



Twinning Fiche

Project title:

“Enhancing the protection of employees in the case of insolvency of their employer”

Beneficiary administration:

Ministry of Labour and Social Policy (MLSP)

Twinning Reference: MK 18 IPA SO 01 21

Publication notice reference: EuropeAid/ 171862 /DD/ACT/MK

EU funded project

TWINNING INSTRUMENT

1. Basic Information

1.1 Programme:

Annual Action Programme for the former Yugoslav Republic of Macedonia for the year 2018 - IPA/2018/040-860/01.02/MK/ EU Integration Facility, Direct management¹

For UK applicants: Please be aware that following the entry into force of the EU-UK Withdrawal Agreement² 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 236/2014³ and Annex IV of the ACP-EU Partnership Agreement⁴, are to be understood as including natural or legal persons residing or established in, and to goods originating from, the United Kingdom⁵. Those persons and goods are therefore eligible under this call.

1.2 Twinning Sector: Social Affairs and Employment

1.3 EU funded budget: EUR 700,000

1.4 Sustainable Development Goals (SDGs): SDG 8 Decent Work and Global Growth

2. Objectives

2.1 Overall Objective:

The overall objective of the project is to enhance rights of workers in cases of employers' insolvency.

2.2 Specific objective(s):

The specific objective of the project is to establish a safety net for adequate protection of employment relations entitlements in cases of employers' insolvency in line with the minimum requirements as defined in the Directive 2008/94/EC and national socioeconomic context.

2.3 The elements targeted in strategic documents:

The implementation of the project will contribute to the realization of the priorities and objectives defined in the following documents:

Accession partnership

The medium term priority is adoption and implementation of the EU *acquis*, which under Chapter 19 includes the alignment with the Directive on protection of workers' rights in cases of

¹ https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa_2017_040200.2_mk_eu_integration_facility.pdf

² Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

³ 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.

⁴ 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).

⁵ 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.

employers' insolvency. Other relevant priorities are linked to the requirements relating to the economic criteria for strengthening legal certainty for economic operators and the functioning of the market economy; the improvement of public services (creation and modernisation of infrastructures); labour market performance and the reduction of unemployment.

Stabilisation and Association Agreement (SAA)

The Stabilisation and Association Agreement (SAA) notes that the overall objectives of EU assistance, in the form of institution-building activities and investments, shall contribute to the democratic, economic and institutional reforms, in line with the Stabilisation and Association Process. In this respect, financial assistance may cover all areas of harmonisation of legislation and cooperation policies of the SAA, such as those under Article 90, which are within the competence of MLSP.

European Commission Report (2019/ 2020)

In *its Report on North Macedonia (2020)*, the European Commission notes that in the areas of the Social policy and employment (Charter 19), the country ***is moderately prepared*** and the previous year's recommendations were not fully implemented, which remains valid for further alignment with the EU requirements in these areas. The 2019 ***Report*** observes that the amendments to the current Law on Labour Relations were adopted to clarify the rules and provide equal rights to people who have terminated their contract due to bankruptcy or liquidation.

National Programme for the Adoption of the EU Acquis (NPAA)

National Programme for Adoption of the *EU acquis* sets a mid-term priority to set the ground for introduction of legal and institutional framework for protection of employees in case of insolvency of their employer, thus ensuring further approximation of the national labor legislation with the legislation of the European Union.

Revised Employment and Social Reform Programme (ESRP) 2022

Revised Employment and Social Reform Programme 2022 and in particular, the measure related to signature of Decent Work Programme 2019-2022 intends to bridge the legal and implementation gaps in compliance with ratified ILO conventions and EU legislation concerning fundamental rights at work.

Decent Work Programme 2019-2022

The programme addresses key challenges of the economic and social policies, such as insufficient employment opportunities, inadequate earnings and unproductive work, lack of stability and security at work, unequal opportunities and treatment in employment, unsafe work environment, and lack of voice through representation. It sets seven outcomes built around two priorities: improving the governance of the labour market, on one hand and creation of more and better jobs, on another.

Indicative Strategic Paper 2014-2020

Introduction of a safety scheme in case of employer's insolvency should affect positively workers' rights. That is part of the efforts for strengthening the labour legislation and is directly related to

the Sector Education, Employment and Social Policy, as one of the key sectors in the *Indicative Strategy Paper for country (2014-2020)* for IPA assistance.

The project is linked to two policy areas as defined in the IPA II Regulation:

- reforms in preparation for Union membership and related institution- and capacity-building;
- employment, social policies, education, promotion of gender equality, and human resources development.

3. Description

3.1 Background and justification:

The Government of the Republic of North Macedonia is committed to ensure that the legal and institutional framework guarantee respect and protection of workers' rights in each stage of business dealing of their employers.

The Ministry of Labor and Social Policy (MLSP) is considered as the core institution of employment policies, labour market initiatives, improving working conditions and ensuring decent work contributing thus to the overall macroeconomic stability and socioeconomic development of North Macedonia. Without prejudice to the objective of social security, the MLSP also supports the national economic policies of the Government.

The MLSP plays a notable role in the process of country's preparations for EU accession, as it is responsible for Chapters 2 (Free movement of workers) and 19 (Social policy and employment) of the EU *acquis*. In addition, the MLSP gives a significant input to the preparation of strategic documents that all candidate countries prepare in the process of EU integration: NPAA, ESRP (coordination role) and Economic Reform Programme (ERP), as well as the contribution of the Government to the European Commission's Report on the Beneficiary Country. MLSP plays an important role in the work of the bodies for the implementation of the SAA, especially within the Subcommittee for Innovation, Information Society, Employment and Social Policy and the Subcommittee for the Economic and Financial Affairs and Statistics.

Organizational structure

The MLSP performs its mandate through its main organizational units.

The MLSP Organization chart is given in the Annex II of this document.

The MLSP Department of Policies in the Areas of Labor Law and Employment (hereinafter Labour Department) deals with issues related to labor relations, employment and unemployment, remuneration of employees and labour related issues. Main responsibilities of this department include creation of policies and measures for employment and protection against long-term unemployment, drafting of legislation related to employment rights, including salaries, allowances, salary supplements, collective bargaining, social dialogue, implementation of international norms and standards of the International Labor Organization (ILO), the Council of Europe (CoE) and other organizations and institutions, as well as alignment with European Union Labour Law.

3.2 Ongoing reforms:

The project will support the alignment with and implementation of the EU Directive 2008/94/EC

of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer.

The main purpose of Directive 2008/94/EC is to provide minimum degree of protection of workers' rights. Member States have been obliged to set up guarantee institutions that intervene in insolvency situations to cover employees' outstanding claims. The need for such protection is based on the fact that the insolvency proceedings opened against their employer might instigate a legal declaration of the employers' bankruptcy and forceful termination of their activity. This may result in difficulties in, or the impossibility of, making payments for the remuneration of employees and compensation due to the employees under their employment contracts.

The national legislation incorporates the notion of the protection of employees in relation to claims in the event of the bankruptcy of their employer where the activity is terminated. Both the Labor Relations Law (Article 67, paragraph 2) and Bankruptcy Law (Article 117) as well as the General Collective Agreement entitle employees to payment of net salary, compensation for injuries at work and the right to payment of compensation for unused annual leave in a case of employers' insolvency. The Bankruptcy Law qualifies those entitlements as claims of a higher payment rank meaning that they will be settled with priority from the pool of liquidated assets of an employer that has been declared bankrupt. The salaries and compensations of the employees would be determined by the bankruptcy administrator in accordance with the Law and Collective Agreement, on the basis of a prior written consent from the Bankruptcy Judge.

The applicable provisions, as they currently stand, do not provide sufficient protection of the employees' rights in the liquidation/ deletion proceedings. The applicable provisions do not provide obligation for the liquidators/ authorized institutions to protect employees' rights (timely payment of salaries, social security contributions, timely deregistration of the employees and managers). Furthermore, the Law on Employment and Insurance in Case of Unemployment is not aligned with the provision of the Trade Company Law regarding the provisions regulating the right to monetary compensation to employees whose employment ceased due to deletion of the employer.

Additionally, the Law on Material Security of Unemployed Persons Due to Privatization of State-Owned Enterprises (adopted in 2017) in its Article 1 defines the following 'This Law regulates the conditions for acquiring and the manner of using the right to material security in the form of monetary compensation for the unemployed persons whose employment has ceased on the basis of bankruptcy, liquidation or redundancy until 30 June 2017, as well who have exercised the right to monetary compensation after 1 January 1995.' As well, this legal mechanism provides a legal opportunity only for part of the redundancies of previously state-owned enterprises.

Such provisions conform to relevant ratified ILO conventions:

C017 WORKMEN'S COMPENSATION (ACCIDENTS)

C158 TERMINATION OF EMPLOYMENT CONVENTION

C181 PRIVATE EMPLOYMENT AGENCIES CONVENTION

Other than those provisions, there is no specific scheme or mechanism in place that would protect workers' entitlements in case of employer's insolvency.

Since 2018, the Ministry of Labour and Social Policy (MLSP) has been developing a new Labour Law. The Law will be aligned with all ratified international legal instruments and will aim at incorporating relevant EU directives, including two directives related to the protection of

employees' rights in case of changes occurring at the employer for economic, technical or organisational reasons:

- EC Directive 32001L0023 on the approximation of the laws of the Member States related to the protection of employees' rights in the event of a transfer to a enterprise, undertaking of a plant or parts of the enterprise or a plant;
- EC Directive 31998L0059 on the approximation of the laws of the Member States related to collective redundancy.

Decent Work Programme 2019-2022 and its Outcome 1.3 states that conformity of national legal and institutional frameworks with the International Labour Standards (ILS) and the EU *acquis* is an international obligation of the state as a member of the ILO and a key element of the EU accession negotiations. Accordingly, the national tripartite discussions and decision making will be supported to achieve alignment of labour and industrial relations legislation and practice to international labour standards and the EU *acquis* (laws, institutions, and best practices). Inter alia, the focus will be on the employment protection.

The project will enrich the national labour law. The guarantees that would be introduced will give legal certainty to the payment of due, yet unpaid labour remuneration and compensation resulting from the employees' employment contracts or employment relationships, where the employer is declared bankrupt and its activity suspended.

As there is no national statutory scheme that would protect workers' entitlements, the project would prepare ground for introduction of a guarantee mechanism/ institution/ fund in line with the EU Directive 2008/94/EC. The interventions of such mechanism/ institution/ fund will enable workers to benefit from the safety net mostly in times of economic uncertainty, such as the one caused by the COVID-19 pandemic which led to a drastic drop in the cash-flow of companies and to a threat of mass insolvencies. Moreover, the Government adopted a Decree amending the Bankruptcy Law during the state of emergency. Bankruptcy debtors who meet the requirements for starting a bankruptcy procedure shall not be subject to bankruptcy proceedings for the duration of the state of emergency.

Such arrangements would smooth the transition to new employment or to unemployment and will mitigate the cessation of income until the individuals are able to claim their social insurance rights in case of unemployment.

3.3 Linked activities:

The MLSP has been involved in a number of technical assistance projects in recent years. It has received substantial technical assistance from the EU/ IPA funds and ILO. The support covered a range of specific topics in the following areas: labour law and working conditions, labour market institutions and social dialogue, employment policies and in particular active labour market measures. Some of these activities were financed under Technical Assistance and Information Exchange Instrument (TAIEX) of the European Commission.

Close coordination will be ensured with the projects financed under IPA Annual Action Programme for the year 2017 "EU Support for Education, Employment and Social Policy", especially the one dealing with strengthening the social dialogue (implemented by ILO) and the project "Improving the working conditions"⁶.

⁶ <http://mtsp.gov.mk/ipa.nspix>

Strengthening Social Dialogue contributes to enhanced participation of the Economic and Social Council in shaping the national economic and social reform agenda; it provided technical support for drafting the new labour legislation, especially with regards to its compliance with the ILO Conventions and EU Directives.

The specific topic of employees' protection covered by this Twinning fiche was considered by the IPA project "Strengthening the Administrative Capacities for Implementation of the Legal Framework for Bankruptcy and Liquidation of Companies". The project's focus was on the legal and institutional framework in the area of bankruptcy and liquidation of companies in the country. An Analysis dated November 2017 also recommends establishment of a warranty fund in order to provide better security for workers. It recognizes that workers (employees) of insolvent companies are one of the most vulnerable groups of creditors. "Insolvent companies often fail to pay their salaries for several months prior to the beginning of insolvency proceedings, which puts them in a financially compromising position. Moreover, they are often not familiar with their rights in the insolvency proceedings and cannot afford legal assistance. As part of the social security network, state can provide for a warranty fund which partially pays for the employee's claims towards the insolvent company."

This Twinning Project will build upon the main outcomes and lessons learned from past assistance, as well as take into consideration other projects in this area as far as relevant.

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

National Legislation:

- Law on Labour Relations (OG, No. 62/05, 106/208, 161/08, 114/09, 130/09, 149/09, 50/10, 52/10, 124/10, 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 113/14, 20/15, 33/15, 72/15, 129/15, 27/2016, 120/18 and 110/19)⁷;
- Bankruptcy Law, Article 117 (OG of RM, 34/06, 126/06, 84/07, 3/08, 122/09, 47/11, 95/12, 79/13, 164/13, 29/14, 98/15 and 192/15)⁸.

National Relevant Strategic Documents:

- Revised Employment and Social Reform Programme 2022 (ESRP 2022)⁹;
- Decent Work Programme 2019-2022 of North Macedonia¹⁰;
- National Programme for Adoption of the EU Acquis 2019-2021¹¹.

Relevant EU Directives and documents:

- Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer¹²
- European Social Charter**, Article 25¹³ (the relevant provision was not ratified)

Relevant ILO Conventions:

- C017 - Workmen's Compensation (Accidents) Convention, 1925 (No. 17)¹⁴;
- C095 - Protection of Wages Convention, 1949 (No. 95)¹⁵;

⁷http://mtsp.gov.mk/content/pdf/trud_2017/pravilnici/16,11-%D0%B0%D0%BA%D0%BE%D0%BD%D0%A0%D0%B0%D0%B1%D0%9E%D0%B4%D0%BD%D0%BE%D1%81%D0%B8.pdf

⁸ <http://www.komorasu.org.mk/%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%B8/>

⁹[http://mtsp.gov.mk/content/pdf/2019pravilnici/New%20node/Annex%201%20Draft_ESRP%20%20\(MKD\)_REVIZIJA%202022-11.12.2019.pdf](http://mtsp.gov.mk/content/pdf/2019pravilnici/New%20node/Annex%201%20Draft_ESRP%20%20(MKD)_REVIZIJA%202022-11.12.2019.pdf)

¹⁰ http://ilo.org/budapest/what-we-do/decent-work-country-programmes/WCMS_676193/lang--en/index.htm

¹¹ <http://www.sep.gov.mk/en/content/?id=13#.XfkyBtQrKt8>

¹² <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32008L0094>

¹³ <https://www.coe.int/en/web/european-social-charter/charter-texts>

¹⁴ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C017

¹⁵ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C095

- C181 - Private Employment Agencies Convention, 1997 (No. 181)¹⁶;
- C173 – Protection of Workers’ Claims (Employer’s Insolvency) Convention, 1992 (No.173) – the Convention was not ratified.

3.5 Components and results per component

The project is structured into two components due to supporting further regulatory and institutional enforcement.

The following key results and sub-results are expected to strengthen the institutional capacity of the Ministry of Labour and Social Policy (MLSP), as well relevant stakeholders (Ministry of Economy, Ministry of Finance, State Labour Inspectorate, Employment Service Agency, civil courts, Trade Unions, Employers’ Organizations, Economic-Social Council, Chambers of Commerce, etc.):

Component 1: Setting up guarantee mechanism for protection of employees’ rights in cases of employers’ insolvency in line with relevant EU Directives

Mandatory result 1: Legal and institutional framework guaranteeing protection of employees’ rights in case of employers’ insolvency established

Sub-result 1.1: Legal framework established

Expected sub-results:

- Proposal of legislation on protection of employees’ rights in case of employers’ insolvency developed and put forward together with regulatory impact assessment (RIA) and table of concordance (ToC) demonstrating the alignment with the EU Directive 2008/94/EC;
- Draft amendments prepared to the laws regulating related fields such as labor relations, bankruptcy, trade companies, all branches of social security, taxes etc., where this is relevant for implementation of the legislation on protection of employees’ rights in case of employers’ insolvency;
- Bylaws and internal acts prepared for operationalisation of the competences of the guarantee institution/ body/ fund as set by the new legislation, its governance, sources of financing, organization setup, human resources, etc.

Sub-result 1.2: Institutional framework established

Expected sub-results:

- Presented and discussed models for establishment of guarantee institution/ body/ fund in North Macedonia;
- Architecture of the system for protection of employees’ rights in cases of employers’ insolvency elaborated and aligned with the provisions of EU Directive 2008/94/EC;
- Developed methodology, model and tools for projection of claims and their financing, as well as for processing, monitoring and reporting the payments related to protection of employees’ rights in cases of employers’ insolvency; implement other activities for improvement of quality and availability of data for processing employees’ claims in cases of employers’ insolvency;

¹⁶ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326

- Defined scope and functionality of the ICT System for processing and payment of claims, address connectivity (including web-based) functionality enabling interoperability with institutions' ICT systems and prepared technical documentation for development of the ICT System;
- Roadmap prepared with steps and targets for establishment and strengthening of the guarantee institution.

Component 2: Capacity building of relevant institutions for protection of employees' rights in cases of employers' insolvency strengthened in line with relevant EU Directives

Mandatory result 2: Capacities of stakeholders enhanced

Sub-result 2.1: Staff knowledge, competences and other capacity of relevant institutions and other stakeholders strengthened

Expected sub-results:

- Staff knowledge, competencies and other capacity strengthened in relevant ministries and institutions (Ministry of Economy, Ministry of Finance, State Labour Inspectorate, Employment Service Agency, civil courts, Trade Unions, Employers' Organisations, Economic-Social Council, Chambers of Commerce, etc.), as well as social partners for pursuing and implementing the legislation for protection of employees' rights in cases of employers' insolvency.

Sub-result 2.2: Awareness raised for protection of employees' rights in cases of employers' insolvency

Expected sub-results:

- Awareness raising activities conducted targeting workers, employers and social partners about the new legal provisions, their rights, duties and responsibilities in cases of employers' insolvency.

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 (1) Project Leader (PL) with responsibility for the overall coordination of project activities, one (1) Resident Twinning Adviser (RTA) to manage project activities under each of the two components and a pool of short-term experts to provide support to the Project Leader (PL) and RTA in specific fields.

Proposals submitted by Member State shall be concise and focused on the strategy and methodology and an indicative timetable underpinning this, the administrative model suggested, the quality of the expertise to be mobilised and clearly show the administrative structure and capacity of the Member State entity/ies. Proposals shall be detailed enough to respond adequately to the Twinning Fiche, but are not expected to contain a fully elaborated project. They shall contain enough details about the strategy and methodology and indicate the sequencing and mention key activities during the implementation of the project to ensure the achievement of overall and specific objectives and mandatory results/ outputs.

The interested Member State(s) shall include in their proposal the Curriculum Vitae (CVs) of the designated PL and the Resident Twinning Advisor (RTA), as well as the CVs of the designated component Leaders (CLs).

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

The set of proposed activities will be further developed between the Twinning partners when drafting the initial work plan for minimum duration of six months and each successive rolling work plan every six months, keeping in mind that the final list of activities will be decided in cooperation with the Twinning partner.

3.6.1 Profile and tasks of the PL:

Requirements:

- Proven contractual relation to a public administration or mandated body (see Twinning Manual 4.1, 4.2);
- At least a University degree or equivalent professional experience of 8 years in relevant institution;
- Excellent knowledge of English language;
- Computer literacy;
- Minimum 3 years of professional experience within institution which is dealing with protection of workers' rights and/ or part of the national insolvency system;
- Project management experience.

PL tasks:

- Overall management and coordination of the project with MS, beneficiary institutions, other partners and stakeholders;
- Project reporting;
- Ensuring backstopping and financial management of the project in the MS;
- Ensuring timely, effective and efficient implementation of the project and achievement of results, through proposed activities;
- Coordination of deployment of short-term experts;
- Coordination (with the MS RTA) of the Project Steering Committee meetings;
- Participation at the Steering Committee meetings (every three months);
- Assuring compatibility with EU requirements.

3.6.2 Profile and tasks of the RTA:

Requirements:

- Proven contractual relation to a public administration or mandated body (see Twinning Manual 4.1.4.2);
- At least a University degree in economics, corporate law or another relevant discipline (with the project focus) or equivalent professional experience of 8 years in relevant institution;
- Minimum 3 years of professional experience within national administrative authority and/ or guarantee institution responsible for payment of employees' outstanding claims in the event of employer's insolvency;
- Excellent knowledge of English language;
- Computer literacy;
- Experience in project management.

Assets:

- Experience in institution building activities related to bankruptcy and insolvency, in particular protection of employees' rights in case of employer's insolvency;
- Experience in development and/ or delivery of trainings;
- Preferably an expert in the area covered by the project.

RTA tasks:

- Responsible for monitoring project implementation and proposing corrective management actions, if required;
- Support and coordination of all project activities in Beneficiary Country (BC) in line with the agreed work programme to enable timely completion of project results and delivery of the outputs;
- Advise on related EU policies and best practices, legislation and regulations;
- Establish and maintain cooperation with all beneficiaries involved in the implementation of the project and other related projects (ensuring the avoidance of overlapping), in close coordination with the Project Leader;
- Nomination, mobilisation and supervision of the short-term experts, together with the Project Leader;
- Facilitation of the contacts with peer institutions in EU member states in order to stimulate a proper exchange of information and data;
- Organization of visibility events (kick-off and final event);
- Responsible for organization of the Project Steering Committee (PSC) meetings and reporting on the project progress in close cooperation with the Project Leader;
- Identifying and reporting to the Contracting Authority (CA), at early stage, all difficulties that may jeopardize the project implementation and the achievement of its results.

RTA Assistant:

The RTA will be provided with a full-time RTA assistant acting as an assistant for technical and organizational support. The assistant will be contracted in line with the Twinning Manual rules (see point 4.1.6.10) and paid from the Twinning budget. The assistant will be selected through an open call. The role of the RTA Assistant is to support the RTA in the project management. In addition, the assistant will be responsible for organization of meetings, seminars etc. and their logistics, as well as for providing translation and interpretation services on a daily basis.

Language assistant:

For the purpose of the project and for cost effectiveness the Twinning Project foresees a part time (or full time) language assistant who should be selected through an open call (and according to point 4.1.6.10). The language assistant will be involved in all translation-related project activities (translation of project documents/ reports and materials). The role of the translator will be to provide translation and editing services to the Twinning project in general, as well as interpretation at events.

3.6.3 Profile and tasks of Component Leaders for Components 1 and 2:

In order to ensure better component coordination and delivery of the activities in a timely and efficient manner, the MS administrations are encouraged to assign Component Leaders. They should report to the Project Leader and liaise with the Project Leader counterpart.

Component Leader 1 and Component Leader 2:

Requirements for the Component Leaders:

- Proven contractual relation to a public administration or mandated body (see Twinning Manual 4.1, 4.2);
- At least a University degree or equivalent professional experience of 8 years in the employment and/or social security sector;
- Minimum 3 years of working experience within national administrative authority/mandated body and/ or guarantee institution responsible for payment of employees' outstanding claims in the event of employer's insolvency;
- Excellent knowledge of English language;
- Computer literacy.

Tasks of the Component Leader:

- Close cooperation with and provide technical advice and support to the MLSP experts and relevant stakeholders in undertaking all activities;
- Advance preparation and familiarization with relevant documentation;
- Participate in relevant activities under the scope of the project in cooperation with other experts.

3.6.4 Profile and tasks of other short-term experts:

Other specialist staff will be made available by the MS Twinning Partner to support the implementation of activities. The proposed pool of short-term experts is expected to cover all relevant areas targeted under this project in order to achieve the mandatory results.

Qualifications and skills:

- University degree in economics, corporate law or another relevant discipline or equivalent professional experience of 8 years;
- At least 3 years of working experience in EU MS public administration/mandated body in the fields relevant to their specific assignment related to this project;
- Be fluent in written and spoken English

The pool of short-term experts is required to implement the project activities covering the following indicative subjects:

- Prepare and implement specific tasks based on experience in setting up of legal and institutional framework complying with the principles of the EU Directive 2008/94/EC;
- Assist in establishment of a model and tools for projection of claims and their financing as well as for processing, monitoring and reporting the payments related to protection of employees' rights in cases of employer's insolvency;
- Prepare and implement specific tasks based on experience in design of the ICT system of the guarantee institution for processing and payment of claims;
- Prepare and implement specific tasks based on experience in conducting information campaign about the new legal provisions and employees' rights in cases of employer's insolvency;
- Provide practical expertise/ advice and transfer knowledge to relevant staff for execution of all activities related to the results and objectives required within the project;

- Provide practical support, advice, recommendations and reports as foreseen under the Twinning Project in close cooperation and coordination with the Beneficiary Institution and relevant stakeholders.
- All tasks should be implemented under the overall responsibility of the Member State PL and the coordination and supervision of the RTA.

4. Budget

Maximum Budget available for the Grant

| Enhancing protection of employees in the event of the insolvency of their employer (Transposition of the Directive 2008/94/EC) | IPA Community Contribution | TOTAL in EUR |
|---|-----------------------------------|---------------------|
| Twinning Contract | 100% EUR 700,000 | EUR 700,000 |

5. Implementation Arrangements

5.1 Implementing Agency responsible for tendering, contracting and accounting is the European Union Delegation

Mr. Nicola Bertolini
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5.2 Institutional framework

The main beneficiary is the Ministry of Labour and Social Policy (MLSP). Its Labour Department is responsible for preparing labour and employment related legislation and will be substantially involved in achieving the objectives and results. The project will consolidate the national labour law when it comes to protection of workers if an employer becomes insolvent.

MSLP will ensure project coordination throughout the project implementation and the progress of project activities will be monitored on a regular basis. In addition to the Labour Department, MLSP's organizational unit involved in coordination of this project is the Department for

European Integration and International Cooperation, which is responsible for managing activities related to the process of accession of the Beneficiary Country to the EU.

The project will lead to establishment of new institution or a body within the existing setting, enabling higher level of protection for the workers facing involuntary unemployment.

Other beneficiaries of the project might be the Employment Service Agency (ESA), the Ministry of Economy (ME) or other institution that will be identified under the activities of the sub-result 1.2.

5.3 Counterparts in the Beneficiary administration:

The PL and RTA counterparts will be staff of the Beneficiary administration and will be actively involved in the management and coordination of the project.

5.3.1 Contact person(s):

Ms. Aleksandra Slavkoska
Head of Department for European Integration and International Cooperation and IPA
Coordinator
Ministry of Labour and Social Policy
St. Dame Gruev 14, 1000 Skopje

5.3.2 PL counterpart

Ms. Mirjanka Aleksevskaa
Head of Department for Policies in Labour Legislation Area and Employment Policies
Ministry of Labour and Social Policy (MLSP)
St. Dame Gruev 14, 1000 Skopje

RTA counterpart

Ms. Mirjanka Aleksevskaa
Head of Department for Policies in Labour Legislation Area and Employment Policies
Ministry of Labour and Social Policy (MLSP)
St. Dame Gruev 14, 1000 Skopje

5.3.3 CL counterpart

Ms. Mirjanka Aleksevskaa
Head of Department for Policies in Labour Legislation Area and Employment Policies
Ministry of Labour and Social Policy (MLSP)
St. Dame Gruev 14, 1000 Skopje

6. Duration of the project

The overall execution period of the Twinning Project is **21 months**.

The implementation period of the Action will last **18 months**.

The execution period of the contract shall enter into force upon the date of notification by the Contracting Authority (CA) 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.

However, the final version of the project outputs will need to be translated into the Macedonian language.

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 vis-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 Twinning: 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 vis-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 the Twinning Project will be maintained by the MLSP as a permanent asset to the beneficiary administration, as well as to the entire business sector and the workers in the Beneficiary Country, which will benefit in the long term from the newly established safety net scheme.

The project deliverables will be achieved in the form of law(s) and bylaws and hence generally improved regulatory framework in the relevant area(s), a feasibility study, architecture of a system, methodologies, internal policies, supported with a number of capacity-building activities and information tools.

The Twinning Partners will ensure that project deliverables and the sustainability of mandatory results are best obtained by ensuring that the legislative proposal of laws regulating all aspects of

protection of workers in cases of insolvency and all other activities are backed up by relevant impact assessment (one of the deliverables) and they are consulted with both internal and external stakeholders (especially social partners), as required by legislation of the Beneficiary Country.

During the Twinning project, the Beneficiary administration and administration of other relevant stakeholders benefiting from the training by MS experts will be put in charge of subsequent training of their colleagues and they will be involved in follow-up activities. The capacity building activities will produce internal documents and policies, methodologies, guidelines and tools to be integrated in the operation processes of the guarantee institution/ body/ fund.

Twinning partners will ensure that training materials are of sufficient quality, professionally developed and accessible for later use.

Twinning partners will organise a wrap-up seminar at the end of the implementation of the project, presenting the concrete results and their practical implications for further follow-up by the Beneficiary administration.

In the final report, Twinning Partners will include concrete recommendations, strategies and roadmap for safeguarding the achievement of the mandatory results in the Beneficiary administration.

The project will enable national authorities, in particular MLSP to get better prepared for the process of accession to the EU market once the Beneficiary Country meets the EU membership criteria.

As there is no national statutory scheme that would protect workers' entitlements, this Twinning Project will prepare ground for introduction of a guarantee mechanism/ institution/ fund that will enable workers to benefit from the safety net mostly in times of economic crisis.

In order to ensure the sustainability and safeguarding the achievement of the project results, the Beneficiary administration will obtain all necessary follow-up activities. This presupposes that effective mechanisms will be put in place by the MLSP to disseminate and consolidate the project results (put forward draft legislation for adoption by the Government and Parliament; engage with setting up of the guarantee institution, etc.). Information activities will increase the awareness of workers' rights, which itself would put pressure to ensure that the guarantee mechanism is operational.

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.

Moreover, gender perspective and equal opportunities will be considered systematically during the design of the guarantee mechanism. The parameters of the guarantee schemes and the monitoring framework will ensure equality between women and men. Where needed, these principles will be integrated further in legislation or strategic documents.

Environment and Climate Change

The activities under this Twinning project do not have a direct global impact on the environment protection. For all the activities, however, recycling of paper and the reduction of paper-based activities is recommended. Publicity and visibility materials prepared and disseminated under this Twinning project will be eco-friendly and recyclable, such as notebooks, bags, pens, etc.

Minorities and vulnerable groups

This Twinning Fiche deals with minorities and vulnerable groups in any indirect manner, but as a general principle, sensitivity towards minorities and vulnerable groups, where meaningful, should be reflected in the improved provision of public services.

Good governance

The project will ensure the good governance is respected. It will pursue the principles of transparency of decision-making processes, the fight against corruption, the strengthening of public financial management, civil service and administrative reforms. Any decision should be based on evidence and analysis and will take into account the opinion of stakeholders. This Twinning Project will involve employer's organisations and trade unions, as well civil society organizations, academia, think tanks and other stakeholders, when needed.

10. Conditionality

The project includes the following conditionality:

- Appointment of counterpart personnel by the beneficiary administration before the launch of the call for proposal and guaranteeing the continuity of the appointed and trained staff;
- Participation by the beneficiary in the selection process as per EU regulations;
- Timely organization, selection and appointment of members of working groups, steering and coordination committees, seminars by the beneficiary;
- Appointment and availability of the relevant staff of the beneficiaries to participate in project implementing activities (especially training activities) as per the work plan.

11. Indicators for performance measurement

The following indicators are expected to strengthen the institutional capacity of the Ministry of Labour and Social Policy (MLSP), as well relevant stakeholders:

Component 1: Setting up guarantee mechanism for protection of employees' rights in cases of employers' insolvency in line with relevant EU Directives

Mandatory result 1: *Legal and institutional framework guaranteeing protection of employees' rights in case of employers' insolvency established*

Sub-result 1.1: *Legal framework established*

Indicators of achievement:

- A proposal of legislation on protection of employees' rights in case of employers' insolvency developed;
- Number of Regulatory impact assessments (RIA) and table of concordance (ToC) demonstrating the alignment of the EU Directive 2008/94/EC carried out;
- Number of draft amendments prepared to the laws regulating related fields, such as labor relations, bankruptcy, trade companies, all branches of social security, taxes etc.;
- Number of bylaws and internal acts prepared for operationalization of the competences of the guarantee institution/ body/ fund.

Sub-result 1.2: *Institutional framework established*

Indicators of achievement:

- Number of models of guarantee institutions in EU member states and countries in the region presented and discussed;
- Number of feasibility studies developed for establishment of guarantee institution/ body/ fund in North Macedonia;
- Status of the new institutional framework (development and adoption);
- Quality assessment of the ICT System for processing and payment of claims, that address connectivity (including web-based) functionality enabling interoperability with institutions' ICT systems;
- Status of the road-map paper with steps and targets for establishment and strengthening of the guarantee institution/ body/ fund.

Component 2: Capacity building of relevant institutions for protection of employees' rights in cases of employers' insolvency in line with relevant EU Directives

Mandatory result 2: *Capacities of stakeholders enhanced*

Sub-result 2.1: *Staff knowledge, competences and other capacity of relevant institutions and other stakeholders strengthened*

Indicators of achievement:

- Number of capacity building events conducted for staff in relevant ministries and institutions, as well as social partners and civil society organizations for pursuing and implementing the legislation for protection of employees' rights in cases of employers' insolvency;
- Number of people trained from relevant stakeholders.

Sub-result 2.2: *Awareness raised for protection of employees' rights in cases of employers' insolvency*

Indicators of achievement:

- Number of awareness raising activities conducted;
- Number of workers/employers/social partners reached through awareness raising activities.
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12. Facilities available

Regarding component 1 and 2, MLSP in cooperation with relevant stakeholders, will dedicate all necessary human and institutional resources in order to guarantee an effective implementation of the respective project. In particular, the Beneficiary Institution (BI) will ensure the availability of the following provisions:

- Adequately equipped office space for the RTA and the RTA and language assistant, Component Leaders and short-term experts for the entire duration of their secondment (in particular a desk, a telephone line, PC with e-mail account and internet access);
- Adequate conditions for the STEs to perform their work while on mission to the BC;
- Training and conference venues, as well as presentation and interpretation equipment;
- Its active involvement in preparation of the Project Steering Committee (PSC) meetings and participation of its members on the same;
- The availability of the BC human resources (BC experts) during the implementation of the activities.

ANNEXES TO TWINNING PROJECT FICHE

- I. Simplified Logical Framework
- II. Organizational chart of the MLSP

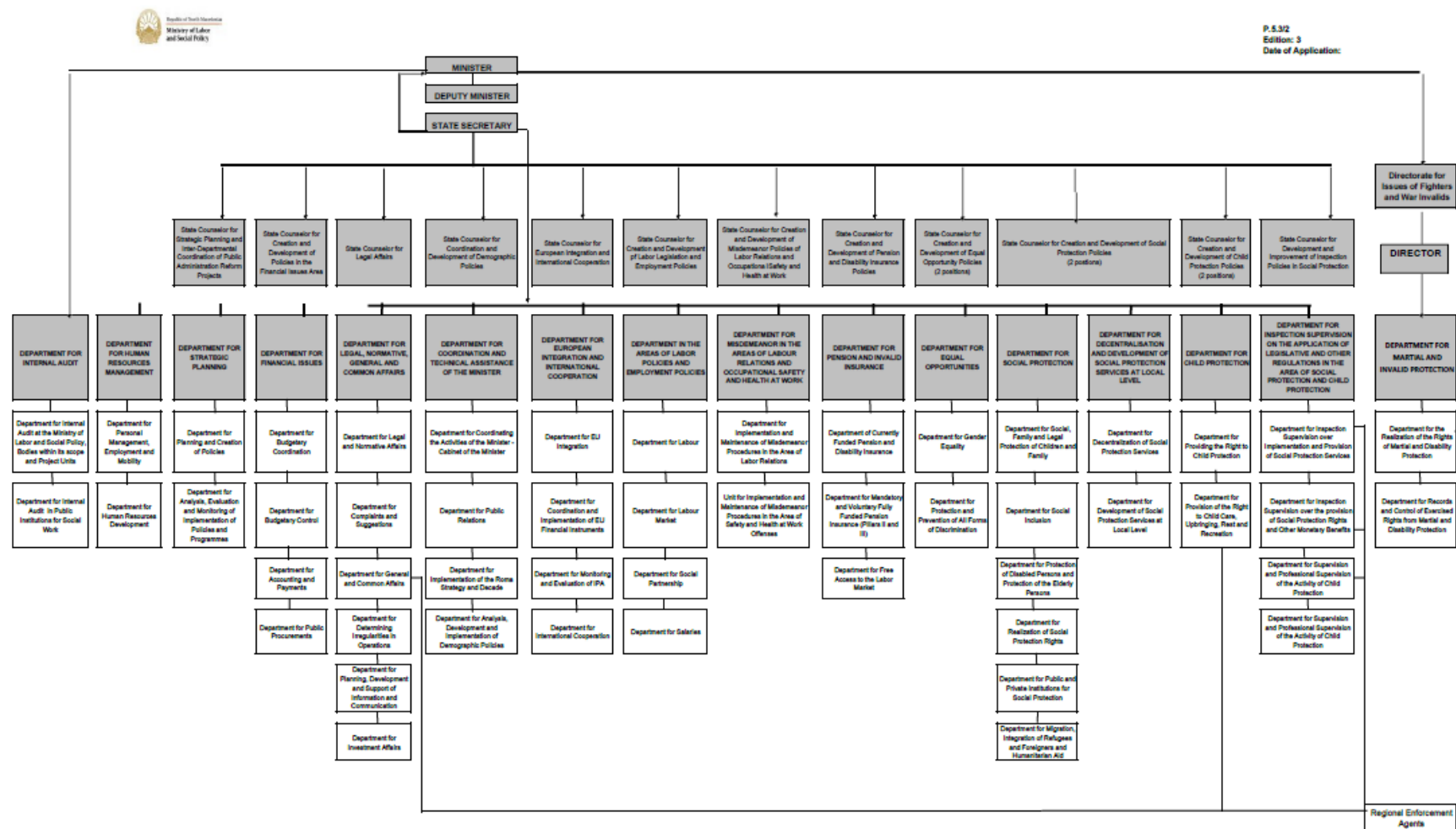
ANNEX I Simplified Logical Framework

| | Description | Indicators (with relevant baseline and target data) | Sources of verification | Risks | Assumptions (external to project) |
|---|--|---|---|-----------------------------------|--|
| Overall Objective | To enhance rights of workers in cases of employers' insolvency | <p>At-the-risk poverty rate (after social transfers):</p> <ul style="list-style-type: none"> • Baseline: 21.6% (2019); • Target: ≤16% (2024). <p>At-risk-of-poverty rate before social transfers and before pensions (% of population):</p> <ul style="list-style-type: none"> • Baseline: 41.4% (2019); • Target: ≤39% (2024). <p>Employment Rate (15+): total, men, women:</p> <ul style="list-style-type: none"> • Baseline: Total=59.2%, Men=69.7%, Women=48.4% (2019); • Target: Total=62.3%, Men=73.6%, Women=50.5% (2024). <p>Unemployment rate (15+): total, men, women.</p> <ul style="list-style-type: none"> • Baseline: Total=17.3%, Men=16.5%, Women=18.4% (2019); • Target: Total=13.4%, Men=13%, Women=14.6% (2024). | State Statistical Office (SSO) | | |
| Specific (Project) Objective(s) | To establish a safety net for adequate protection of employment relations entitlements in cases of employers' insolvency in line with the minimum requirements as defined in the Directive 2008/94/EC and national socioeconomic context | Extent to which the tasks of relevant institutions are executed in line with EU regulations and international standards in the areas of insolvency. (Moderate – Advanced) | Regular reports by the MLSP, ME, ESARNM and PDIF. | | Fast recovery and improved socioeconomic conditions in the post-pandemic period. |
| Mandatory Results/ Outputs by Components | <p>Component 1 Mandatory Result 1: Legal and institutional framework guaranteeing protection of employees' rights in case of employers' insolvency established</p> <p>Component 2 Mandatory result 2: Capacities of stakeholders for guaranteeing protection of employees' rights in case of</p> | <ul style="list-style-type: none"> ❖ Proposal of legislation on protection of employees' rights in case of employers' insolvency put forward for adoption to the Parliament; ❖ All legal and institutional arrangements in place for establishing and operating guarantee institution. (Non-existent – Moderate) ❖ Number of individuals targeted with the awareness raising activities. | Official Gazette; Reports by the MLSP, ME, relevant institutions. | See Risks for Sub-Results 2.1-2.4 | <p>Stable political situation and consistent reform orientation of any new government;</p> <p>The country remains committed to the EU accession process;</p> <p>Prolonged duration of the crisis shrinks the fiscal space for financing any new guarantee institution.</p> |

| | | | | | |
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| | employers' insolvency enhanced | | | | |
| Sub-results Per component (optional and indicative) | Sub-result 1.1: <i>Legal framework established</i> | <ul style="list-style-type: none"> ❖ A proposal of legislation on protection of employees' rights in case of employers' insolvency developed; ❖ Number of Regulatory impact assessments (RIA) and table of concordance (ToC) demonstrating the alignment of the EU Directive 2008/94/EC carried out; ❖ Number of draft amendments prepared to the laws regulating related fields, such as labor relations, bankruptcy, trade companies, all branches of social security, taxes etc.; ❖ Number of bylaws and internal acts prepared for operationalization of the competences of the guarantee institution/ body/ fund. | Project reports; Governmental reports/ information; Official Gazette. | <p>Lack of commitment of the relevant institutions to the project;</p> <p>Insufficient human and technical resources allocated to pair the Twinning Administration staff.</p> | <p>Social partners are supportive to promote the legal framework guaranteeing protection of employees' rights in case of employers' insolvency;</p> <p>Slow economic recovery hinders employers' capability to contribute to a new guarantee institution</p> |
| | Sub-result 1.2: <i>Institutional framework established</i> | <ul style="list-style-type: none"> ❖ Number of models of guarantee institutions in EU member states and countries in the region presented and discussed; ❖ Number of feasibility studies developed for establishment of guarantee institution/ body/ fund in North Macedonia; ❖ Status of the new institutional framework – (development and adoption); ❖ Quality assessment of the ICT System for processing and payment of claims, address connectivity (including web-based) functionality enabling interoperability with institutions' ICT systems; ❖ Status of the road-map paper with steps and targets for establishment and strengthening of the guarantee institution/ body/ fund. | Project reports; MLSP reports; Governmental reports/ information. | Insufficient human and technical resources allocated. | <p>Social partners are supportive to establishment of specific institutional framework guaranteeing protection of employees' rights in case of employers' insolvency;</p> <p>Private sector committed to invest in the wellbeing of their workforce;</p> <p>Interoperability of the information systems of bodies with relevance to the insolvency proceedings is in place.</p> |
| | Sub-result 2.1: <i>Staff knowledge, competences and other capacity of relevant institutions and other stakeholders strengthened</i> | <ul style="list-style-type: none"> ❖ Number of capacity building events conducted for staff in relevant ministries and institutions, as well as social partners and civil society organizations for pursuing and implementing the legislation for protection of employees' rights in cases of employers' insolvency; ❖ Number of people trained from relevant stakeholders. | Project reports; MLSP internal reports. | Insufficient human and technical resources allocated. | Ministry of Finance provides funds for employment of staff. |
| | Sub-result 2.2: <i>Awareness raised for protection of employees' rights in cases of employers' insolvency</i> | <ul style="list-style-type: none"> ❖ Number of awareness raising activities conducted; ❖ Number of workers/employers/social partners reached through awareness raising activities. | Project reports; MLSP website. | <p>Insufficient technical resources allocated;</p> <p>Lack of cooperation and networking among</p> | <p>External conditions:</p> <p>Not applicable.</p> |

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| | | | | institutions jeopardizes the efficiency and effectiveness of the awareness raising. | |
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ANNEX II Organisational structure of the MLSP¹



¹ http://mtsp.gov.mk/content/word/covecki_resursi/organogram_nov.PDF