



ANNEX C1: Twinning Fiche

Project title: Support to the implementation of the modernised data protection legal framework

Beneficiary administration: Personal Data Protection Agency of North Macedonia

Twining Reference: MK 18 IPA JH 01 20

Publication notice reference: EuropeAid/ 170648 /DD/ACT/MK

EU funded project

TWINNINGTOOL

1. Basic Information

1.1 Programme: Annual Action Programme for the Republic of North Macedonia for the year 2018; EU integration Facility *IPA 2018/040-860/01.02/MK/EUIF*

For UK applicants: Please be aware that following the entry into force of the EU-UK Withdrawal Agreement¹ on 1 February 2020 and in particular Articles 127(6), 137 and 138, the references to natural or legal persons residing or established in a Member State of the European Union and to goods originating from an eligible country, as defined under Regulation (EU) No 236/2014² and Annex IV of the ACP-EU Partnership Agreement³, are to be understood as including natural or legal persons residing or established in, and to goods originating from, the United Kingdom⁴. Those persons and goods are therefore eligible under this call.

1.2 Twinning Sector: Justice and Home affairs

1.3 EU funded budget: Maximum EUR 700.000

1.4 Sustainable Development Goals (SDGs): SDG 16 - Peace, justice and strong institutions

2. Objectives

2.1 Overall Objective

To improve the protection of fundamental rights and the national system for personal data protection in the Republic of North Macedonia in accordance with the standards of the European Union acquis.

2.2 Specific objective

To improve the performance of the Personal Data Protection Agency (PDPA) for the implementation of the modernized data protection framework through strengthening institutional capacities, legal and regulatory framework and public awareness on data protection.

2.3 Link with Stabilisation and Association Agreement

The project activities will contribute towards the implementation of the Stabilisation and Association Agreement (SAA) commitment **on approximation of data protection law**. Article 68 sets the importance of the approximation *of the existing and future laws* of the Beneficiary Country to those of the Community.

Transposition of the GDPR into new Law for personal data protection as well as providing necessary resources for PDPA to enforce its independent regulatory status was among the first issues discussed on the agenda for 2018 of the Sub-committee for Justice and Home affairs between the Republic of North Macedonia and the European Union as part of the Stabilization and Association Committee.

Link with Accession Partnership

¹ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

² Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action.

³ Annex IV to the ACP-EU Partnership Agreement, as revised by Decision 1/2014 of the ACP-EU Council of Ministers (OJ L196/40, 3.7.2014)

⁴ Including the Overseas Countries and Territories having special relations with the United Kingdom, as laid down in Part Four and Annex II of the TFEU

One of obligations in Chapter 23 of the Accession Partnership as part of the Enlargement Strategy of EU for the Republic of North Macedonia is the implementation of the national law on personal data protection.

Link with National Programme for Adoption of the Acquis Communautaire

The main priorities in the National Programme for Adoption of the Acquis Communautaire (NPAA) is implementation of the new Law on personal data protection (transposition of GDPR), enactment of by-laws and harmonization of the sector regulation, support of the controllers and processors for the implementation of the new Law on personal data protection, raising awareness of citizens for their data protection rights, trained PDPA team, enhancement of enforcement powers and the independent status of PDPA.

In the Progress report for the Republic of North Macedonia in 2018 the European commission gave recommendation that further efforts need to be undertaken to align personal data protection legislation with the General Data Protection Regulation 2016/679 and Directive 2016/680.

In the Progress report for the Republic of North Macedonia 2019 the following was noted:

The Directorate for Personal Data Protection needs adequate resources to perform its tasks effectively. In 2018, the Directorate received 396 complaints and carried out 291 inspections, including in the fields of judiciary and law enforcement. Most complaints concerned alleged abuse of personal data on social networks, and alleged unlawful direct marketing and video surveillance. Nine misdemeanour cases were initiated in 2018 but the number of administrative sanctions in cases of breach of personal data protection legislation remains low.

The Directorate has continued to review draft legislation, including on the reform of the interception of communication, to ensure its compliance with data protection rules. The Directorate continued to provide training to personal data controllers and processors and to law enforcement personnel and judiciary personnel. Although amendments to the Criminal Code strengthened personal data protection in criminal cases, there was no concrete progress on alignment with the General Data Protection Regulation 2016/679 and the Directive 2016/680 (Law Enforcement Directive).

The country has not signed the 2018 Protocol amending the Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data of the Council of Europe.

This project will contribute for meeting the recommendations given by the European commission in the Urgent Reform Priorities and the Reports of the Senior Experts' Group on systemic Rule of Law issues led by Reinhard Priebe from 2015 and 2017 for building the independent status of PDPA to carry its mandate without any influence.

Following these strategic European and national documents, the Strategy for Personal Data Protection in Republic of North Macedonia 2017–2022 and its action plan foresee the following strategic goals:

- The country is recognized as a country with an adequate level of personal data protection
- Establishing a self-sustainable system for personal data protection providing adequate level of personal data protection
- Continuous increase of the public awareness and the culture of personal data protection
- Continuous compliance improvement among data controllers and processors of personal data
- Continuous cooperation with partners
- Increasing efficiency of administrative procedures
- Handle international issues effectively
- Trained and motivated team to respond to challenges

Relevant for the project is the new Communication Strategy of the Agency for Personal data Protection (2018-2023) and its action plan where one of the main communication goals is promoting the new European standards for protection of personal data (as key safeguards for privacy protection) amongst the various stakeholders in the national system for personal data protection and helping them to achieve the best level of compliance.

3. Description

3.1 Background and justification

Institutional framework - Personal Data Protection Agency

The Personal Data Protection Agency (PDPA) is an independent state body with a mandate to supervise the lawfulness of processing of personal data and protects the right of personal data protection of citizens.

Established in 2005 with the Law on Personal Data Protection from 2005 (revoked in 2020 with the new Law), PDPA has four organizational departments and one unit presented in Annexes-Organisational chart: Inspection department; Legal and general affairs department; Department for EU integration, projects and international cooperation, Department for ICT (information and communication technology), Unit for financial affairs.

The Agency's team consists of 19 civil servants, 2 administrative staff, and two officials (director and deputy director). For their work, the Director and the Deputy Director report to the Parliament by submitting an Annual report, which is published on PDPA's website www.azlp.mk and included in the Annexes.

According to **article 65 of the new Law on Personal Data Protection from February 2020**, PDPA has the following tasks:

- monitor and enforce the application of the Law;
- promote public awareness and understanding of the risks, rules, safeguards and rights in relation to personal processing data, and specifically for activities targeting children;
- issues opinions to the Parliament, the Government and other institutions and bodies on the legislative and administrative measures relating to the protection of natural persons' rights and freedoms with regard to processing;
- promote the awareness of controllers and processors of their obligations under this Law;
- upon request, provide information to any data subject concerning the exercise of their rights under this Law and, if appropriate, cooperate with other supervisory authorities, to that end;
- handle requests submitted by a data subject, or by a citizen association in accordance with this Law, and investigate, to the extent appropriate, the subject matter of the requests and inform the requesting party of the outcome of the investigation within a reasonable period, in particular if further investigation or coordination with another supervisory authority is necessary;
- cooperate with, including sharing information and providing mutual assistance to, other supervisory authorities with a view to ensuring safeguards for the rights and freedoms of physical persons with regard to personal data processing;
- conduct investigations on the application of this Law, including on the basis of information received from another supervisory authority or other public authority;
- monitor relevant developments, insofar as they have an impact on the protection of personal data, in particular the development of information and communication technologies and commercial practices;
- adopts standard contractual clauses
- establish and maintain a list in relation to the requirement for data protection impact assessment;
- give advice on certain data processing operations
- encourages preparation and gives opinion and approval of codes of conduct which provide sufficient safeguards
- encourage the establishment of data protection certification mechanisms and of data protection seals and marks, and approve the criteria of certification
- carry out a periodic review of issued certifications;
- publish the standards and criteria for accreditation of a body for monitoring codes of conduct;
- conduct the accreditation of a body for monitoring codes of conduct
- authorise contractual clauses and provisions for transfer of personal data in third countries

- approve binding corporate rules for transfer of personal data in third countries;
- establishes and maintains records of infringements of the Law and of the corrective measures taken
- conducts trainings for personal data protection
- fulfil any other tasks related to the protection of personal data, in accordance with the Law

Some of the strengths of the PDPA identified in the Strategy for Personal Data Protection in Republic of North Macedonia 2017–2022 are: established institutional and legal framework for data protection, experienced and dedicated PDPA team, active system of trainings, established system of data protection officers (DPOs), readiness of the institution to be up to date with IT technologies. On the other side, weaknesses that were identified: sector regulations are not fully aligned with the law and European practices, limited human and financial resource of PDPA, low awareness and culture for personal data protection, position of DPOs is not supported in organizations, and low level of data protection impact assessment and data security in IT activities.

Personal data protection is a fundamental right established in Article 18 of the Constitution of North Macedonia where protection from violations on the personal integrity resulting from the registration of personal information through automatic and non-automatic data processing is guaranteed.

All over the world, the right to personal data protection is closely related with the right to privacy and is a prerequisite for exercising other fundamental freedoms like the freedom of expression, freedom of religion, freedom of association etc.

The EU Charter of Fundamental Rights contains an explicit right to the protection of personal data (Article 8). A new EU modernized legal framework - the General Data Protection Regulation (GDPR) and the Data Protection Directive for the law enforcement and police area entered as fully applicable across the EU from May 2018.

GDPR is considered the most progressive and highest legal standard for personal data processing that has global impact.

For this reason, implementation of a modernized national data protection framework in North Macedonia aligned with European standards is necessary to address the risks for privacy and personal data protection posed by the digital era.

Therefore, in February 2020, the new Law on Personal Data Protection (Official Gazette of Republic of North Macedonia n.42/20), that transposes the General Regulation for personal data protection of the EU 2016/679 (GDPR) was adopted.

The Republic of North Macedonia has ratified the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data 108/81 of the Council of Europe and its Additional Protocol. On 5th December 2019, the country signed the Protocol for Modernization of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108+) and ratification by the Assembly will follow.

3.2 Ongoing reforms

Reform of the data protection legal framework

With the EU data protection reform, a process of transposition of the General Regulation for personal data protection of the EU 2016/679 (GDPR) into a new Law for Personal Data protection in North Macedonia has started in 2017.

After public consultations with stakeholders and integrating the comments of a TAIEX expert in 2018, a draft version of the new Law for Personal Data Protection was prepared and discussed by a Working group established by the Ministry of Justice.

Finally, the new Law on Personal Data Protection has been adopted by the Parliament and **entered into force on February 24, 2020.**

However, the process of transposition of the Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 (Police Directive) in a new law has started only in October 2020.

According to the new law, in a transition period of 18 months, all by-laws deriving from the new law have to be adopted by the director of the Agency (article 121 of the Law on personal data protection).

In May 2020, 13 by-laws were adopted by the director of the Agency and published in the Official Gazette of Republic of North Macedonia No.122/20 (Rulebook for security of personal data processing, Rulebook for prescribing the content and form of the legal act for the manner of performing video surveillance, Rulebook for the content and analyses of the purpose, or purposes for establishing video surveillance and the report of the performed periodical assessment of accomplished results of the video surveillance system, Rulebook for the manner of conducting supervision, Rulebook for transfer of personal data, Rulebook for trainings for personal data protection, Rulebook prescribing the form and content of the official identification card and the manner of its issuing and withdrawal, Rulebook for privacy impact assessment, Rulebook prescribing the form and content of the request for establishing violation of the Law on personal data protection, Rulebook for the manner of data breach notification, Rulebook for notification of high risk personal data processing, List of types of data processing operations subject to the requirement of a data protection impact assessment, List of types of data processing operations exempt from the requirement of a data protection impact assessment).

Additional by-laws for regulating the procedure for certification and accreditation of certification bodies, as well as for Codes of Conduct and Monitoring Bodies will be adopted by the director.

Other sector legislation that regulate personal data processing have to be harmonised with the new law (Article 120, of the Law on Personal Data Protection) during the transition period as well. Article 10 paragraph 3 stipulates which provisions legislative proposals should have regarding data protection, as well as an obligation for privacy impact assessment of laws for the high risk processing.

Additionally, the new Law on Personal Data Protection stipulates that the director of the Agency will have to issue guidance's for data controllers and processors for compliance with the new Law on personal data protection (Article 66 paragraph 6).

Moreover, in the transition period, PDPA on one side as the main regulator in the area, and data controllers and data processors on the other side are obliged to align their work operations with the provisions of the new Law on Personal Data Protection.

Therefore, this project will support the **issuing of guidance necessary for implementation of the new law** and developing a special guidance for **harmonization of sector legislation with the new law that can be used by ministries and other relevant institutions when drafting new legislative proposals, but also for review and amendment of existing ones.**

Additionally, the new Law on Personal Data Protection **gives new tasks and powers to PDPA** (investigative powers, corrective powers, powers for issuing approvals or opinions).

Namely, some of the **new tasks and powers of PDPA** are the following: prior consultation of PDPA before the adoption of any legislative and administrative measure and for high-risk processing, administering a new registry of high-risk processing of data controllers, accreditation and certification procedures, monitoring and approval of codes of conduct and certification, managing data breach notifications, enforcement of higher penalties, etc.

PDPA has the **following investigative powers with the new Law:**

- to order the controller and the processor, and, where applicable, the controller's or the processor's authorised representative, to provide any information it requires for the performance of its tasks;
- to carry out investigations in the form of data protection supervisions;

- to carry out a review on certifications issued pursuant to the Law;
- to notify the controller or the processor of an alleged infringement of the Law;
- to obtain, from the controller and the processor, access to all personal data and to all information necessary for the performance of its tasks;
- to obtain access to any premises of the controller and the processor, including to any data processing equipment and means for data processing.

PDPA has the following **corrective powers**:

- **to issue warnings to data controller or processor that intended personal data processing operations are likely to infringe provisions of the Law;**
- **to issue reprimands to a controller or a processor where processing operations have infringed provisions of the Law;**
- to order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to the Law;
- **to order the controller or processor to bring processing operations into compliance with provisions of the Law, where appropriate, in a specified manner and within a specified period;**
- to order the controller to communicate a personal data breach to the data subject;
- to impose a temporary or definitive limitation including a ban on processing;
- to order the rectification or erasure of personal data or restriction of processing, and the notification of such actions to recipients to whom the personal data have been disclosed;
- to withdraw a certification or to order the certification body to withdraw the issued certification, or to order the certification body not to issue certification if the requirements for the certification are not or are no longer met;
- **to initiate misdemeanour proceedings pursuant to the Law, depending on the circumstances of each individual case;**
- to order the suspension of transfer of personal data to a recipient in another country or to an international organisation.

PDPA has the following **powers in relation to issuing approvals or opinions**:

- **to advise the controller in accordance with the prior consultation procedure;**
- **to issue, on its own initiative or on request, opinions to the Parliament, the Government or to other institutions and bodies as well as to the public on any issue related to the protection of personal data;**
- to authorise processing referred to in Article 40 paragraph (5) of the Law;
- **to issue an opinion and approve draft codes of conduct;**
- **to issue certification certificates in accordance with of the Law;**
- to issue a **positive or negative opinion on the fulfilment of criteria for issuance of certificate;**
- to adopt **standard data protection clauses** for transfer of personal data;
- to authorise contractual clauses;
- to authorise administrative arrangements referred in the Law;
- to approve **binding corporate rules**.

Therefore, building a stronger institutional capacity of PDPA through new operational procedures, and building knowledge and skills from the best practices of EU member state partners through trainings and study visits is of the utmost importance.

The inability of PDPA to fully exercise its competences deriving from the new law could jeopardize the whole national system for data protection and hence, be regarded as non-compliance with EU *acquis* rules.

Moreover, the new Law on Personal Data Protection (as GDPR does) introduces significant changes: it introduces new definitions and concepts, imposes new obligations for data controllers and processors and enhances data subject's rights.

According to the *new accountability principle* introduced in the new law, data controllers (private companies, public entities, organizations) *must be able to demonstrate and document their compliance with data protection principles*.

This will be a significant challenge for data controllers because they need to be proactive and improve their transparency mechanisms, implementing the new concepts of privacy impact assessments, privacy by design and privacy by default and mandatory notification of data breaches. Additional pressure on data controllers are the high fines if they don't comply with the law that go up to 4% of the annual turnover.

Current overall assessment is that implementation of the data protection regulations even in high risk sectors like the judiciary, elections, education, law enforcement, telecommunications, health and finance sector, as well as small and medium enterprise need to be improved.

Therefore, supporting compliance of data controllers and processors of personal data and raising public awareness of data subjects of their rights is essential in building a sustainable national data protection system in accordance with the new European and international standards.

3.3 Linked activities

- CARDS, Technical Assistance (TA) project “Technical assistance to the creation of an Agency for Personal Data Protection and enforcement of the data protection principles”. The Project was implemented for 18 months and ended in November 2007.

The project consisted of following components:

Component 1: Legal Framework;

Component 2: Operational Procedures;

Component 3: Capacity Building;

Component 4: Public Awareness;

Component 5: Information Technology.

- IPA 2008, TAIB Component 1, TA “Support to the Agency for Personal Data Protection (PDPA). The duration of the Project was 18 months (January 2011 – July 2012) and it contributed towards strengthening the competences of the PDPA, improving the implementation of legislation in the area of personal data protection and raising the public awareness of the citizens for their right of personal data protection.

The project activities were divided in components:

Component 1: Alignment of domestic legislation with EU legislation;

Component 2: Strengthening institutional capacities of PDPA;

Component 3: Raising public awareness for the right of personal data protection as fundamental human right;

Component 4: Updated IT infrastructure of PDPA.

- IPA 2008, Component 1, TA project “Support in drafting strategic documents and action plans including survey on the awareness of the media for implementation of the right for personal data protection” (March 2011 – December 2011).

In the frame of the project a “*Strategy for personal data protection in the former Yugoslav Republic of Macedonia 2012 – 2016*” followed by an Action Plan for its implementation was adopted, as well as a Survey on the awareness of the media and media workers regarding the respect of the principles for personal data protection when publishing information.

- IPA 2009, Component 1, TA Project “Sustainable system for continuous primary and secondary education for the principles of personal data protection” (March 2013 – March 2014).

The objective of the project was to assist the PDPA in the process of drafting of data protection educational materials that will be used by the students and teachers/professors in the primary and secondary education. The assignment also supported the development of an efficient mechanism for awareness rising in the educational system regarding the personal data protection as one of the EU values and fundamental human rights.

The project consisted of two components:

Component 1: Preparation of the materials and documents on the right for Personal Data Protection for the educational purposes in the primary, secondary education;

Component 2: Awareness raising and trainings of the teachers / professors in the educational system in the country for the protection of the personal data.

- TAIEX⁵ (2009 – ongoing)

The PDPA has benefited from more than 50 workshops, expert missions and study visits on different topics, such as cloud computing, biometric data, video surveillance, privacy audit, data protection at the workplace, balance between personal data protection and free access to public information, Schengen, transfer to third countries, media, Europol, Eurojust, data protection supervision, social networks, European privacy seal, anonymization of personal data, protecting children’s privacy online etc.

- IPA 2012 FWC Data Protection and the Media EuropeAid/132633/C/SER/multi

Component 1: Assessment of the respect of data protection principles by the media

Component 2: Improvement of the standards and ethical rules for protection of personal data by the media

- IPA 2012 Support to Access to Right on Protection of Personal Data, EuropeAid/135668/IH/SER/MK (November 2015 - February 2018).

The project activities were divided in the following components:

Component 1: Implementation of the Strategy for Personal Data Protection 2012 – 2016 followed by an Action Plan and developing Strategy 2017 – 2022

Component 2: Strengthening the capacities for further implementation of the Law on personal data protection and improving the cooperation with controllers

Component 3: Implementation of ISO standardization for the information security system in PDPA

In the Final Report of this last project **recommendations** were given for timely adoption of the new draft law, involvement of PDPA in legislative and sub legislative process, provision of sufficient resources and ensuring continuous effect of the project.

Regarding the recommendation for **ensuring continuous effect of the project** it was noted that:

“It is recommendable that the new PDPA powers and tasks as deriving from the new draft law are practically exercised. In order to guarantee full sustainability of project results from administrative and institutional point of view, it is advisable that new project activities are searched for in order to enable the practical implementation of the new data protection aspects and the share of international experience on issues of common interest and public concern.”

⁵ http://ec.europa.eu/enlargement/pdf/taieux/taieux_activity_report_2013_english.pdf, page 3

3.4 List of applicable *Union acquis/standards/norms*

Union acquis standards and norms

- Universal Declaration on Human Rights (Article 12) and International Covenant on Civil and Political Rights (Article 17) envisages that no one shall be subjected to arbitrary or unlawful interference with his privacy, which is the binding international legal standard.
- ECHR, Article 8 (right to respect for private and family life, home and correspondence)
- Modernised Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Modernised Convention 108)
- Treaty on the Functioning of the European Union, Article 16
- Charter of Fundamental Rights of the European Union, Article 8 (right to protection of personal data)
- Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ 2016 L 119
- Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data
- Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws
- Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications) **legislative procedure is still pending**

Relevant legislation in North Macedonia

- Law on personal data protection (Official Gazette of Republic of North Macedonia n.42/20).
- Law on Ratification of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Official Gazette no. 07/05)).
- The Law on Ratification of the Additional Protocol to the Convention for the protection of individuals with regard to automatic processing of personal data, regarding supervisory authorities and trans border data flows (Official Gazette of Republic no. 103/08)
- European Convention for the Protection of Human Rights and Fundamental Freedoms ("ECHR").

3.5 Results per component

The project is structured in three components. The following key results and sub results are expected to be delivered in line with the ongoing reform as described in point 3.4 above:

Indicators for the project's Specific Objective:

1. Number of PDPA opinions on sector regulations related to data protection
2. Increase of proactively published information on PDPA web site
3. Number of PDPA's staff trained about the modernized data protection framework
4. Number of PDPA issued opinions on data protection impact assessments by data controllers

Mandatory Result 1 (Component 1): Legal and institutional framework for implementation of the novelties of the new Law for Personal Data Protection strengthened

In the context of Mandatory Result 1, the following indicative sub-results will be achieved:

Sub-Result 1.1: Guidance for implementation of the new Law on Personal Data Protection developed

Sub-Result 1.2: Enhancing Standard Operating Procedures (SOPs) and other administrative documents for implementing new tasks and powers of PDPA

Sub-Result 1.3: Harmonization of sector regulation with the new data protection framework

Mandatory Result 2 (Component 2): Enhanced capacity of PDPA's staff and relevant institutions to implement the new data protection framework according to European best practices

In the context of Mandatory Result 2, the following indicative sub-results will be achieved:

Sub-Result 2.1: Improved knowledge and best practices of PDPA's staff and representatives from government institutions and law enforcement for implementation of the novelties of GDPR and EU Police Directive regarding: transparency, data subject rights, data breach notifications, privacy impact assessment, privacy by design and privacy by default, pseudonimisation and anonymization, accountability of data controllers, transfers of personal data to third countries or international organisations, procedures of accreditation and certification, new enforcement powers.

Mandatory Result 3 (Component 3): Awareness about the rights and obligations of the new data protection framework improved

In the context of Mandatory Result 3, the following indicative sub-results will be achieved:

Sub-Result 3.1: **Increased availability of tools and resources (templates, model documents, privacy notices, cookies policies) for data controllers/processors** to comply with the new data protection framework on PDPA's web page and social media

Sub-Result 3.2: **Increased availability of practical information and templates for data subjects** to exercise their enhanced data subject rights on PDPA's web page and social media

3.6 Means/input from the EU Member State Partner Administration(s)

The project will be implemented in the form of a Twinning contract between the beneficiary country and EU Member State(s). The implementation of the project requires one Project Leader (PL) with responsibility for the overall coordination of project activities and one Resident Twinning Adviser (RTA) to manage implementation of project activities, Component Leaders (CL) and pool short-term experts within the limits of the budget. It is essential that the team has sufficiently broad expertise to cover all areas include in the project description.

The Twinning project will be implemented by close co-operation between the partners aiming to achieve the mandatory results in sustainable manner.

3.6.1 Profile and tasks of the PL

Qualifications and skills

- Proven contractual relation to a public administration or mandated body (see Twinning Manual 4.1.4.2);
- University degree in law/economics/public administration or similar discipline relevant to the project or equivalent professional experience of 5 years
- At least 3 years of specific experience within data protection agency or other relevant body;
- Experience in project management;
- He/she must have good leadership skills and a broad knowledge of policies, data processing and data protection;
- Fluency in written and spoken English;

Tasks of Project Leader

- General overall supervision and coordination of the project;
- Ensuring backstopping and mobilisation of the short-term experts;
- Bears the overall responsibility for the correct and successful implementation of the project and for its sound financial management;
- Permanent contacts with the main counterpart in the BC;
- Responsible to undertake all activities specified in the project and for achieving the mandatory results.

3.6.2 Profile and tasks of the RTA

Qualifications and skills

- Proven contractual relation to a public administration or mandated body (see Twinning Manual 4.1.4.2);
- University degree in law/economics/public administration or similar discipline relevant to the project or equivalent professional experience of 5 years
- At least 3 years of specific experience in an EU MS data protection authority or other relevant body;
- Experience in project management;
- Experience in implementing similar or related assistance and cooperation projects will be considered an asset;
- Fluency in written and spoken English;

Tasks:

- Throughout its entire duration he/she is in charge of the day-to-day implementation, including preparation of STE mission to enable the experts to be aware of the specifics of North Macedonia, quality review of mission reports and recommendations;
- Advice and technical assistance to the representatives of the Beneficiary administration;
- Reports regularly to the Member State PL;
- Quality support on reports and recommendations of STE in view of the current situation in the Beneficiary administration;
- Actively contribute to the work of any sector monitoring process set up in the Beneficiary country;
- Regularly updates the work plan to be transmitted to the Project Steering Committee under the authority of the Member State PL;
- Advising on EU policies and best practices, related legislation and regulations;
- Networking with stakeholders of the project in North Macedonia and in MS.

3.6.3 Profile and tasks of Component Leaders

The Component Leaders will be responsible for achievement of project results, ensuring the activities for the co-operation and information exchange between the RTA and the Beneficiary side and ensuring that all the required support of the management and staff of the EU side are available.

Qualifications and skills:

- Proven contractual relation to a public administration or mandated body (see Twinning Manual 4.1.4.2);
- University degree in law/economics/public administration or similar discipline relevant to the project or equivalent professional experience of 5 years
- Minimum 3 years of specific experience within data protection agency or other relevant body;
- Experience in project management;
- He/she must have good leadership skills and a broad knowledge of policies, data processing and data protection;
- Fluency in written and spoken English;

Tasks:

- Provide practical expertise/advice to relevant staff for execution of different tasks related to the project;
- Assist in key tasks, in the field of drafting legislation and by-laws, training, preparing guidelines for strategic use and management of training and providing training;
- Contribute to the project reporting, to drafting the notes and other documents and reports on their missions;
- Address cross-cutting issues;
- Provide technical advice, support and assist the beneficiary institution in the context of the project's components;
- Prepare analyses as necessary for the project implementation;
- Participate in preparation of both interim and final reports.

3.6.4 Profile and tasks of other short-term experts

Qualifications and skills

- University degree in law/economics/public administration or similar discipline relevant to the project or equivalent professional experience of 5 years
- Minimum 3 years of experience in an EU MS public administration or in areas relevant to their specific assignment;
- Fluency in written and spoken English;
- Good skills in reporting and communication.

Tasks:

- Delivering expertise under the overall responsibility of the Member State PL and the coordination and supervision of the RTA;
- Delivering support to the Beneficiary administration through specific activities in the Beneficiary country, including workshops, seminars, training sessions, meetings with officials of the Beneficiary administration, joint drafting sessions, etc;
- Preparation and reporting work, before and after their missions to the Beneficiary country.

4. Budget

Maximum budget available for the Grant: EUR 700,000

Twinning Contract	IPA Community Contribution	TOTAL
Support in the implementation of the modernized data protection legal framework	100% 700,000 EUR	700,000 EUR

5. Implementation Arrangements

- 5.1 The Delegation of European Union will act as a Contracting Authority for the project, responsible for all administrative and procedural aspects of the selection process, contracting matters and financial management including payments.

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- 5.2 Institutional framework

The main final Beneficiary is the Personal Data Protection Agency (PDPA) and all its employees. The PDPA will ensure efficient coordination with officials and counterparts in the relevant line institution.

- 5.3 Counterparts in the final Beneficiary administration:

- 5.3.1 Contact person:

Ms, Emilija Ginoska,
Junior associate for international cooperation and public relations
Blvd. "Goce Delcev" n. 18, 1000, Skopje

- 5.3.2 PL counterpart

Mr. Imer Aliu
Director of the Personal Data Protection Agency
Blvd. "Goce Delcev" n. 18, 1000, Skopje

- 5.3.3 RTA counterpart

Ms. Slobodanka Slavkovska
Head of Unit for supervision in the private sector

Blvd. "Goce Delcev" n. 18, 1000, Skopje

6. Duration of the project

The implementation period of the Action is **15 months**.

The overall execution period of the Twinning project is 18 months. The execution period of the contract shall enter into force upon the date of notification by the Contracting Authority of the contract signed by all parties, whereas it shall end 3 months after the implementation period of the Action.

7. Management and reporting

7.1 Language

The official language of the project is the one used as contract language under the instrument (English). All formal communications regarding the project, including interim and final reports, shall be produced in the language of the contract.

7.2 Project Steering Committee

A project steering committee (PSC) shall oversee the implementation of the project. The main duties of the PSC include verification of the progress and achievements *via-à-vis* the mandatory results/outputs chain (from mandatory results/outputs per component to impact), ensuring good coordination among the actors, finalising the interim reports and discuss the updated work plan. Other details concerning the establishment and functioning of the PSC are described in the Twinning Manual.

7.3 Reporting

All reports shall have a narrative section and a financial section. They shall include as a minimum the information detailed in section 5.5.2 (interim reports) and 5.5.3 (final report) of the Twinning Manual. Reports need to go beyond activities and inputs. Two types of reports are foreseen in the framework of Twining: interim quarterly reports and final report. An interim quarterly report shall be presented for discussion at each meeting of the PSC. The narrative part shall primarily take stock of the progress and achievements *via-à-vis* the mandatory results and provide precise recommendations and corrective measures to be decided by in order to ensure the further progress.

8. Sustainability

The achievements of a Twinning project (activities, documentation and mandatory results) should be maintained by the management of PDPA as a permanent asset to the final Beneficiary administration even after the end of the Twinning project implementation.

The MS Twinning partners shall transfer the know-how necessary to achieve the mandatory results to the final Beneficiary administration. During the project, the twinning partners should develop documents/handouts, guidelines that will be easily accessible for later use by the final beneficiary administration. Staff benefiting from trainings/study visit shall transfer knowledge through subsequent training to their colleagues, and training resources will be further used by the final Beneficiary.

9. Crosscutting issues (*equal opportunity, environment, climate etc...*)

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 participation of men and women during the implementation of the project will be assured.

Equal Opportunities and non-discrimination

In the implementation of activities under this Twinning Fiche, the principles of equal opportunities and non-discrimination shall apply, so that participation in the project will be guaranteed on the basis of equal access regardless of sex, ethnic origin, religion or belief, disability, age, etc. Gender equality incentives are incorporated particularly in activities concerning capacity building.

Environment and climate change

The activities under this Twinning Fiche do not have a direct global impact on the protection of the environment. For all the activities, however, recycling of paper and the reduction of paper-based activities are recommended.

Minorities and vulnerable groups

This Twinning Fiche does not deal with minorities and vulnerable groups in any direct manner, but as a general principle, sensitivity towards minorities and vulnerable groups, where meaningful, should be reflected in the improved provision of public services.

Civil Society/Stakeholders involvement

This Twinning Fiche will involve civil society, academia, think tanks and other stakeholders if needed.

10. Conditionality and sequencing

The implementation of this project requires the full commitment and participation of the senior management of the final beneficiary institution. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management must be actively involved in the development and implementation of the policies and institutional change required to deliver the project results.

Conditionality

- Appointment of counterpart personnel by the final beneficiary before the launch of the call of proposal and guaranteeing the continuity of the appointed and trained staff;
- Allocation of working space and facilities by the final beneficiary within the premises of the final beneficiaries before contract signature;
- Participation by the final beneficiary in the selection process as per EU regulations;
- Organisation, selection and appointment of members of working groups, steering and coordination committees, seminars by the beneficiaries.
- Use and application of project outputs

11. Indicators for performance measurement

Measurable indicators regarding Mandatory Result 1:

- **At least 9 sets of guidance** for the following topics (non-exhaustive): consent and transparency for personal data processing, the right to data portability, data protection impact assessment, data protection by design and by default, techniques of pseudonimisation and anonymization, processing of personal data for scientific and historical research and statistical purposes, international transfers of personal data, automated individual decision-making and profiling,

controller-processor relations, maintaining records of processing activities and derogations developed

- **Methodology for harmonization of sector legislation and data protection impact assessment sector regulation according to the Law on personal data protection**, when drafting new legislation and making amendments, published on web site and delivered to ministries/or other relevant institution
- **Number of Standard Operating Procedures (SOPs)** for effective performance of the new tasks and powers of PDPA (prior consultation, authorizations, data breach notifications, enforcement powers, accreditation and certification, transfer of personal data) developed

Measurable indicators regarding Mandatory Result 2:

- At least 8 trainings delivered about GDPR and EU Police Directive enhancing the knowledge of PDPA's staff including representatives from judiciary, Ministry of internal affairs and other law enforcement authorities
- Training for data protection impact assessment when drafting sector regulation for PDPA staff and representatives from ministries responsible for drafting laws and the Secretariat for legislation of the Government of Republic of North Macedonia
- Increased knowledge and practical experience how to implement novelties of the Law on personal data protection and delegated new tasks and powers for PDPA staff regarding **1.supervision and investigative powers 2. issuing approvals 3. enforcement and imposing administrative fines**

Measurable indicators regarding Mandatory Result 3:

- **Practical information and documentation toolkit** (e.g. **templates, model documents, privacy notices**) to help data controllers/processors demonstrate accountability according to the new Law on personal data protection produced and published on PDPA's web site;
- **Practical information and templates for citizens how to protect their personal data and exercise data subject rights especially online and on social networks**, direct marketing and telecommunications, data held by the police, health organizations, educational institutions, credit institutions, published on PDPA's web site and social media.

12. Facilities available

The final Beneficiary institution PDPA, commits itself to make available free of any charge for the project:

- office space for the RTA /the RTA assistant(s) and short-term experts for the entire duration of their secondment including chairs, tables, air-conditioning, etc.;
- computers including laptops and photocopiers;
- software and licenses including email systems and Internet access (enabling speedy communication);
- security measures linked to infrastructure and/or communication systems;
- secretarial support;
- venues for conferences, training and workshops;
- information access rights relevant to the assignment.

ANNEXES TO PROJECT FICHE

1. Logical framework matrix in standard format

2. Organizational chart of PDPA (English)
3. Annual Report of the Agency for Personal Data Protection for 2018 (English)
4. Annual Report of the Agency for Personal Data Protection for 2019 (available in Macedonian at the following link: https://dzlp.mk/sites/default/files/u4/godisen_izvestaj_dzlp_2019.pdf)
5. Strategy for Personal Data Protection in Republic of North Macedonia 2017–2022 (English)
6. Communication Strategy of the Agency for Personal data Protection 2018-2023 (available in Macedonian at the following link: https://dzlp.mk/sites/default/files/komunikaciska_strategija_final_printed.pdf)
7. Law on Personal Data Protection (Official Gazette n.42/20) (available in Macedonian at the following link: https://dzlp.mk/sites/default/files/u4/zakon_za_zastita_na_licnite_podatoci.pdf)