointed. However, both the KCA and the KCC face substantial challenges to their respective investigative and decision-making capacity. Significant efforts are needed to improve legislative alignment and enforcement in the area of State Aid and Competition.

The relevant institutions will be involved in all the activities supported by the Action, respectively on the drafting of the legislation and its implementation, participating in the training and organization of the awareness raising campaigns. Depending on the activities, other institutions might benefit from the Action.

The implementation of activities foreseen in this Action are expected to produce immediate results and changes in the current situation, as well as long-term sustainable results to be introduced in the form of legal implementation, improved performance of relevant institutions and overall increased awareness among the governmental institutions, the business communities, civil society and consumers on Competition and State Aid.

The Action should focus on strengthening legal, administrative and structural capacities of the institutions in charge of the development and enforcement of Competition and State Aid. The Action should focus primarily in strengthening the capacities of the KCC, KCA, State Aid Office and SAC as main beneficiaries. Additionally, the Action should also support the implementation and enforcement of the legal framework and provide assistance to governmental institutions involved in providing State Aid and to the judicial institutions.

The Action will also put a special emphasis on raising awareness on competition and state aid among state aid providers, business community, civil society and academic community. This is essential as these fields have never been properly dealt with by Kosovo government.

RELEVANCE WITH THE IPA II STRATEGY PAPER AND OTHER KEY REFERENCES

In the Part IV – 4 of the **Indicative Strategy Paper for Kosovo (2014-2020)** it is stipulated that: *“As far as the competitiveness and innovation sector is concerned, IPA II will contribute to improving the capacity to design and implement competitiveness related policies, increasing the competitiveness of the Kosovo economy, including services, manufacturing as well as providing public services related to the needs of the private sector”*. The Action is in line with these expected results,

The Action will address the main recommendations from the **2016 Kosovo Report**. In particular, it is designed to focus the support on:

- ensuring the law on competition is enforced effectively;
- adopting the new law on state aid and aligning the secondary legislation;
- ensuring the operational independence of the State Aid Commission, and
- improving the effectiveness of its control on state aid at all levels.

The activities presented will also assist Kosovo to fulfil its obligations deriving from the SAA:

- ensure that any practices contrary to Article 75 shall be assessed on the basis of criteria arising from the application of the competition rules applicable in the EU, in particular from Articles 101, 102, 106 and 107 of the Treaty on the Functioning of the European Union and interpretative instruments adopted by the EU institutions;
- ensure that an operationally independent authority is entrusted with the powers necessary for the full application of paragraph 1(c) of Article 75, which means that this authority shall have, inter alia, the powers to authorise state aid schemes and individual aid grants in conformity with paragraph 2, as well as the powers to order the recovery of state aid that has been unlawfully granted;
- ensure transparency in the area of state aid, inter alia by providing to the other Party a regular annual report, or equivalent, following the methodology and the presentation of the EU survey on state aid.

The National Development Strategy (NDS) for 2016 – 2021 foresees interventions in human capital, good governance and the rule of law, and in competitive industries.

The Economic Reform Programme (ERP) for 2016-2018 is fully in line with the NDS “priorities of priorities” but narrower in scope, as it describes those structural reforms that have been identified by Kosovo and EU in a joint dialogue on economic policy. The aim of the ERP 2016-2018, is to facilitate Kosovo’s line ministries to harmonize all sectoral policies as part of an overarching NDS. NDS sets out Kosovo’s key development objectives, whereas ERP focuses on the fiscal consolidation following the 2014 public sector deficit and slow economic growth in 2015, as well as on structural reforms aiming at increasing Kosovo’s export competitiveness, and elimination of the identified obstacles slowing down economic growth.

The priority actions under the European Reform Agenda (ERA) have been jointly identified by the Kosovo government and the European Commission in close consultation with International Financial Institutions, the

business sectors, civil society and social partners. Three main themes have been identified within this document: good governance and the rule of law; competitiveness and investment climate; and employment and education. The enhancement of the capacity of Competition and State Aid bodies and their operationalization have been stipulated, together with sub-actions on strengthening of internal procedures and capacity in the Kosovo Competition Authority to conduct investigations. Additionally, the Competition Authority is to research and prepare a report on the state of play of monopolies in the market in Kosovo with appropriate recommendations; the alignment and amendment of the Law on State Aid and the alignment of the secondary legislation, and ensuring the operational independence of and sufficient capacity for the State Aid Commission to improve the effectiveness of its control on State aid.

The strategic framework on Public Administration Reform addresses, among other issues, the overall re-organisation of public administration and accountability lines, the policy development and coordination process, including EI functions, as well as professionalisation of the civil service.

The IPA assistance prepared on basis of this Action will clearly support the implementation of these actions.

LESSONS LEARNED AND LINK TO PREVIOUS FINANCIAL ASSISTANCE

In summer 2015, an inventory of existing competition and state aid legislation and gap analyses were conducted by two experts: one on Competition and one on State Aid (financed under IPA I – 2013). The experts were recruited to support the Ministry of European Affairs to draft the National Plan for adoption of the acquis in the field of Competition and State Aid. One of the recommendations made by the State Aid Expert was the amendment of the Law on State Aid which, in the meantime, have been supported by the MEI. A new Law on State Aid has been adopted in early 2016.

The experts have drafted Roadmaps on State Aid and Competition in which they have assessed the situation in Kosovo and made some recommendations for improvements. The main recommendations mentioned in the Roadmap on State Aid and the Roadmap on Competition have been taken into consideration in this Action, especially for identifying the results and activities.

2. INTERVENTION LOGIC

LOGICAL FRAMEWORK MATRIX

OVERALL OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (*)	SOURCES OF VERIFICATION	
To contribute towards ensuring a competitive environment in Kosovo and a higher level of discipline in state aids	Progress made towards meeting Copenhagen criteria	SAA Progress Report Kosovo Report Minutes of SAA Committees and Subcommittees Meetings Annual Reports on state aid	
SPECIFIC OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (*)	SOURCES OF VERIFICATION	ASSUMPTIONS
To increase and strengthen the efficiency and effectiveness of administrative capacities in the fields of competition and state aid and to ensure the approximation of legislation in these fields with the EU legal framework.	<ul style="list-style-type: none"> • Legal and institutional framework on competition and state aid harmonised with the acquis and commitments from the SA related to competition and state aid fulfilled • Kosovo Competition Authority and State Aid Commission fully operational and cooperation mechanism with judiciary and state aid grantors at all levels on-going 	Kosovo Report Annual Reports on working of KCA submitted to the Parliament Annual Reports on state aid submitted to the Parliament	Political commitment to legal and institutional harmonisation to EU competition and state aid acquis and policy ensured Political commitment to public administration reform agenda Political stability in Kosovo
RESULTS	OBJECTIVELY VERIFIABLE INDICATORS (*)	SOURCES OF VERIFICATION	ASSUMPTIONS
<p><u>Component 1 – Competition:</u></p> <p>Result 1: The legal framework (primary and secondary legislations) in the field of Competition is further aligned to the EU acquis</p> <p>Result 2: The KCA handle cases in a more efficient manner and is able to respond effectively to needs related to</p>	<ul style="list-style-type: none"> • Regulations and guidelines on anti-trust adopted • Number of investigations completed by KCA • Number of investigations completed by KCA not disputed on Courts 	Kosovo Report Investigations completed by KCA Judicial decisions on KCA cases Annual report of the KCA	Readiness of main target groups to cooperate and gain new knowledge in the field of state aid Sufficient priority and resources are allocated by the government

<p>implementation of the competition and state aid rules</p> <p>Result 3: Judges and staff of courts dealing with competition cases and merger control are properly trained and can make decision on competition and merger cases</p> <p>Result 4: Awareness on competition among women and men in the business community, civil society and academic community is raised</p> <p><u>Component 2 – State Aid</u></p> <p>Result 1: The legal framework (primary and secondary legislations) in the field of state aid is further aligned to the EU acquis</p> <p>Result 2: The SAC/SAD handle cases in an efficient manner and get in a position to respond effectively to the needs of implementation of the competition and state aid rules</p> <p>Result 3: A comprehensive inventory of “existing” state aid schemes is established and Programme of adjustment is drafted</p> <p>Result 4: Awareness on state aid among state aid providers, business community, civil society and academic community is raised</p>	<ul style="list-style-type: none"> • Number of confirmations of KCA decisions in the process of judicial reviews • Number of requests made by the business community in assessing mergers and restrictive agreements, disaggregated by gender of person making request • Regulations on state aid adopted • Number of decisions on state aid cases • Number of state aid notifications submitted to the SAC (SAD) State aid inventory completed • Program for Adjustment of state aid measures completed 	<p>Kosovo Report</p> <p>Adopted decisions on state aid cases</p> <p>State aid inventory</p> <p>Program for Adjustment of state aid measures</p> <p>Annual Reports on state aid</p>	<p>Appropriate management within KCA, SAC (SAD) and state aid providers ensures that improved skills can be efficiently applied</p>
---	--	--	---

DESCRIPTION OF ACTIVITIES

The following activities are planned under this action:

Component 1: Competition

- **Activity 1:** Gap analyses of current anti-trust legislation. To identify the by-laws to be drafted or amended
- **Activity 2:** Establishment of working groups with representatives from the main stakeholders (KCA and the line ministries); Support the drafting of legislation, including a balance of women and men
- **Activity 3:** Amending the by-laws and the legislation

The purpose of the activities 1-3 is to ensure that a legal framework (main and secondary legislations) in the field of Competition and Mergers is in place and is further aligned to the EU acquis.

- **Activity 4:** Conduct stakeholders' need analysis and develop a detailed work plan. The work plan based on the needs 'assessment will determine a targeted and tailored training programme, addressing a number of thematic areas (for example market analyses) for individual staff.
- **Activity 5:** Mentoring and “on-the-job training” are envisaged as being the most appropriate capacity building tools for skills development for the KCA staff. Staff will also benefit from the training. Study visits to the region and to DG Competition shall be also envisaged.
- **Activity 6:** this activity will support the implementation of the relevant law and related by-laws provisions.

The activities 4 -6 should support the KCA to handle cases in a more efficient manner and get in a position to implement effectively the competition rule.

- **Activity 7** is a training programme developed for the Judiciary based on best practices of the European Commission and the European Court of Justice and aligned with the cases pending in Kosovo. The training programme will target a critical number of Judges and staff of the courts dealing with competition cases and merger control and train them so that they will be able to make decisions in competition and merger cases
- **Activity 8** is focusing on awareness raising through, among other, training and seminars addressed to a broader public. A needs' assessment targeting the beneficiaries will be done in order to assess their understanding on competition and to develop specific activities.

Objective Verifiable Indicators will be identified for the Awareness activities which should be designed to be as flexible as possible using a number of different Medias (articles, news, events, B2B) to be adapted to the targeting beneficiary in order to ensure maximum reach of diverse women and men.

Component 2 – State Aid

- **Activity 1:** Gap analyses of State Aid legislation and by-laws in place. Further aligned of the legislation to the EU acquis, Identify by-laws to be drafted and/or amended
- **Activity 2:** Establishment of working groups with women and men representatives from the main stakeholders (SAC-SAO) and the line ministries, to support the drafting of legislation.
- **Activity 3:** Amending by-laws and legislation

The purpose of the activities 1-3 is to ensure that a legal framework (main and secondary legislations) in the field of State Aid is in place and is further aligned to the EU acquis.

- **Activity 4:** Conduct stakeholders' need analysis and develop a detailed work plan. The work plan, based on the needs assessment, will determine a targeted and tailored training programme,

addressing a number of thematic areas (for example market analyses) for individual women and men staff.

- **Activity 5:** Mentoring and “on-the-job training” are envisaged as being the most appropriate capacity building tools for skills development for the SAC/SAD staff . Staff will also benefit from the formal training. Study visits to the region and to DG Competition shall be also envisaged.
- **Activity 6:** this activity will support the implementation of the relevant law and related by-laws provisions.

The activities 4 -6 should support the SAC/SAD to handle cases in a more efficient manner and get in a position to implement effectively the State Aid rules.

- **Activity 7:** Will carry out a comprehensive inventory of “existing” State aid schemes. This is mandatory as stated in the SAA and has to be completed by April 2019. This will require the organisation of working group(s) lead by representative of SAC (SAD) where support will be delivered in the first phase for the identification of the existing legislation in Kosovo which contains state aid measures. In the second phase, the assistance shall be provided for drafting a comprehensive Program of Adjustment of previously identified state aid schemes.
- **Activity 8:** is focusing on awareness raising activities on State Aid among state aid providers, business community, civil society and academic community, including diverse women and men. A needs' assessment targeting the beneficiaries will be done in order to assess their understanding on state aid and to develop specific activities.

Objective Verifiable Indicators will be identified for the Awareness activities which should be designed to be as flexible as possible using a number of different Medias (articles, news, B2B and events) to be adapted to the targeting beneficiary in order to ensure maximum reach.

RISKS

Risk	Mitigation measure
<p>Law quality of policy and legislative proposals affecting their actual implementation and enforcement</p>	<p>Ensure appropriate inter-ministerial coordination on all policy and legislative proposals</p> <p>Support the assessment of fiscal and regulatory impacts of new policy and legislative proposals to ensure that there are sufficient funds and resources allocated for their implementation and that the effects of new laws and policies are carefully analysed</p> <p>Provide relevant coordination capacities from the project to ensure increased flow of information which will aim at increasing the awareness on the importance of efficient inter-ministerial cooperation</p> <p>Ensure the involvement of the civil society and other relevant non-state actors in policy and legislative processes to ensure that the interests of those who are likely to be affected by the new policies and laws are taken into consideration</p> <p>Communication strategy and awareness raising campaign on the importance of the activities to be implemented</p>
<p>Limited absorption capacity at the relevant institutions</p>	<p>Capacity building measures targeting the beneficiary institutions to be implemented at an early stage of project implementation and during the entire implementation of the project,</p> <p>Consultations, at an early stage of project implementation to identify the needs</p>

<p>Staff turn-over and limited resources allocated for the implementation of the activities</p>	<p>Implement fiscal impact assessments of all draft legislation and policies to ensure that there are sufficient funds and resources allocated for their implementation</p> <p>Continuously stress the importance of institutional and administrative capacity reform</p> <p>Increase the human resources within SAD by giving priority of employing women and men Young Cell Scheme (YCS) graduates (within the foreseen conditions based on the YCS contract)</p> <p>Implement the Public Administration reform supported by the EU</p>
<p>Weak sustainability of the outputs after the end of the implementation</p>	<p>Ensure transfer of know-how during the implementation of the project and involved the staff in the implementation of the activities with the experts supporting the staff</p> <p>Ensure coherence with the horizontal public administration reforms</p> <p>Take the relevant principles of public administration and the better regulation approach into account and integrate it in EU assistance</p>

Working closely with all programmes, stakeholders will also ensure that any potential risks to the timely implementation of the EU capacity building project are predicted, or, if they arise unexpectedly, are addressed swiftly and efficiently.

CONDITIONS FOR IMPLEMENTATION

The Pre-Conditions for the implementation (to be met before the start of the tendering process) are:

- For the component targeting Competition:

Completion of the procedure of moving of KCA to the new premises

- For the component targeting State Aid:

Appointment of members of State Aid Commission for a period 2018 - 2021

Staffing of State Aid Department: Priority should be given in selection of employing Young Cell Scheme (YCS) graduates (within the foreseen conditions based on the YCS contract).

3. IMPLEMENTATION ARRANGEMENTS

ROLES AND RESPONSIBILITIES

The action will be managed by the EU Office in Kosovo and coordinated by the NIPAC office at the Ministry for European Integration.

The main institutional stakeholders in this project will be the Kosovo Competition Authority (KCA), the Kosovo Competition Commission (KCC), and the State Aid Commission (SAC) with the State Aid Department (SAD).

Other beneficiaries are judges, Kosovo courts, as well as line ministries identified as the main state aid providers, i.e. Ministry of Finance, Ministry of Trade and Industry, Ministry of Transport and

Telecommunication, Ministry of Labour and Social Welfare, Ministry of Energy and Mining, Ministry of Local Government Administration and local municipalities.

The action will also directly benefit the Kosovo private sector and the general public / Kosovo consumer's women and men.

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

The Action will be implemented through service contracts (technical assistance).

Timetable of implementation: September 2018 – September 2022

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 for evaluations. In addition, the Action might be subject to external monitoring in line with the European Commission rules and procedures set in the Financing Agreement.

INDICATOR MEASUREMENT

Indicator	Baseline (2016) (2)	Target 2020 (3)	Final Target (2022) (4)	Source of information
To contribute towards ensuring a competitive environment in Kosovo and a higher level of discipline in state aids				
To increase and strengthen the efficiency and effectiveness of administrative capacities in the fields of competition and state aid and to ensure the approximation of legislation in these fields with the EU legal framework.				
• Number of guidelines on competition adopted	5	11	12	SAA Progress Report Kosovo Report Minutes of SAA Committees and Subcommittees Meetings
• Number of decisions on competition	4	40	60	SAA Progress Report Kosovo Report Minutes of SAA Committees and Subcommittees Meetings
• Number of decisions on state aid	0	20	30	SAA Progress Report Kosovo Report Minutes of SAA Committees and Subcommittees Meetings
• Number of judges trained , disaggregated by gender	0	10	15	Project's Workshops' evaluation sheets
• Number of staff within state aid providers trained on state aid issues (male/female)	0	30 (15/15)	50(25/25)	Project's Workshops' evaluation sheets

<ul style="list-style-type: none"> Inventory on state aid completed 	0	1	1	SAA Progress Report Kosovo Report Minutes of SAA Committees and Subcommittees Meetings
<ul style="list-style-type: none"> Program of adjustment on state aid measures completed 	0	1	1	SAA Progress Report Kosovo Report Minutes of SAA Committees and Subcommittees Meetings
<ul style="list-style-type: none"> Number of staff within various stakeholders participated on competition and state aid seminars and workshops (male/female) 		30 (15/15)	50 (25/25)	Project's Workshops' evaluation sheets

5. SECTOR APPROACH ASSESSMENT

The activities of the Competition Authority and the State Aid Department/Office are recognised as strategically important in the National Development Strategy. They are identified as important prerequisites of a well-functioning economy in a number of the sub-sector strategies and policies including the Consumer Protection Programme 2016 – 2020, the National Strategy for the Prevention of and Fight Against Informal Economy, Money Laundering, Terrorist Financing and Financial Crimes 2014-2018 and the Private Sector Development Strategy 2013 – 2017.

The National Programme for the Implementation of the SAA (NPISAA) highlights the route to compliance with the Acquis "Chapter 8: Competition Policy", and under the "Implementing Measures (3.9)" identifies institutional reforms and capacity-building, and implementation and enforcement, to be taken into account to implement the SAA Articles 74 and 75. The European Reform Agenda (ERA) signed the 9th November 2016 also has as Priority ref. 2.2(E) which states the following: "Align legislation, enhance capacity of Competition and State Aid bodies and ensure they start implementing their mandates". Sector policy and strategy are assessed as adequate.

The Institutional setting and capacity are weak and have been commented upon in the Kosovo Reports. The institutional setting has been improved through the recent passing of laws and the commitment to more human and physical resources. It is the focus of this action to develop and improve the capacity which is currently assessed as weak.

Within the government, the Ministry of European Integration is responsible for coordinating donor assistance. The Aid Management Platform, established with EU support, is used as a main tool for monitoring donor activities. Sector working groups, established with the aim to coordinate donor activities, are not yet fully functional and lack substantial involvement from donors and line institutions. However, progress has been achieved in some sectors, such as public administration reform, and agriculture and rural development where some monitoring and implementation structures have been set up. The EU Office regularly participates in the Donor Consultation Meeting (DCM) chaired by MEI, which includes EU Member States and other bilateral and multilateral donors (US, UN agencies etc.). Sector and donor coordination is assessed as adequate.

For the Sector Budget, the Medium-Term Expenditure Framework (MTEF) identifies as a priority "Creating a favourable climate for investments and support of development of small and medium enterprises" with the Competition Authority and State Aid Office identified as institutions with responsibilities in this area. There is an overall budget identified for the Infrastructure and Competitiveness Sector but no detail or breakdown is given. The Sector Budget is assessed as weak.

IPA II Programme is designed to address growth constraints and to support the implementation of government policies through a number of intervention areas including those under the rule of law, public administration, energy and agriculture. The National Development Strategy and the Economic Reform Programme 2017-2021.

This Action is fully aligned with the obligations deriving from the SAA.

No real progress has been achieved in the competitiveness sector and institutional capacities require to be substantially improved. There is an absence of institutional capacity at all levels. Therefore, it is of utmost importance that the lead institutions take advantage of the assistance and take ownership of the whole competition policy and of the results to be achieved under both components.

6. CROSS-CUTTING ISSUES

GENDER MAINSTREAMING

Kosovo government accepts the fundamental principle of equality between women and men. Monitoring the transposition, implementation and enforcement of EU legislation in this area remains a priority of Kosovo to its European path, which the EU supports financially.

Activities under this Action will be implemented in accordance with the EU Gender Action Plan (GAP) 2016-2020. Insofar, gender equality mechanisms and women's organizations will be consulted as much as possible. In the establishment of commissions and regarding the recruitment and the training of staff involved in this Action, efforts will be made to ensure equal representation of women and men, as much as possible and in accordance with the Kosovo Law on Gender Equality. Furthermore, all legislation completed will be reviewed from a gender perspective. Awareness-raising activities will use modes of communication at appropriate times and places to reach diverse women and men with the relevant information.

EQUAL OPPORTUNITIES

Equal opportunity needs will be considered as an integral part of the Action with regular monitoring to ensure relevant issues are given due prominence. In particular, training programme will be concentrated on ensuring that equal opportunity issues are given fair treatment by the programme.

All activities will respect the principles of equal treatment and opportunities for both, man and women. Institutions benefiting from the Action are equal opportunity employers.

MINORITIES AND VULNERABLE GROUPS

The Action will assist beneficiaries in implementing mechanisms to ensure that in all the phases of policy development and implementation, the principle of equitable representation of ethnic minorities and the protection of minority right is taken into consideration. The Action will also assure equal access and status to the members of vulnerable groups

ENGAGEMENT WITH CIVIL SOCIETY (AND IF RELEVANT OTHER STAKEHOLDERS)

The Action will enable the civil society (including women's organizations), as well as the private sector organizations including Chambers of Commerce, to benefit from a series of trainings in order to increase their capacities and knowledge on competition and to support their active participation regarding the drafting and adoption of laws and regulations, having in mind the pro-active role the Civil society had during the setting up of the priorities actions and indicators of the European Reform Agenda, especially those linked to competition and State Aid.

Civil society organizations (CSO), particularly those which will benefit from the trainings, represent an important stakeholder groups for the implementation of the proposed action, as well as Chambers of commerce and private sector organizations. Civil society organizations have played an important role in the consultation processes in the past and will continue to be in the future.

Public discussions involving both women and men are a tool foreseen to be utilized to ensure maximum transparency and inclusion of civil society and relevant stakeholders. Media will be invited to cover part of these activities, in order to adequately inform the public on the ongoing processes and projects.

Moreover, according to the recently adopted Law on State Aid, Civil society organizations will be involved in state aid issues. One member of the SAC will be a representative of the CSO and will be appointed for a period of four years.

Broader public will be included in the process through awareness raising actions carried out under the Action. The Action will put a special emphasize on involving communities like e.g. business and academic communities in specific activities. Representatives from CSO will also be members of the project Steering Committee, including a women's organization in accordance with the EU GAP.

ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)

Environmental considerations will be duly reflected in all IPA-financed activities. However, the Action will have only minor direct impact on the environment, mainly indirect.

7. SUSTAINABILITY

Taking ownership of the Action from the beneficiaries' side is of utmost importance for the sustainability of the Action. This relates to both main beneficiaries of the project – KCA/KCC and SAC/SAD. When new legislation will be drafted and training will be defined, all beneficiaries to the programmes will be involved which will contribute to ownership.

The Action will contribute towards setting up a functioning competition system and aligning the Law on Competition, and the regulations on competition and on state aid towards the EU acquis.

With regards to the operational financial sustainability, the KCA-KCC is an independent agency under the responsibility of the parliament, and funded by the GoK, thus the financial sustainability will be ensured by state budget. With the review of the MTEF for the period 2018-2020, KCA has requested a budget increase and the recruitment of additional staff, as foreseen in its organizational chart.

With the new law on State Aid, the state aid office has been transferred to the Ministry of Finance, and SAC/SAD has been already established. The draft-Internal Regulation on the functioning of the SAC/SAD is under the finalization process and the operational financial sustainability will be secured by the state budget. With the review of the MTEF, the SAC/SAD has requested a budget increase and the recruitment of additional staff, which is reflected in the draft- Internal Regulation on the functioning of the SAC/SAD.

The transfer of Knowledge should be improved through trainings and workshops during which the latest development on EU Competition and State aid law will be presented. Eventually the establishment of good practice through networking among State Aid Department/office and state aid providers will be looked at. One of the most critical issues to be taken into consideration is the training of the newly recruited employees at the State Aid Office in order to sustain the capacity of the Institutions. The Staff should be able to provide trainings to other institutions after the completion of the Action. For these reasons, training activities will be coordinated with the Kosovo Institute for Public Administration and where possible, will be carried out in cooperation with it.

With regard to maintaining awareness, it is very important that KCA and SAC manage their web sites, in order to give better insight for all activities in the field of competition. It is highly recommended that KCA and SAC occasionally organise press conferences during which they will inform the public on their respective activities. The adoption of a State Aid annual report should be appropriate to disseminate information on State Aid to a larger public.

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.

These actions could be done within the “awareness raising” components by drafting and printing leaflets and manuals on competition and on state aid rules, or by printing of short version of Vademecum on existing EU state aid rules. Also, kick-off and closing conference of the project could be organised as panel discussions with topics which will be interesting for broader public. This will also contribute to better sustainability of the project's results.