



This project is funded by the European Union

ACTIVITY 2.1.4.

II MISSION REPORT (December 4-8, 2017)

1. BASIC PROJECT INFORMATION

1.1. Twinning Number: UA/47b

1.2. Title: Implementation of the best European practices with the aim of strengthening the institutional capacity of the Apparatus of the Ukrainian Parliament Commissioner for Human Rights to protect human rights and freedoms (Apparatus)

1.3. Beneficiary Country: Ukraine

1.4. Member State: Lithuania/Austria

2. ACTIVITY INFORMATION

2.1. Activity No and Title: Component 2. Activity 2.1.4. Developing new or improving the existing methodologies and procedures to carry out a monitoring of the observance of human rights, ensuring activities of the Ombudsperson in preventing such violations.

2.2. Start date: 2017.10.23 **and end date of the Activity:** 2017.12.31

2.3. Experts:

1. Ms. Dijana Šinkūnienė (key expert); State Data Protection Inspectorate; 2017.10.23-2017.10.27; 2017.12.04-2017.12.08.
2. Ms. Danguolė Morkūnienė; State Data Protection Inspectorate; 2017.10.23-2017.10.27.
3. Ms. Kristina Brazevič; Seimas Ombudsmen's Office of the Republic of Lithuania; 2017.10.23-2017.10.27; 2017.12.04-2017.12.08.
4. Ms. Jolanta Samuolytė; Law Institute of Lithuania; 2017.10.23-2017.10.27; 2017.12.04-2017.12.08.
5. Ms. Agnė Limantė; Law Institute of Lithuania; 2017.10.23-2017.10.27; 2017.12.04-2017.12.08.
6. Mr. Dominik Hofmann; Volksanwaltschaft (Austrian Ombudsman Board) (via Ludwig Boltzmann Institute of Human Rights); 2017.10.23-2017.10.27; 2017.12.04-2017.12.08.
7. Ms. Vygantė Milašiūtė; Ministry of Justice of the Republic of Lithuania (via Vilnius University); 2017.12.04-2017.12.08.

2.4. Tasks

Developing new or improving the existing methodologies and procedures to carry out a monitoring of the observance of human rights, ensuring activities of the Ombudsperson in preventing such violations.

2.5. Description:

Terms of Reference:

Subsequently, based on the findings from the conducted analysis in 2.1.1 and 2.1.2 and taking into account the experience gained through the study visit from 2.1.3, recommendations for the improvement of existing methodologies and procedures to carry out a monitoring of the observance of human rights, ensuring activities of the Ombudsperson in preventing such violations will be drafted.

The pool of international experts under the leadership of the Key expert and in close cooperation with the Ombudsperson and Apparatus will prepare the drafts of the concrete recommendations and documents to be improved, with regard to the best European practice for monitoring human rights situations and strengthening the important preventive functions and practices of the Ombudsperson and her Apparatus.

Suggestions will be made for procedures regarding unannounced and announced preventing visits and observations (to places of detention, facilities for persons with disabilities, psychiatric institutions etc.), creating functional networks of experts, early warning systems, the system of official reminders of institutions' obligations to fulfil their legal duties (as preventive measures). Recommendations regarding the adoption of certain regular monitoring and preventive initiatives, communication with the general public, the media strategy, and the regular conduct of independent surveys will be also elaborated.

In order to strengthen the ability with regard to monitoring conformity of the laws of Ukraine and other legal acts issued by the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine with the Constitution and international human rights standards recommendations will be elaborated on assessment of draft laws regarding their conformity with the Constitution and on enabling the Ombudsperson to more effectively use her power to apply to the Constitutional Court. Experts will provide assistance (examples of the EU countries practices, decisions of the Constitutional Courts of the EU countries, etc.) for strengthening capacities of the BC Institution to develop applications to the Constitutional Court. The more active using of this power provided for the Commissioner by the Law is one of aspects of the effective office functioning in the sphere of constitutional human and citizens' rights and freedoms and effective preventive measure.

2.6. Meetings:

04.12.2017 – 08.12.2017, Apparatus of the Ukrainian Parliament Commissioner for Human Rights (21/8 Instytutaska Street, Kyiv), individual meetings with **Ms. Aksana Filipishyna**, Representative of the Commissioner for observance of the rights of the child, non-discrimination and gender equality; **Ms. Iryna Bisyk**, Head of the Department of personal data protection; and other employees of the Apparatus.

3.1. Results achieved in two missions:

Results to be achieved in two missions: New or existing methodologies and procedures to carry out a monitoring of the observance of human rights, ensuring activities of the Ombudsperson in preventing such violations are developed or improved.

Documents to be delivered in two missions: New or revised methodologies and procedures to carry out a monitoring of the observance of human rights, ensuring activities of the Ombudsperson in preventing such violations (deadline for Part 1 is November 15, 2017; deadline for Part 2 is December 31, 2017):

1. General instrument: framework for implementation of monitoring functions.
2. Methodology how to evaluate the draft legal acts on personal data protection.
3. Guidelines on the procedure of giving methodological advises/consultations on personal data protection.
4. Guidelines on video surveillance for data controllers of public and private sector.
5. Check list on video surveillance (tool for data controller).
6. Info sheet for employers: how to avoid discrimination in job advertisements.
7. Methodology on assessment of draft legal acts on possible discrimination.
8. Guidelines on preparing expertise for courts in the field of equal opportunities and antidiscrimination (*amicus curiae*).
9. Checklist for implementing field monitoring visits on antidiscrimination.
10. Guidelines for civil servants on balance of right to privacy and access to public information.

3.2. Results achieved in Mission II:

During the second mission which took place 4-8 December 2017 the two types of activities were accomplished: guidelines prepared in the course of the first mission were revised taking into account remarks given by civil servants of Apparatus, and the rest of documents have been prepared. All documents are provided as annexes to this Report:

Annex 1. General Instrument: Framework for Implementation of Monitoring Functions.

Annex 2. Methodology for Evaluation of Draft Legal Acts from the Perspective of Personal Data Protection.

Annex 3. Guidelines on the Procedure of Giving Methodological Advises/Consultations on Personal Data Protection.

Annex 4. Guidelines and Checklist on Video Surveillance for Data Controllers of Public and Private Sector.

Annex 5. Info Sheet for Employers: How to Avoid Discrimination in Job Advertisements.

Annex 6. Methodology on Assessment (Review) of Draft Legal Acts for Compliance with the Anti-discrimination Law.

Annex 7. Guidelines on Preparation of Expert Anti-Discrimination Opinion (*Amicus Curiae*) for Courts.

Annex 8. Checklist for Implementing Field Monitoring Visits on Discrimination.

Annex 9. Guidelines for Civil Servants on Balancing Privacy and Access to Public Information.

Date: 2017-12-29

Expert: Dijana Šinkūnienė