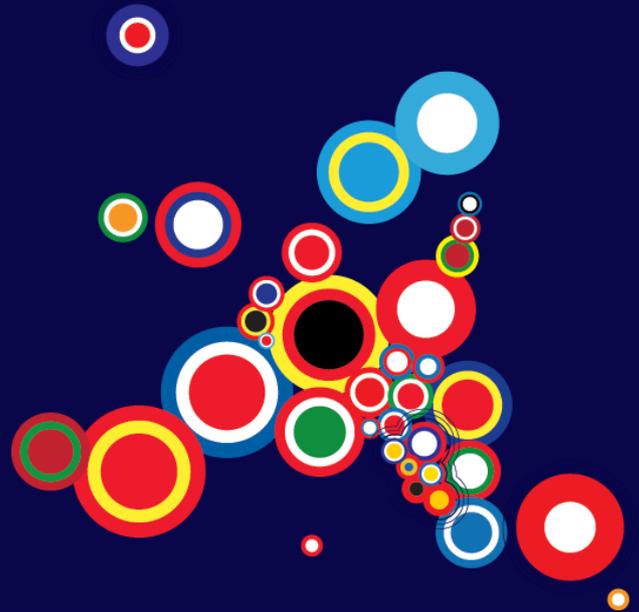




## INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

### Kosovo\*

#### Facility for Approximation with the EU Acquis



#### **Action summary**

The main aim of the action is to further support Kosovo's integration into the world economy and strengthen the role of the Kosovo administration in promoting socio-economic development in trade, free movement of goods and services and strengthening sectorial approximation with the EU acquis through effective regulatory functions in line with Stabilisation and Association Agreement obligations. In addition, the facility aims to strengthen technical and administrative capacity of the administration in relation to Kosovo's European reform agenda and to support the effective and efficient management and absorption of IPA funds.

The support will be provided through technical assistance and twinning and will target the following sectors: trade, free movement of goods and free movement of services.

\*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>	<b>Action Programme for Kosovo for the Year 2016 – Part I</b>
<b>Action Title</b>	Facility for Approximation with the EU Acquis
<b>Action ID</b>	IPA 2016 / 039 744 / 01 / Kosovo / Acquis Approximation
<b>Sector Information</b>	
<b>IPA II Sector</b>	1. Democracy and Governance
<b>DAC Sector</b>	43010
<b>Budget</b>	
<b>Total cost</b>	EUR 7.5 million
<b>EU contribution</b>	EUR 7.5 million
<b>Budget line(s)</b>	22.02.01.01
<b>Management and Implementation</b>	
<b>Management mode</b>	Direct management
<i>Direct management:</i> <b>EU Delegation</b>	European Union Office in Kosovo
<b>Implementation responsibilities</b>	European Union Office in Kosovo
<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>	31 December 2017
<b>Final date for concluding delegation agreements under indirect management</b>	N/A
<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 programme should be de-</b>	12 years following the conclusion of the Financing Agreement

<b>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"/>	<b>x</b>	<input type="checkbox"/>
Aid to environment	<b>x</b>	<input type="checkbox"/>	<input type="checkbox"/>
Gender equality (including Women In Development)	<input type="checkbox"/>	<b>x</b>	<input type="checkbox"/>
Trade Development	<input type="checkbox"/>	<input type="checkbox"/>	<b>x</b>
Reproductive, Maternal, New born and child health	x	<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	<b>x</b>	<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**

The Stabilisation and Association Agreement (SAA) between the European Union and Kosovo entered into force on 1st April 2016. The SAA establishes a contractual relationship that entails mutual rights and obligations and covers a wide variety of sectors. The SAA focuses on respect for key democratic principles and core elements that are at the heart of the EU's single market. The SAA aims at gradually develop a free trade area between the EU and Kosovo where free movement of goods, services and capital are mutually guaranteed and where the application of European standards in areas such as competition, state aid and intellectual property rights will be aligned. Other provisions cover political dialogue, cooperation in a wide variety of sectors ranging from education and employment to energy, the environment and justice and home affairs.

In this context, further support is needed in the Trade sector on improving the policy making process and strengthening the use of the concept of inclusive and evidence-based policy making. In regard to evidence based policy making for the trade sector, there is a lack of accurate data which makes the policy making challenging, therefore there is a need for upgrading the databases and impact assessment studies, which would improve the evidence based policy making.

Support is equally needed in the field of Intellectual Property Rights (IPR) to provide support with the approximation of Kosovo legislation to the EU acquis. As per the SAA, both parties have confirmed the importance attached to ensuring adequate and effective protection and enforcement of intellectual, industrial and commercial property rights and Kosovo has agreed to take the necessary measures in order to guarantee no later than 5 years after entry into force of this Agreement a level of protection of intellectual, industrial and commercial property rights similar to that existing in the EU, including effective means of enforcing such rights. (Article 77 of the SAA)

The challenges for Kosovo with regards to the free movement of goods are mainly related to quality infrastructure, market surveillance and consumer protection. The approximation of Kosovo's legislation to the EU acquis in the field of standardisation, metrology, accreditation, and conformity assessment as well as consumer protection is far from being achieved. The metrology laboratories need further support. Currently, the economic operators in Kosovo and the end consumers are lacking information about the benefits of standardisation, accredited conformity assessment services and metrology. Awareness raising on consumer protection is as well of high importance, both at the level of end consumers and economic partners. Moreover all institutions in Kosovo working in the fields of Quality Infrastructure are facing difficulties in joining the relevant organisations at European and international level, which is crucial for the efficient functioning of the institutions.

Furthermore, the SAA will establish the modalities to extend the provisions of supply of services to EU nationals and citizens of Kosovo with a view to temporary entry and stay of services suppliers established as self-employed in a territory of a Party and who have concluded a bona fide contract to supply services with a final consumer in the latter Party, requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services. By further liberalising cross-border provision of services and the free establishment within the EU, the EU Services Directive has become the largest recent reform effort in an area relatively protected and sheltered from international competition. The EU Services Directive (Directive 2006/123/EC) should be transposed into Kosovo legislation primarily by the enactment of a so-called horizontal law.

The SAA obligations assume that Kosovo public administration is ready and capable to adopt and implement the SAA in an efficient and effective manner. As part of overall public administration reform efforts, the Government's top priority is to establish the policy planning system and ensure better regulation as well as to prepare the structures and strengthen the capacities required for implementation of the SAA.

With the view to assist Kosovo in advancing its European agenda, this facility for approximation with the EU acquis will support specific projects which cannot be programmed in advance. These projects aim, on the one hand, to help prepare and implement actions responding to the challenges identified in the SAA and the annual enlargement reports, and, on the other hand, any actions which cannot yet be identified as they will depend on the progress made with Kosovo's legislation and institutions.

## **PROBLEM AND STAKEHOLDER ANALYSIS**

According to the Kosovo Report 2015, the Ministry of Trade and Industry (MTI) has made gradual progress in implementing the strategy on free movement of goods adopted in February 2013.

#### Quality infrastructure

The legal framework for conformity assessment (CA) in Kosovo consists mainly of its Law No. 04/L-039 on Technical Requirements for Products and Conformity Assessment and its by-laws. Kosovo regulatory framework for Conformity Assessment is broadly aligned with the acquis. The Law No. 03/L-069 on Accreditation is partly aligned with the provisions dealing with accreditation of Regulation (EC) No 765/2008, whereas a new law is being drafted in 2015-2016. The authority to perform accreditation activities is the Directorate for Accreditation of Kosovo (DAK), as the sole accreditation body in Kosovo. The Law no. 03/L-14 on Standardisation is partially aligned with the EU acquis and the Agency for Standardisation (AKS), which is operating under the Ministry of Trade and Industry, is the standards body. Also for Standardization, there are plans for the harmonization of the law with the Regulation 1025/2012/EU during 2016. Kosovo metrological system is legally based on Law no.03-L-203 on Metrology and the Agency for Metrology of Kosovo (AKM) is the basic entity of the metrological system in Kosovo. Thus, the horizontal legal framework exists and is partially aligned with the EU acquis; however more should be done to increase the level of alignment with the changes in the EU acquis. Moreover, a similar situation exists also with the vertical legislation, where there is a number of partially transposed New Approach Directives but the level of transposition should be increased in this area as well.

Apart from the legislative issues in the free movement of goods, Kosovo institutions are facing other challenges. In particular, there is a lack of policy coordination in regard to the quality infrastructure. The laboratories of metrology are not functioning at a satisfactory level. They lack both equipment and human capacity. The Accreditation Directorate is working on getting the membership at the European Accreditation Body and has undergone the process of peer evaluation. The activities of Kosovo Standardization Agency (KSA) are still hampered due to the fact that the Kosovo is not a member of the United Nations (UN), which is a precondition for becoming a member of International Organization for Standardization (ISO). KSA is neither a member of the International Electro technical Commission (IEC) or the European Committee for Standardization (CEN), the European Committee for Electro technical Standardization (CENELEC) and the European Telecommunications Standards Institute (ESTI) as a membership in one of these organisations is always a precondition for the other.

The business community lacks information on the importance of quality infrastructure services and their implementation.

#### Market surveillance and consumer protection

The legislative framework for market surveillance in Kosovo is only partially harmonized with EU acquis. Although some areas are legally harmonized, administrative capacity to ensure their implementation is lacking. Currently, the Market Surveillance is working on centralizing its activity and hiring the relevant municipal inspectors. Moreover, in accordance with the specific legislation, the Kosovo Inspection Council in charge of the coordination with inspection bodies of Line Ministries responsible for market surveillance and Customs has been established.

Furthermore, consumers are not well aware of non-conformity products circulating in the market. In this regard, the consumer protection department needs increased level of professional administrative capacities. In relations to hazardous products, a specific database for exchanging information, similar to RAPEX, is being developed under the EU funded project "Support to the Free Movement of Goods" (IPA 2012).

#### Services

The EU Services Directive should be transposed into Kosovo legislation primarily by the enactment of a so-called horizontal law. Further to the approval of the concept note in early 2016, an inter-ministerial working group was established to draft the law. Kosovo private sector stakeholders will be consulting with a view to identify legislation which should be reformed (vertical approach). The approval of the horizontal law by the Government and adoption by the Parliament is foreseen by the end of 2016. Further efforts are required to ensure that sectorial legislation does not encroach on the acquis in the area of free movement of services and requirements deriving from the EU Services Directive will be implemented, i.e. establishment of the Point of Single Contact and simplification of administrative procedures.

Regarding the mutual recognition of professional qualifications, only four professions (accountants, architects engineers and lawyers) are currently regulated by law. Foreign professional qualifications are recognised as long as they are certified by an authority accredited in the country of origin. Alignment with the *acquis* in the area of recognition of professional qualifications and professional training programmes is still at an early stage. There is a need for preparing a table of Minimum requirements for Regulated Professions aimed at automatic recognition based on Directive 200/36/EC and an action plan for harmonization of professional qualifications for regulated professions with EU legislation. In regard to providing services, it is evident that issues of professional services, mainly regarding licences for architects and engineers, should be discussed with other countries to facilitate mobility for service providers under these sectors.

In November 2013, the Assembly adopted a law on licences and the permit system, establishing general rules on issuing and certifying permits and professional licensing. Further to regular meetings and workshops that MTI held with business associations and business community, MTI has been requested to amend the legislation on certain sectors and enforce the law on monitoring foreign persons that operate within the Kosovo market without a license or without being a member of an association. Having services suppliers and independent suppliers of services without licences to operate in domestic market will impact heavily on accessing regional and international market.

Very little has been done towards achieving any results of addressing these issues. If they are not properly addressed, they will affect badly our key stakeholders such as: architects, engineers and other professional services that require licences.

Nevertheless, progress has been made recently within the CEFTA countries. A Joint Working Group for Recognition of Professional Qualifications has been established by three organizations: CEFTA, RCC and ERISSEE. Representatives from institutions such as Ministries of Education, Trade and Labour of CEFTA countries participate in this working group to discuss and identify certain regulated professions for which some Mutual Recognition Agreements can be negotiated starting by the end of this year 2016.

#### Intellectual Property Rights

On industrial property rights, the new laws on Patents, Trademarks, Industrial Design and Geographical Indications and Design of Origin were approved by Assembly in 2015, further aligning them with the EU *acquis*. The Industrial Property Agency's administrative capacity was strengthened by allocating and training some permanent and temporary staff. In March 2016, the General Director of the agency was appointed by decision of the prime Minister. The Committee for Appeals on IPA is functional. The State Intellectual Property Council is functioning very well and one meeting of the Council has already been held this year.

There is still a backlog of industrial property rights applications although there has been progress in the processing thereof. The Intellectual Property Council met in March 2015, but cooperation between institutions and law enforcement still needs to improve.

As regards enforcement, Kosovo Customs has carried out operations against goods that breach intellectual property rights, many in response to requests by rights holders. However, greater efforts are needed to ensure enforcement, including accessible and effective legal measures that can be undertaken by rights holders and greater administrative coordination between the institutions involved. The police still do not have a unit specialised in intellectual property rights. The draft law on customs measures still needs to be adopted and aligned with the relevant EU regulation. Capacity building of enforcement authorities (Police and prosecutors, customs and market inspectorate) is really needed. Kosovo also needs to increase awareness among holders and users of intellectual property rights.

Some progress has been made during the last 2 years. However the Industrial Property Agency still faces many challenges: high backlogs (reduced over the last 2 years but still important), no access to the EU IP Office database (which makes it challenging for registration of new trademarks in Kosovo), awareness raising for end consumers and economic partners who lack information on the importance of IPR, needs further capacity building on Industrial Property and Copyright as well as for the enforcement institutions and support to access regional and international memberships.

#### Trade

The Trade Department at MTI (TD/MTI) benefited of a 4-year technical assistance project funded under IPA I (2009 & 2013) which ended in October 2015. During the implementation of the project, TD/MTI knowledge and skills related to evidence based trade policy making improved considerably. Their institutional capacity towards designing and implementing a comprehensive trade policy was significantly strengthened.

Nevertheless, Trade Department still needs further support regarding to trade remedies with main focus to amend Law on Safeguards Measures on Imports, which was identified as an urgent need from the previous EU project.

In addition, Trade Department is considering updating the Trade Policy Document of 2009, after many developments have recently happened and in this regard there is a need to re-design trade policies, adapting with the new conditions created in Kosovo, regional and global market.

#### Quality of the legislative and policy-making process

The 2015 OECD/SIGMA baseline measurement<sup>1</sup> against the Principles of Public Administration highlights that inclusive and evidence-based policy and legislative development (affecting all sectors) is in the early stages of development. Inter-ministerial and public consultations are regulated, but implementation is inconsistent. The government is not informed about the outcomes of the inter-ministerial consultation process, and the enforcement of public consultation requirements is sporadic or inconsistent. The SIGMA analysis of sample policy initiatives illustrates weaknesses in the conceptual work that should precede legal drafting, i.e. no alternative scenarios are prepared and chosen options are not substantiated. The financial impact assessments are either very general or lacking altogether. SIGMA further notes that even if the Ministry of Finance does not approve the analysis because the actual costs are not included in the medium-term expenditure framework and the budget, the draft law can still proceed to the Government meeting if the sponsoring ministry secures funding itself. *"This practice, in which neither implementation costs nor their sources are described, may later hinder the successful implementation of adopted policies."*

The government has recognised these persisting weaknesses and is committed to "better regulation". The Better Regulation Strategy for the period 2015-20 is under implementation and coordinated by the Office of the Prime Minister. Its primary focus is on improving the analytical work that precedes legal drafting, including improving the use of impact assessments.

#### **OUTLINE OF IPA II ASSISTANCE**

This action will aim at reaching further approximation of the Kosovo legislation to the EU acquis as mentioned in the SAA in line with the 'better regulation' approach, as well as providing capacity building to the institutions in charge of Quality Infrastructure, consumer protection and market surveillance. There is also the need to provide training and support capacity building programmes dedicated to the certification bodies and conformity assessment bodies in Kosovo in order to develop proper certificate bodies. Certification bodies will be the one providing services like certification of products and services as well as accreditation, to the business community in Kosovo. Moreover, the business community will be reached through awareness raising campaigns on the importance of quality infrastructure (using the standards, accreditation services). Assistance will also be provided to support the membership submissions of the QI institutions to the relevant European and international Organisations.

A special focus will be paid to the implementation of the legislation where market inspectors will be trained with the best EU practices on market surveillance. Trainings and awareness raising campaigns will be organized also in the sphere of consumer protection.

The relevant institutions in charge of Quality Infrastructure, Consumer Protection and Market Inspectorate will benefit from this action. They will be involved in all the activities, respectively on the drafting of the legislation, participating in the training and organization of the awareness raising campaigns. The

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<sup>1</sup> <http://www.sigmaweb.org/publications/public-governance-baseline-measurement-reports.htm>

certification and conformity assessment bodies in Kosovo will benefit from capacity building programme and training. Depending on the activities, other relevant institutions might benefit from this Action, mainly line ministries, civil society, chamber of commerce, business organisations and businesses.

Services play a crucial role in the economic development of Kosovo. The Service sector is currently the main generator for employment and for attracting investments, particularly in the professional service sectors. As a huge contributor to the balance of payments in reducing the trade deficit, Kosovo government is considering in taking serious steps to develop services. With the support of the previous EU Technical Assistance project, MTI/Trade Department has managed to overcome many obstacles and achieve many results in cooperation and close collaboration with key stakeholders. There is a need to further support the MTI on specific issues like Trade Defence Instruments / Trade remedies, in particular anti-dumping and safeguard measures, trade analysis and impact assessment, development of the "Trade in Services" Database and Non-Tariff Measure.

Regarding Industrial Property Rights, there will be a need to further support the Industrial Property Agency with the reduction of backlog, with having access to the EU IP Office Database, capacity building activities for IPA and the enforcement institutions as well as awareness raising.

Regarding the transposition of the EU Service Directive, there will be a need to further support the Ministry of Industry with the implementation, in particular with the set-up of the Point of Single contacts and the simplification of administrative procedures.

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

The relevance of proposed interventions is closely linked to the objectives and results foreseen in the **IPA Indicative Strategy Paper (ISP) 2014-2020**. IPA II support to Democracy and Governance is expected to be essential for further alignment to and efficient implementation of the EU acquis due to the specific requirements under the SAA. In addition, the sector covers statistics, as well as inclusive and evidence based policy development and the capacity to progressively adopt relevant EU legislation.

In implementing the SAA, Kosovo would need to focus its efforts on the effects of trade liberalisation: the reduction in import tariff revenues will need to be compensated and customs revenues and taxation will need to be rebalanced. The customs authorities and fiscal courts need to enhance their efficiency and effectiveness in meeting the challenges of liberalised trade under an SAA.

The **Kosovo Report 2015** report stresses that Kosovo is at an early stage of preparation in the free movement of persons, services and the right of establishment as well as in the area of free Movement of goods. Thorough and transparent auditing and accounting are crucial for the development of a sound financial services market and the economy at large, especially small and medium-sized enterprises (SMEs). Yet Kosovo has to improve inter-institutional coordination to ensure that legislation is enforced; and further improve quality infrastructure, strengthen market surveillance capacity and increase consumers' awareness of their rights. Modernization of quality infrastructure (standardization, metrology, accreditation and conformity assessment) is mandatory in order to reduce trade barriers and increase trade integration. Approximation of legislation with EU Directives for different groups of products remains satisfactory; however, it still needs further alignment and implementation. Furthermore, some progress needs to be made in the area of intellectual property rights. Kosovo should develop legislative framework to implement the obligations under the SAA and step up effort to ensure the enforcement of intellectual property rights. The Kosovo report also notes, under public administration reform, that whereas some aspects of inclusive and evidence-based policy and legislative development are in place, regulatory impact assessments are not used consistently, other than in a number of pilot areas. Public consultations are not systematically implemented either. Also, the overall organisation of Kosovo administration does not ensure appropriate lines of accountability. Rather, the weak legal framework has resulted to over 70 government agencies with overlapping responsibilities with parent ministries.

As outlined in the **Kosovo Economic Reform Programme 2016**, the quality infrastructure is one of the main challenges for Kosovo market to be integrated into globally economy. The Government will continue its efforts for modernisation of quality infrastructure (standardisation, metrology, accreditation and conformity assessment) in order to reduce trade barriers and increase trade integration. Reform measure #

16: encourage businesses will to improve quality of products. This measure is also in line with the National Development Strategy

The measure is also relevant to the **SEE 2020 strategy** under the “Sustainable Growth “pillar. This action will contribute to the achievement of the pillar objective: Increase net enterprise creation (new businesses per year) from 30,107 to 33, 760 and Increase exports of goods and services per capita from the region from EUR 1,780 to EUR 4, 250. Specifically related to the “Dimension J: Environment”.

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

Competitiveness-related themes and sectors have been paid significant attention from the government and donor organisations. This support will be continued and particular attention will be paid on coordination and cooperation among different organisations/donors to avoid possible duplications

The lessons learnt from implementation of previous projects and particularly those managed by donors should be taken into account for future policy formulation and implementation:

- Better sustainability which can be ensured by transfer of know-how from experts to the beneficiary staff and work being performed by the beneficiary staff with the support from the experts,
- Improvement of inter-institutional co-ordination and cooperation between relevant ministries and institutions involved in the implementation of projects;
- Develop proper strategy for monitoring the activities.
- A general lesson learnt, applying to all sectors, is that policy and legislative development needs be inclusive and evidence-based, costed and subject to appropriate internal and external stakeholder consultations at the right time of the legislative and policy-making process. This is a key in ensuring implementation and enforcement of adopted policies and legislation.

Having in mind the needs for approximation of the Kosovo legislations to the EU acquis, a well-co-ordinated technical assistance will be necessary across all areas. In addition, the EU requirements should be met in terms of legal and institutional development.

On-going and past technical assistance in the different sectors targeted by this action are developed below:

### Industrial Property Rights

The Industrial Property Agency at the Ministry of Trade and Industry and the Office for Copyrights and Related Rights (OCR) at the Ministry of Culture, Youth and Sport benefited of a 29-month technical assistance funded under IPA I (2011) which ended in November 2015.

The TA provided assistance to further alignment of Kosovo legislation on Intellectual and Industrial Property Rights with EU acquis. The primary legislation on Patents, Trademarks, Industrial Design and Geographical Indications and Design of Origin were reviewed against the EU directives and regulations. The secondary legislation was also reviewed. The Law on Customs Measures for Protection of IPR was reviewed and at the request of the Customs a new Law on Customs Enforcement of IPR was drafted along with the necessary concept document. The articles of the Kosovo Criminal Code related to intellectual property were also reviewed against international standards and a proposal for their amendment was made.

Capacity building of the Industrial Property Agency was provided with a new organisation structure of the agency and a plan for development; the guidelines on patents, trademarks and industrial designs were updated. Capacity building of the enforcement institutions (police, prosecutors, customs and market inspectorate) was provided with the drafting of a manual titled "IP Crime Investigation Manual" for the police. An awareness strategy was drafted and implemented.

### Trade

The Trade Department at MTI (TD/MTI) benefited of a 4-year technical assistance project funded under IPA I (2009 & 2013) which ended in October 2015. During the implementation of the project, TD/MTI knowledge and skills related to evidence based trade policy making improved considerably. Their institutional capacity towards designing and implementing a comprehensive trade policy was significantly strengthened.

Another major achievement of the project was the creation of the Trade in Services Database and the accompanying training and coaching on trade in services. TD/MTI is now well equipped to formulate its offensive and defensive Trade in Services interests within CEFTA and other Trade in Services negotiations, including consultations with services providers. Trade Department/Ministry of Trade and Industry enhanced understanding on the management and regulation of Trade in Services is also expected to facilitate the implementation of the EU Services Directive.

The preparation of in-depth trade analyses of trade flows (e.g. with gravity models) and impact assessment studies (referring to computable general equilibrium models and using extensively so-called “partial equilibrium comparative statistics”) were the major instruments which TD/MTI learned and successfully applied in order to achieve evidence-based trade policy-making.

The MTI gained considerable knowledge on the content and the use of WTO compliant trade defence instruments (or trade remedies), in particular anti-dumping and safeguard measures by applying these to practical case studies seen as urgent issues by the Government of Kosovo. The EU project assisted in the review and revision of Kosovo’s Law on Anti-Dumping and Countervailing Measures.

Nevertheless, the Trade Department still needs further support regarding to trade remedies with main focus to amend Law on Safeguards Measures on Imports, which was identified as an urgent need from the previous EU project.

#### Free Movement of Goods

The MTI is benefiting of a 2-year technical assistance project funded under IPA I (2012) which will end in December 2016. The purpose of the project is to improve the Quality Infrastructure System of Kosovo, including market surveillance and consume protection, in line with the EU requirements. Further support is still highly needed.

#### Services:

An EU funded project (financed under IPA 2014) will start in May 2016 for duration of 18 months. It will aim at building the Capacity of the Ministry of Trade and Industry to effectively transpose and implement the EU Services Directive in the internal market in Kosovo. However this support will not be sufficient and a follow-up project is needed to support the Ministry of Trade and Industry with the effective coordination of the transposition of the EU Services Directive 2006/123/EC and the establishment of the "Point of Single Contact" as e-government portal.

## 2. INTERVENTION LOGIC

	Overall objective	Objectively verifiable indicators (OVI)	Sources of Verification	
	To further support Kosovo's integration into the world economy and strengthen the role of the Kosovo administration on economic governance through effective regulatory functions in line with SAA obligations	<ul style="list-style-type: none"> <li>Progress made towards meeting Copenhagen Criteria</li> </ul>	<ul style="list-style-type: none"> <li>Kosovo Report</li> </ul>	
	Specific objectives	Objectively verifiable indicators (OVI)	Sources of Verification	Assumptions
1	To support the Government of Kosovo to further develop its institutional capacity to create the basis for a sustainable environment for private sector development in line with the EU acquis and the SAA requirements	<ul style="list-style-type: none"> <li>Kosovo legislation further aligned with the EU acquis in line with the better regulation approach and Kosovo can show progress in its implementation</li> </ul>	<ul style="list-style-type: none"> <li>Legislation screening reports</li> <li>Monitoring report on the NPISAA</li> <li>Annual trade reports</li> <li>Kosovo Report</li> <li>SIGMA baseline measurement</li> </ul>	<ul style="list-style-type: none"> <li>Political stability in Kosovo</li> <li>Improvement of business environment in Kosovo</li> <li>Further integration of Kosovo into international trade</li> <li>Progress towards approximation with the EU acquis</li> </ul>
2	To strengthen technical and administrative capacity of the Kosovo administration in relation to approximation with the EU acquis and to support the effective and efficient implementation of IPA assistance.	<ul style="list-style-type: none"> <li>MEI's capacity to take responsibility for coordination and management of EU assistance programmes.</li> </ul>	<ul style="list-style-type: none"> <li>IPA monitoring meeting report</li> <li>Monitoring/evaluation reports</li> </ul>	
	Results	Objectively verifiable indicators (OVI)	Sources of Verification	Assumptions
1	<b>Result 1:</b> The capacity of the Government of Kosovo to develop, negotiate and implement trade policy, with a special focus on the protection and enforcement of intellectual property, in line with international trade requirements and EU practices is increased and its capacity to support Kosovo traders is improved	<ul style="list-style-type: none"> <li>Export-Import coverage index (%) improved</li> <li>Backlog on industrial design examination reduced</li> </ul>	<ul style="list-style-type: none"> <li>Market Access Barriers Database</li> <li>CEFTA Trade Portal;</li> <li>Platform on trade obstacles</li> <li>Periodic reports from the Agency of Statistics</li> <li>Annual Trade Report</li> <li>Annual report from the Industrial Property Agency</li> </ul>	<ul style="list-style-type: none"> <li>Continuous commitment and cooperation of all stakeholders.</li> <li>Effective and continuous participation and strong inter-ministerial cooperation</li> <li>Allocation of sufficient resources to implement the activities</li> <li>Reliable statistical data available.</li> </ul>

1.	<p><b>Result 2:</b> The Kosovo legislations in the field of Quality Infrastructure, Market Surveillance and Consumer Protection is further aligned with the EU acquis and the institutions in charge of Quality Infrastructure, Consumer Protection and Market Surveillance are capable to implement it in the internal market in Kosovo.</p>	<ul style="list-style-type: none"> <li>• Number of standards sold to businesses</li> <li>• Number of functional accredited conformity assessment (CA) bodies</li> </ul>	<ul style="list-style-type: none"> <li>• Official gazette</li> <li>• Reports from AKS (Standardisation Body of Kosovo)</li> <li>• MTI registry on authorized CABs</li> <li>• Reports from DAK (Kosovo Accreditation Body)</li> </ul>	<ul style="list-style-type: none"> <li>• Sufficient absorption capacity</li> <li>• Approximation with the EU acquis is the priority of the government and of the Assembly of Kosovo.</li> </ul>
1.	<p><b>Result 3:</b>The EU Services Directive (Directive 2006/123/EC) is effectively and fully transposed and implemented in the internal market in Kosovo</p>	<ul style="list-style-type: none"> <li>• Legislation on services approximated with the EU acquis (Directive 2006/123/EC) in line with the better regulation approach</li> <li>• The single point of contact established and functional</li> </ul>	<ul style="list-style-type: none"> <li>• The amount of Foreign direct investment in services</li> <li>• Report published from the Central Bank of Kosovo</li> </ul>	
2.	<p><b>Result 4:</b> Well-coordinated response in order to meet specific and urgent needs related to Kosovo's European reforms and for the implementation of IPA funds</p>	<ul style="list-style-type: none"> <li>• Small scale projects developed and implemented under the support measures facility</li> </ul>	<ul style="list-style-type: none"> <li>• Monitoring reports.</li> <li>• Project implementation reports</li> </ul>	

## **DESCRIPTION OF ACTIVITIES**

### **RESULT 1 – Further support to the development of Trade**

Activities under result 1 will further support the alignment of the trade related legislation to the EU acquis, especially in the field of trade defence instruments, will provide capacity building measures to the Ministry of Trade and Industry in further improving knowledge and skills related to inclusive and evidence-based trade policy making, institutional capacity towards designing and implementing a comprehensive trade policy in line with international trade requirements and EU best practices, accompanying training and coaching on trade in services, support to trade analyses of trade flows and impact assessment studies and capacity building in the field of Trade Defence Instruments / Trade remedies in particular on anti-dumping and safeguard measures.

This component will also target the Industrial Property Agency with capacity building measures, and the enforcement institutions (police, prosecutors, customs and market surveillance). It will support awareness raising activities targeting the business community and the end consumers, and will provide support for accessing the EU IP Office's Database and for European and international memberships.

### **RESULT 2 – Support to Free Movement of Goods, include Consumer Protection and Market Surveillance**

Activities under result 2 will further support the Quality Infrastructure (QI) System in Kosovo, including market surveillance and consumer protection, in line with the EU requirements and with the SAA obligations:

- Further alignment of the (primary and secondary) legislations to the EU acquis in line with the better regulation approach,
- Conformity assessment: further assist the relevant authorities with the transposition of the EU technical regulations.
- Develop a strategy for the non-harmonized sector and support its implementation,
- Capacity building measures to all QI institutions,
- Support the development of conformity assessment bodies (CABS) in Kosovo, provide capacity building measures to CABS operating in the domestic market,
- Support to Kosovo producers for product certifications,
- Support the Market Surveillance in accordance with EU best practices,
- Support the consumer protection department at MTI and the development of civil society on consumer protection,
- Develop awareness raising campaign targeting the business community and end consumers on the importance of standards, accreditation and metrology,
- Support to the QI Kosovo bodies for European and international memberships.

### **RESULT 3 – EU Services Directive**

Activities under result 3 will further build the Capacity of the Ministry of Trade and Industry to effectively transpose and implement the EU Services Directive in the internal market in Kosovo: amendment of the legislation, establishment of the Point of Single Contract and its impact assessment, simplification of administrative procedures, awareness campaign targeting the Kosovo private sector, service providers, professional associations, Chambers of Commerce as well as general public / Kosovo consumers and consumers association.

### **RESULT 4 – Support Measures and Technical Assistance Facility**

The Support Measures and Technical Assistance facility will support preparation and/or implementation of action identified as necessary within the IPA programme and Kosovo's EU reform agenda. It will support possible urgent priorities that arise from the approximation with the EU acquis or other political developments that are beyond the Commission's control and which cannot be programmed in advance. Action supported will target, in particular, priority areas identified in the ISP for Kosovo for the period 2014-2020. All actions will require gender mainstreaming.

## **RISKS**

The potential risks that may arise are the following:

Risk: Lack of inter-ministerial cooperation

Mitigation measures:

- Ensure appropriate inter-ministerial coordination on all policy and legislative proposals
- 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
- Communication strategy and awareness raising campaign on the importance of the activities to be implemented

Risk: Lack of donor coordination in the sector

Mitigation measures:

- Participate at the coordination of the Sector Working Groups on Donor Coordination organised/managed by the Ministry for European Integration
- Share information at the technical level coordination meetings organised by the EU Office in Kosovo
- Regular meetings organised by the technical assistance with other on-going project teams to share information and avoid overlap

Risk: limited absorption capacity at the relevant institutions and agencies and among private sector

Mitigation measures:

- 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,
- Consultations, at an early stage of project implementation with highest government officials, sector regulators and representatives of the private sector to identify the needs

Risk: Staff turn-over and limited resources allocated for the implementation of the activities

Mitigation measures:

- Implement fiscal impact assessments of all draft legislation and policies to ensure that there are sufficient funds and resources allocated for their implementation
- Continuously stress the importance of institutional and administrative capacity reform
- Implement the Public Administration reform supported by the EU

Risk: Weak sustainability of the outputs after the end of the implementation

Mitigation measures:

- 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

## **CONDITIONS FOR IMPLEMENTATION**

- The required legislative framework in place
- The functioning of the assembly, which is crucial for the adoption of legislations
- Commitment of all stakeholders to the better regulation approach, which emphasises that all policies and legislation should be prepared in an inclusive process, backed up by the best available evidence and that institution-building will ensure effective lines of accountability between institutions (agencies and parent ministries).

- Ensure the coordination of activities between stakeholders involved in the project
- Limit the turn-over of competent staff working in the beneficiary institutions
- Adequate administrative absorption capacities in place

The implementation of the Public Administration Reform is crucial for the smooth implementation of the Action.

### **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.

For **Result 1 and 3**, the leading institution/main beneficiary of the action is the Trade Department at the Ministry of Trade and Industry which will also be the coordinator of the action. The action will also directly benefit the Kosovo private sector, service providers, professional associations, Chambers of Commerce as well as general public / Kosovo consumers and consumers association. It will indirectly target the Ministry of European Integration, the Ministry of Education, the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Economic Development and the Ministry of Finance.

For **Result 2**, the leading institution/main beneficiary of this action is the Ministry of Trade and Industry and the Quality Infrastructure Institutions: Quality Infrastructure Department, Consumer Protection Department, Market Inspectorate at the Ministry of Trade and Industry as well as the Kosovo Standardisation Body (AKS), the Kosovo Accreditation Body (DAK) and the Agency for Metrology of Kosovo (AMK). The action will be coordinated by the Quality Infrastructure Department at the MTI. When it comes to the transposition of the harmonized (EU) standards, the relevant authorities in charge of the transposition will be targeted depending on the field covered by the standards.

For **Result 4**, the leading institution/main beneficiary of this action is the NIPAC at the Ministry for European Integration, which will also be the coordinator of the action.

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

Component 1 will be implemented through a service contract.

Component 2 will be implemented through a service contract. The service contract will include a provision for voucher scheme for product certification.

Component 3 will be implemented through a twinning.

For Component 4 depending on the needs related to the approximation with the EU acquis, the facility described above will be implemented through a number of service/framework contracts, works contracts and supply contracts where the need for a rapid response of the Commission to non-programmable events is such that the duration of the procedure to amend this decision would frustrate the purpose of such response. We will also have the possibility to launch one twinning light if there is an urgent need for further approximation with the EU acquis linked to SAA obligations. The implementation modalities of the projects arising under this action will be closely discussed with the Kosovo Unit in DG NEAR as well as the beneficiaries and the best possible option will be considered.

Timetable of implementation

1. Trade – April 2017 to March 2019
2. Free movement of goods – April 2017 to September 2019
3. Assistance for implementing the EU Services Directive – January 2018 to June 2019

4. Support Measures and TA Facility – As soon as the Commission Decision is ratified the implementation will start depending on the needs which arise. January 2017 – December 2019

#### **4. PERFORMANCE MEASUREMENT**

##### **METHODOLOGY FOR MONITORING (AND EVALUATION)**

In line with the IPA II Implementing Regulation 447/2014, an IPA II beneficiary who has been entrusted budget implementation tasks of IPA II assistance shall be responsible for conducting monitoring and evaluations of the programmes it manages. Monitoring should be carried out from the commencement of all projects, and beneficiaries should allocate sufficient resources for data collection from the outset.

Overall coordination of monitoring the financial and technical progress of the Action will be obtained by the EU Office for Kosovo (EUO) as Contracting Authority.

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

<b>Indicator</b>	<b>Baseline 2015</b>	<b>Target 2020</b>	<b>Final Target (2025)</b>	<b>Source of information</b>
Kosovo legislation further aligned with the EU acquis (in line with the better regulation approach) and Kosovo can show progress in its implementation	(2015) 15%	40%	90%	Legislation screening reports Monitoring report on the NPISAA Annual trade reports Kosovo Report SIGMA baseline measurement
MEI's capacity to take responsibility for coordination and management of EU assistance programmes.	20%	60%	80%	IPA monitoring meeting report Monitoring/evaluation reports
Export-Import coverage index (%) (Result 1)	(2014) 13%	20%	30%	Periodic reports from the Agency of Statistics
Backlog on industrial design examination resolved (Result 1)	135 cases pending	70 (reduced by ½ )	0 (no backlog)	Annual trade report Annual report from the Industrial Property Agency
Number of standards sold to businesses (Result 2)	46 standards sold	50 standards sold	60 standards sold	Kosovo Report MTI Report
Number of functional accredited conformity assessment bodies(CAB) (Result 2)	40 CABs	52 CABs	60 CABs	MTI registry on authorized CABs DAK (Kosovo Accreditation Body) Reports
Legislation on services approximated with the EU acquis (Directive 2006/123/EC) (Result 3)	30%	40%	90%	Annual trade report Official Gazette Kosovo Report
The single point of contact established and functional (Result 3)	0	1	1 (fully functional)	

Small scale projects developed and implemented under the support measures facility (SO 2 – Result 4)	0	12	12	Joint Monitoring Committee meeting reports MEI reports
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## **5. SECTOR APPROACH ASSESSMENT**

The Sector Planning Document is guiding the competitiveness policy development in Kosovo by addressing three key sectors: private sector development, education and employment. These sectors are closely interrelated and every action that is to be implemented in the field of approximation with the EU acquis in line with the SAA obligations should take into account developments in private sector, education and employment sectors.

State of play and key obstacles to competitiveness have been assessed through a growth diagnostics study which identified coordination externalities as constraining to FDI and exports. On the other hand the growth diagnostics study stresses that information externalities are important but not binding at the moment. Kosovo has one of the least diverse export baskets in the region, comprising almost solely of low value added goods. The scope for diversification particularly into export oriented higher value added products is high. One of the most notable, and persisting, weaknesses in competitiveness and capacity to export is the lack of compliance with EU quality standards. The inflow of FDI is comparable with the regional average, especially as a percentage of GDP, but the current levels are considered too low to have a meaningful development impact.

Kosovo has a precarious current account (CA) balance, even though this is similar across the Western Balkan region. During 2014, the current account deficit marked 7.8% of GDP and based on mid-year actual data and forecasted values thereafter, current account deficit is expected to improve by 0.7% percentage points during 2015. The volume of FDI in 2014 decreased significantly, in large part due to the sale of shares of some foreign companies operating in Kosovo to residents and the distribution of the super dividend of selected foreign companies operating in Kosovo. However, during 2015 direct investment has increased significantly and going towards the end of the year is expected to amount to 5.2% of GDP.

The Ministry of Trade and Industry in cooperation with Kosovo Customs and relevant institutions, including the private sector and with the support of USAID carried out a trade facilitation self-assessment to identify gaps and specific actions that shall be taken by the respective institutions. MTI has prepared a Trade Facilitation Action Plan.

Furthermore, the quality infrastructure is one of the main challenges for Kosovo market to be integrated into the global economy. The Government has committed itself to continue its efforts for modernisation of quality infrastructure (standardisation, metrology, accreditation and conformity assessment) in order to reduce trade barriers and increase trade integration: adoption of the framework legislation of quality infrastructure aligned to the EU acquis and its implementation as well as direct support to businesses to improve quality of products (through certification). A quality Infrastructure Strategy as part of the Private Sector Development Strategy 2016-2020 has been drafted and should be adopted before the end of 2016.

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

### **GENDER MAINSTREAMING**

Even though the gender gaps remain in many areas and especially in the labour market, women will be supported and encouraged to participate in the EU funded activities. Their equal rights are guaranteed by the Law No. 05/L -020 on Gender Equality. For this specific action, businesses owned by women will be highly encouraged to apply for certification.

This is particularly important for the approximation with the EU acquis, as EU gender equality is a crucial element of the acquis. As institutional learning and capacity development takes time, MEI, AGE and line ministries will continue to develop capacity building towards gender mainstreaming in all IPA programming. This includes in particular improving a participatory approach to programming that considers the potentially different needs of women and men, as well as improving the collection and usage of gender disaggregated data, towards better informing for all programming.

The work which is currently being done on the GAP (Gender Action Plan) will continue and there will be more done on developing gender analysis and gender disaggregated data which could inform the programming phase but also the implementation phase.

## **EQUAL OPPORTUNITIES**

Based on the fundamental principles of promoting equality and combating discrimination, participation in the project will be guaranteed on the basis of equal access regardless of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Equal access to all benefits of the Action will be promoted. More specifically, training and other capacity building activities in this project (timing and schedule) will be fully adjusted to the needs of women with children, training and meeting premises will be fully adapted to the needs of persons with disabilities, equal opportunities principles and concrete measures will be embedded in all strategic documents that will be produced under this Action.

Equal opportunity will also be taken into account in the preparation of all tender documents and in the recruitment of personnel through the placement of appropriate wording.

## **MINORITIES AND VULNERABLE GROUPS**

Minorities will be treated equally, as guaranteed by Amendment No. 59 to the Constitution of Kosovo. The alignment to the EU acquis will take into consideration minorities and vulnerable groups.

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

Specific attention will be paid in the framework of this action to ensure that civil society and other stakeholders are consulted in the right time of the legislative and policy-making process and that the decision-makers are informed about the outcomes of the consultations. The engagement of civil society organisations and stakeholders from the private sector will be therefore taken into consideration in all aspects of the action by strengthening their capacities, allowing them to engage in an effective dialogue with public and private actors. The Government will monitor the progress in the different areas covered by the action. The involvement of the civil society in the area of consumer protection and consumer rights is particularly important.

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

The environment will be highly considered within this Action in particular with the adoption of harmonized (EU) standards and the support to the market surveillance. The Action will include, among other, the transposition and implementation of the Regulation (EC/1907/2006) on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

## **7. SUSTAINABILITY**

Sustainability of the action will be ensured through the involvement of all relevant actors, at all levels, and clear structures and roles for the implementation and monitoring. The technical assistance will ensure the transfer of know-how during the implementation of the project (on-the-job training) and will involve all actors during the entire implementation phase of the activities. Internal and external monitoring and evaluation tools will be developed to ensure that objectives are met and intended impact on the targeting groups is achieved.

Policies and legislation will be developed under this action according to the better regulation approach, which ensures inclusive and evidence-based policy and legislative development. The increased focus on the quality of the legislative and policy-making process will help to ensure that adopted policies and laws can be better implemented. Also, institution-building under this action will respect effective lines of accountability between institutions (agencies and parent institutions).

With regard to result 2, sustainability will be ensured through raising awareness on the importance of accreditation, standards and certification as well as consumer rights and consumer protection. The

Government should ensure a better coordination between quality infrastructure institutes as well as between consumer protection and market surveillance, market surveillance and metrology.

With regards to result 3, sustainability will be ensured through information campaign for service providers and general public on the implementation of Services Directive, its impact on Kosovar economy and its benefits.

With regard to Support Measure and TA Facility, the individual measures to be financed under this action cannot be identified yet, nevertheless this type of assistance has proved to be extremely useful for the sustainability of the overall EU assistance to Kosovo especially as the interest and ownership of Ministry of European Integration for these types of activities is increasing continuously. What is important about this action is that its methodology is being slowly taken on board by the IPA II beneficiary. They are now convinced that without having the relevant expertise and preparatory work done they are not able to engage into projects and ensure its successful implementation. This aspect will be further strengthened during the implementation of IPA II programmes which have a more focused and sectoral approach.

## **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 the responsibility of the IPA II beneficiary, and 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.

The European Union Office in Kosovo has developed clear visibility guidelines and ensures that all projects which are implemented in Kosovo are fully in line with these guidelines. Project visibility is also clearly stipulated in all contractual documents whereby the contractors/implementers are obliged to adhere to all EU visibility requirements. Awareness campaigns are included within the project activities. Visibility materials will be produced (brochure, leaflets, newsletters).

It is the responsibility of the beneficiary to keep the European Union Office 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 sectoral monitoring committees.