

## OPERATION IDENTIFICATION SHEET

### PROMOTING THE SOCIAL DIALOGUE

#### 1. Operating Structure:

Operating Structure for Human Resources Development Component of IPA (OS), as per Article 16 of the Governmental Decree on DIS, shall comprise of Central Financing and Contracting Department (CFCD) within the Ministry of Finance and the respective structures for IPA implementation established within the Ministry of Education and Science (MES) and the Ministry of Labour and Social Policy (MLSP). The Operating Structure shall be responsible for managing and implementing the Operational Programme Human Resources Development (OPHRD) 2007-2013 in accordance with the principle of sound financial management, as per Article 9 of the Governmental Decree on DIS, point 6 of Annex A of the Framework Agreement and Article 28 of IPA IR.

**Ms. Radica Koceva**

Head of Operating Structure

Ministry of Finance

"Sv. Kiril i Metodij", No.54, 1000, Skopje

E-mail: radica.koceva@finance.gov.mk

Tel: +389 2 3106 455

**Ms. Vesna Petkovic**

IPA Coordinator

Ministry of Labour and Social Policy

"Dame Gruev" 14,1 000, Skopje

E-mail: vpetkovic@mtsp.gov.mk

Tel: +389 2 3106 253

**Ms. Nadica Kostoska**

IPA Coordinator within the Ministry of Education and Science

Ministry of Education and Science

"Sv. Kiril i Metodij", No.54, 1000, Skopje

E-mail: Nadica.Kostoska@mon.gov.mk

Tel: + 389 3 121 110

#### 2. Title of the Operation:

Promoting the social dialogue

#### 3. Measure

**Measure 1.2: Strengthening the capacities for implementation of the employment policy** as per Amendments to the Financing Agreement concerning the Multi-Annual Operational Programme "Human Resources Development" for Community Assistance from the Instrument for Pre-Accession Assistance under

the Human Resources Development Component – CCI 2007 MK 05 IPO 001, entered into force on 19<sup>th</sup> December 2012

## **4. Description of the Operation**

### **4.1 Synthetic description**

Social dialogue plays a key role in creating enabling environment for development and implementation of national employment and social policy. In the Beneficiary country<sup>1</sup> it is effectuated on a tripartite and bipartite level.

On tripartite level, the social dialogue is achieved mainly through the work of the Economic and Social Council (ESC). The ESC<sup>2</sup> has an advisory and consultative role in the development and implementation of economic and social strategies and policies. Through the Council, the social partners harmonize their interests and develop and promote social dialogue.

The social dialogue on bipartite level has a long tradition throughout the process of collective bargaining, i.e. negotiating in bona fide for the conclusion of collective agreements regarding the rights and obligations of the parties involved in industrial relations (companies, workers, public authorities). At national level, two general collective agreements (for the private sector and public sector) and more than 30 branch collective agreements and collective agreements at the level of employer were concluded.

### **Overall objective**

The overall objective is to extend and enhance tripartite and bipartite social dialogue as a means to achieve economic growth and social progress.

### **Specific objectives**

- To enhance institutional capacity of stake holders in charge of tripartite and bipartite social dialogue in terms of sustainability, efficiency and functionality in order to provide a comprehensive participation of all the relevant stakeholders, especially of the social partners, in the creation, development and implementation of economic and social policies;

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<sup>1</sup> As per Amendments to the Financing Agreement concerning the Multi-Annual Operational Programme “Human Resources Development” for Community Assistance from the Instrument for Pre-Accession Assistance under the Human Resources Development Component – CCI 2007 MK 05 IPO 001, entered into force on 19 December 2012.

<sup>2</sup> The current composition of the Council is made of 12 members of whom 4 are representatives of the Government (ministers from the economic area – Minister of labour and social policy, Vice president of the Government and Minister of finance, Vice president of the Government responsible for economic affairs, Minister of economy) and representatives of the representative social partners (2 representatives of the Federation of Trade Unions of Macedonia, 2 representatives from the Confederation of Free Trade Unions and 4 representatives of the Employers` Organization of Macedonia). President of the Council is the Minister of Labour and Social Policy, he is a member of the Council ex officio and represents the Council in front of the competent authorities, convenes meetings, proposes agenda and coordinates and harmonizes the work of the Council.

- To strengthen social partnership on the industry/branch/company level including a coordinated and effective machinery of collective bargaining;
- To establish an operational mechanism of amicable settlement of labour disputes and to train specialized conciliators and arbitrators for labour disputes.

The operation will include three components addressing the following main priority issues:

1. Enhancing the tripartite social dialogue on national and local level;
2. Encouraging collective bargaining and setting sectoral collective bargaining infrastructures;
3. Establishing an operational amicable settlement of labour disputes.

### **Component 1. Enhancing the tripartite social dialogue on national and local level**

Since its revitalization in 2010, the Economic and Social Council (ESC) has met regularly and discussed important laws, including the establishment of the national minimum wage. However, there is a need for further support in order to increase its influence over the policy making.

On local level, the social dialogue is in early stage of development. The role and the technical capacity of the local ESCs must be strengthened as well as their coordination with the national Economic and Social Council.

The component is intended to finance activities aimed to:

1. Raise the profile of the national ESC by increasing its impact, visibility and autonomy. This would be achieved through:
  - providing recommendations and technical assistance for increasing the effectiveness and impact of the ESC;
  - sharing experience and good practice of EU Member States and countries in the region with regards to the tripartite social dialogue;
  - implementing awareness raising campaign;
  - identifying potential legal and institutional solutions in order to secure legal personality and financial independence of the ESC, in view of possible increase of its autonomy.
2. Support the networking of social dialogue bodies at local level and establishing local ESCs; Build technical capacity of the local ESCs and improve their coordination with the national ESC.

3. Provide support to national and local ESCs to establish and operate a monitoring mechanism of implementation of their recommendations/opinions.
4. Design and implement a joint communication strategy of national and local ESCs along with an Action Plan for its implementation.
5. Create national and local information centres on social dialogue related issues.

## **Component 2. Encouraging collective bargaining and setting sectoral collective bargaining infrastructures**

Despite significant progress made in the past years social dialogue, in particular collective bargaining in the private sector has not yet been sufficiently used. It is a mechanism to reach a balance between the needs of workers for decent work and job security and the interest of enterprises for productivity and sustainable development. There is a limited practice of bipartite multi-employer negotiations, while industrial relations actors and institutions still lack experience and routine of working together. Low trade union density especially in the private sector, along with the lack of operational employers' infrastructure (offices) at the sectoral/branch level make sectoral collective bargaining difficult and leave a large workforce outside the negotiated working conditions and terms of employment.

Moreover, reliable and up to date information on the membership of trade unions and employers' organizations, as well as on collective agreements coverage and content is crucial for the decision making on representativity of the social partners and collective bargaining extension.

The component is intended to finance activities aimed to:

1. Enhance the capacity of policy makers, law enforcement bodies and the social partners for coordinated and effective collective bargaining and enforcement of its outcomes. This would encompass:
  - conducting gap analysis and developing Action Plan for ensuring conformity of existing law and practice on collective bargaining in accordance with the international labour standards, EU law and practice and monitoring their implementation;
  - knowledge transferring to the key policy makers and actors in the collective bargaining process at all levels on the legal and practical solutions that encourage collective bargaining and enforcement of its outcomes;
  - providing legal and technical advice to align the national law and practice to the international labour standards.

2. Build the capacity of the Ministry of Labour and Social Policy to develop and maintain databases on trade unions and employers' organizations membership, as well as on collective agreements (parties, coverage, level, content, validity, etc).
3. Build the capacity of the employers' and trade unions organisations to increase their membership and increase their visibility.
4. Build capacities for representing the country in the European Economic and Social Council.

### **Component 3. Establishing an operational amicable settlement of labour disputes**

The establishment of a fast and free of charge machinery for peaceful settlement of labour disputes is an obligation for the country under the recently ratified ILO Labour Relations Convention no. 151. The 2007 Law on amicable settlement of labour disputes has not been implemented in practice and currently there are no specialised mediators/arbiters who operate within the system of mediation. Recent cases of collective labour disputes in essential services escalated into strikes while the parties to the disputes faced the lack of access to a machinery of peaceful settlement of labour disputes. Those cases have emphasised the importance of establishing and developing the system of amicable settlement of labour disputes.

The component is intended to finance activities aimed to:

1. Support in taking necessary legal and institutional measures conducive to the establishment of a cost-effective and functioning mechanism of amicable settlement of labour disputes.
2. Train specialized conciliators and arbitrators for labour disputes.
3. Design and carry out awareness raising campaign on the advantages of amicable settlement of labour disputes.
4. Develop a dispute management information system in the Ministry of Labour and Social Policy and a set of performance indicators along with a methodology of measurement.

#### **4.2 End recipient (s):**

Ministry of Labour and Social Policy

#### **4.3 Duration:**

– 24 months

#### 4.4 Target group(s):

- Ministry of Labour and Social Policy and other relevant ministries and bodies;
- Members and secretariat of the social dialogue bodies;
- Employer's organizations;
- Trade unions and
- Civil Society Organizations and other relevant stakeholders in the Joint Consultative Committee with the European Economic and Social Council.

#### 4.5 Expected outputs, results and impact and indicators

Indicators	Baseline	Targets for allocations 2012 -2013	Definitions and assumptions	Source of data
<i>Outputs</i>				
Number of persons trained (cumulative)	206 <sup>3</sup>	400	Persons from different organisations (including mediators and arbitrators) measured by their participation in seminars, trainings, workshops (one participation=one unit).	Project implementation reports; documents on the attendance of persons participating in project activities; copies of certificates/diplomas (in case they are issued).
Negotiation process of tripartite agreements on the establishment of local ESCs facilitated	0	6	Tripartite negotiations for the establishment of 6 new local ESCs finalised by draft agreement	Project implementation reports; Reports of the Economic social councils
Database on social partners'	0	1	Database in the Ministry of Labour	Project implementation

<sup>3</sup> With regards to the allocations 2007-2009, in the frame of the twinning project "Support to the National Employment Policy" about 206 participants from the Ministry of Labour and Social Policy, Ministry of Education and Science, Ministry of Finance, Employment Service Agency, VET Center, etc. were trained on issues related to monitoring and evaluation of employment policy. Around 10 representatives of the social partners were trained in both, monitoring and evaluation issues through practical exercise and implementing the provisions for involvement of the social partners within the whole evaluation cycle.

Indicators	Baseline	Targets for allocations 2012 -2013	Definitions and assumptions	Source of data
membership and collective agreements developed			and Social Policy on trade unions and employers' organizations membership, as well as on collective agreements (parties, coverage, level, content, validity, etc).	reports; Database in the Ministry of Labour and Social Policy
Number of campaigns related to amicable settlement of labour disputes carried out	0	7	National and six regional campaigns on the advantages of amicable settlement of labour disputes carried out	Project implementation reports
Dispute management information system developed	0	1	Database in the Ministry of Labour and Social Policy on disputes (working days lost, workers involved) and disputes cases referred to the established machinery for amicable settlement of labour disputes.	Database in the Ministry of Labour and Social Policy
Creation of information centres	0	10	One national and nine local information centers on social dialogue related issued supported	Project implementation reports
<b>Results</b>				
% of recommendations of ESC accepted	Baseline to be established at the beginning	60% (Increase of 30%)	Recommendations adopted by the ESC and accepted by the decision makers	Secretariat of the ESC; Project implementation reports;

Indicators	Baseline	Targets for allocations 2012 -2013	Definitions and assumptions	Source of data
	of the operation			
% of increase of the coverage of collective agreements at sectoral level	Baseline to be established by the project	10%	Increase of workforce coverage compared to baseline data established by the project	Database in the Ministry of Labour and Social Policy; Project implementation reports;
% of increase of the collective bargaining agreements concluded at enterprise levels	Baseline to be established	5% increase	This indicator will be measured on the basis of the newly concluded agreements on company level for the duration of the project.	Database in the Ministry of Labour and Social Policy; Project implementation reports;
% of settled disputes referred to the mechanism for Amicable Settlement of Labour Disputes	No cases referred yet.	60%		Database in the Ministry of Labour and Social Policy; Project implementation reports.

#### 4.6 Links with other IPA measures or IPA programmes (if any):

Social partners have been horizontally involved in all capacity building projects within the OPHRD, primarily financed under priority axis 1 “Employment”. Namely, the project “Support to the National Employment Policy” implemented activities for increasing the capacities of the social partners to contribute to the monitoring and evaluation of the employment policy and long-term forecasting. The forthcoming project “Support to the Fight Against Undeclared Work” foresees specific component for increasing their role in tackling undeclared work. Furthermore, representatives of social partners participated in the Steering committees of all projects.

Furthermore, social partners organizations from the county have opportunity to benefit in the frame of Multi- beneficiary (regional) IPA Civil Society Facility programme. For example, the Trade Union of Finances of Macedonia was a partner in the project “Network for Health and Safety at Work” which established an anti-mobbing network and anti-mobbing counseling centers in all partner countries from the region. Similarly, the project “Decent Work Balkan Network”

aimed at raising capacity of trade unions, NGOs and think tanks to take joint actions in pursuit of decent work and social inclusion of the most vulnerable.

Under the People 2 people programme of the Civil Society Facility, a cycle of 4 workshops proposed by the European Trade Union Confederation will be held between 2013 and 2014 with the purpose to support trade union organizations in Serbia, Macedonia, Montenegro, BiH and Kosovo to play their role in the EU integration process as relevant partners of the respective governments and the EU Commission. Representatives of the Federation of Trade Unions of Macedonia and Confederation of Free Trade Unions participate in the programme.

The proposed operation will be dedicated for increasing the capacities of the social partners in terms of strengthening the mechanisms of social dialogue on all levels. The project is focused on supporting the social partners to perform their core mission on national and local level, such as setting pay and employment conditions through collective bargaining at various levels, expressing opinions to the governments and other public authorities through consultations (thereby helping to shape the law and policy), or simply discussing issues of mutual interests, which has not been a specific objective of previous operations.

## **5. Implementation arrangements, risks and assumption**

### **5.1. Institutional framework: operation coordination unit/steering committee/regional and/or provincial authorities/technical assistance team/other**

The CFCD shall act as a Contracting Authority and shall be responsible for launching the award procedure, organising negotiations, preparing/signing the contract, payments, accounting, and shall have overall responsibility and supervision of contract's implementation.

IPA Structure in MLSP shall be responsible for programming, technical implementation and monitoring of the operation.

The EUD in Skopje shall execute ex-ante control over the whole procedure and shall be kept fully informed on the progress by means of regular briefings during the course of Operation.

Steering Committee (SC) shall be established. The role of the SC shall entail provision of strategic, political and technical guidance to the project, monitoring progress and assistance where possible in overcoming any obstacles to progress in any aspect of the contract.

The SC members will involve relevant stakeholders (as deemed appropriate), such as:

- The Ministry of Labour and Social Policy (Labour Department and the IPA Coordinator) and other relevant ministries;
- Trade Unions;
- Employers' Organizations and
- Other relevant bodies.

The CFCD and EC Delegation will participate to the Steering Committee as observers.

## **5.2. Procedures for the implementation of the operation: call for proposals/direct implementation by national institutions without prior call for proposals/call for tenders**

### “Direct award” to the International Labour Organisation (ILO)

The operation will be implemented by way of “direct award” to the ILO, without calls for proposals in accordance with:

- **Article 110** of the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities
- **Article 168f of the Commission Regulation (EC, Euroatom) No 2342/2002** of 23 December 2002 laying down detailed rules for implementation of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, as well as
- **Article 128 of the Regulation (EU, EURATOM) no 966/2012** of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002
- **Article 190f of Commission Delegated Regulation (EU) No 1268/2012** of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union.

Additionally, according to the Guidance Note on Award of Grants to the International Organisations as of 03/06/2013, a grant may be awarded to an international organisation without prior call for proposals:

1. If the cooperation with international organisation is foreseen in the Operational Programme adopted by the Commission Implementing Decision.

2. If there are reasons justifying direct award of a grant to an international organisation based on the above mentioned articles.

With regards to the first requirement, the Commission Implementing Decision C(2012)7456 of 18/10/2012 amending the Operational Programme "Human Resources Development" as adopted by Commission Decision C(2007)6027 of 7/12/2007 foresees the following:

*“The Operating structure might decide to explore the potential cooperation with international organisations (such as UN Agencies, the World bank, Council of Europe, etc.) in the framework of Article 168f of the Commission Regulation (EC, Euroatom) No 2342/2002 of 23 December 2002 ...“*

With regards to the second requirement, point 6.4.2 of the “Practical Guide to Contract Procedures for EU External Actions” stipulates that:

*The Contracting Authority may implement an operation without calls for proposals where the grant is awarded for actions with specific characteristics that require a particular type of body on account of its technical competence, its high degree of specialisation or its administrative power, on condition that the actions concerned do not fall within the scope of a call for proposals. These cases shall be duly substantiated in the award decision.*

The Operating structure intends to carry out this operation in the area of social dialogue and industrial relations with the ILO in order to take advantage of the global expertise of ILO in these areas.

ILO is the most appropriate organization to carry out this operation as it is the only international organization which has developed and implemented worldwide international standards on tripartite social dialogue and collective bargaining.

ILO's fundamental conventions concerning freedom of association and the right to organize (C 87), the right to collective bargaining (C98, and C154), non-discrimination in the workplace (C100 and C111) and social dialogue (C144) have been ratified Europe-wide and constitute the foundation of fundamental rights at work as they are embedded in the European Union Treaty and European Social Model.

ILO has a unique in-house expertise and knowhow regarding the implementation of effective and efficient tripartite and bipartite social dialogue at various levels (national, regional, sectoral and company level) in both the public and the private sector.

ILO has developed a wide range of working tools on how best to conduct and manage social dialogue and collective bargaining, e.g.: ILO Guide on the national machinery of social dialogue; ILO Manual of Collective Bargaining and Dispute Resolution in the Public Service; ILO Practical Guide on collective bargaining; Labour Disputes Systems: guidelines for improved performance.

The Beneficiary country has been a Member State of ILO since 1993. As a result of the unique tripartite structure of ILO, there has been a long-standing cooperation and direct links with the tripartite constituents in the country: the Government, workers' and employers' organizations. In 2010, the ILO has signed a Memorandum of understanding on the implementation of the Decent Work Country Programme (DWCP) with the Ministry of Labour and Social Policy, Organization of Employers of Macedonia, Business Confederation of Macedonia, Federation of Trade Unions of Macedonia, Confederation of Free Trade Unions of Macedonia and Union of Independent and Autonomous Trade Unions of Macedonia. One of the cornerstones of the DWCP is advancement of the social dialogue and strengthening of the capacities of the social partners.

Apart from the specific projects targeting the Beneficiary country, ILO through a Senior Social Dialogue and Labour Law Specialist, a Senior Employers' Activities Specialist and a Senior Workers' Activities Specialist (based in Budapest) assists in capacity building of each of the parties. These specialists would also extend their expertise in the frame of this operation by contributing a portion of their regular working time to the activities of the three components dealing with capacity building of workers' and employers' organizations, analytical work and advice on legal and institutional solutions.

Furthermore, ILO has a long track record of successful technical assistance and facilitation work in the area of social dialogue and labour law in the country which has led, inter alia, to the revitalization of the national ESC in 2010. Extensive support has been provided to constituents to engage in dialogue regarding anti-crisis measures taken both on a national and regional basis, resulting in several measures being implemented. One of the significant impacts of ILO's recent involvement was that of the minimum wage reform, widely discussed as an important measure for crisis recovery. Recently adopted National Action Plan for Youth Employment, which provides a comprehensive policy framework for addressing the significant challenges facing the young women and men in the national labour market was developed with the technical assistance of the ILO and in consultation with national employers' organizations and trade unions. These achievements demonstrate the impact of the quality technical assistance provided by the ILO.

In accordance with point 6.4.2 of the "Practical Guide to Contract Procedures for EU External Actions", the Contracting Authority must prepare a report (negotiation report) explaining the manner in which the grant beneficiary was identified, the grant amounts established, and the grounds for the award decision. The report will be included in the contract dossier. The Contracting Authority must follow the steps shown in the negotiation report template and ensure that all the basic principles for grants are respected (including eligibility, capacity and exclusion). The procedures for awarding the grant shall be implemented in compliance with point 6.5.10 of the Practical Guide.

In line with the point 6.10.1 of the Practical Guide, if as a result of a call for proposals launched under direct centralised or decentralised management or **as a result of a direct award**, an international organisation has been selected for a grants, the financial support provided to it is a grant - and not a contribution under joint management - and **therefore the standard grant contract (Annex E3h1) should be signed.**

The Contracting Authority's standard grant contract includes provisions aimed at taking into account existing agreements between the international organisation concerned and the European Union and/or the compliance with the international standards verified in the pillar assessment (internal control system, external audit, procurement procedures and accounting system).

Project title	Type of Contract	Award Procedure	Inviting the participant to submit a proposal	Submission of the proposal	Negotiation period	Contract signature	Contract Start	Contract End
Promoting the social dialogue	Direct grant	Direct award (grants)	October 2013	October 2013	October 2013	November 2013	December 2013	December 2015

### 5.3 Risks and assumptions

#### Risks:

- Insufficient commitment on the part of all relevant stakeholders necessary to guarantee the project sustainability;
- Low interest for joint cooperation among all stakeholders;
- Policy change and insufficient commitment by the highest political level.

#### Assumptions:

- All stakeholders are available and committed to the project;
- All stakeholders demonstrate a real will and capacity to cooperate together;
- Consistent policy and strong commitment by the highest political level to maintain stable social dialogue;
- Full coordination and transparency in the work of all key players involved.