



This project is funded by the European Union

ACTIVITY 2.3.5. MISSION REPORT

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: 2.3.5. Developing guidelines for effective monitoring by the Office of the Ombudsperson of the state of compliance by relevant stakeholders with the legislation in the field of access to public information

2.2. Start date and end date of the Activity: September 10-17, 2018 (Mission I); September 24-28, 2018 (Mission II)

2.3. Experts:

1. Ms. Waltraud Kotschy (Key expert); Ludwig Boltzmann Institute of Human Rights; 2018.09.13-17.
2. Ms. Kristina Brazevič; Seimas Ombudsmen's Office of the Republic of Lithuania; 2018.09.10-14.
3. Ms. Valerija Gedeikė; State Data Protection Inspectorate; 2018.09.10-14.
4. Ms. Agnė Limantė; Law Institute of Lithuania; 2018.09.10-14.
5. Mr. Vytautas Valentinavičius; Seimas Ombudsmen's Office of the Republic of Lithuania; 2018.09.10-14.
6. Ms. Skirgailė Žalimienė, Supreme Administrative Court of Lithuania (via Law Institute of Lithuania); 2018.09.10-14.

2.4. Tasks:

To develop guidelines for effective monitoring by the Office of the Ombudsperson of the state of compliance by relevant stakeholders with the legislation in the field of access to public information.

2.5. Description:

Terms of Reference:

Based on the findings from the already conducted analysis, MS experts under the leadership of Key expert and close cooperation with the Ombudsperson and Apparatus were planned to prepare practical guidelines for effective monitoring by the Office of the Ombudsperson of compliance by relevant stakeholders with the legislation in the field of access to public information.

Following the discussions with the representatives of the Office of the Ombudsperson, this task was specified and details of the outputs were agreed. In particular, it was agreed that the experts will (i) make an analysis and list the areas of improvements for the Law of Ukraine on Access to Public Information; (ii) prepare list of minimum amendments to the Law of Ukraine on Access to Public Information, necessary for the purpose of harmonization with the (draft) Law on Personal Data Protection; (iii) draft guidelines on the provision of information to the public and news media for the public authorities of Ukraine; (iv) prepare comprehensive training materials for future training in the area of access to public information.

2.6. Meetings:

10.09.2018, 12.00-14.00; Apparatus of the Ukrainian Parliament Commissioner for Human Rights (21/8 Instytutska Street, Kyiv), **Mr. Viktor Barvitskyi**, Representative of the Commissioner for Human Rights on informational rights and representation in the Constitutional Court to discuss development of the guidelines for effective monitoring by the Office of the Ombudsperson of the state of compliance by relevant stakeholders with the legislation in the field of access to public information. (403 room)

10.09.2018, 14.00-15.30; Apparatus of the Ukrainian Parliament Commissioner for Human Rights (21/8 Instytutska Street, Kyiv), **Ms. Iryna Bisyk**, Head of the Unit of personal data protection, **Ms. Iryna Popovych**, Head of the Department of informational Rights and the specialists of the Unit for access to public information to discuss the documents to be developed during the mission. (403 room)

13.09.2018, 14.00-16.30; Apparatus of the Ukrainian Parliament Commissioner for Human Rights (21/8 Instytutska Street, Kyiv), **Mr. Viktor Barvitskyi**, Representative of the Commissioner for Human Rights on informational rights and representation in the Constitutional Court; **Ms. Iryna Bisyk**, Head of the Unit of personal data protection, **Ms. Iryna Popovych**, Head of the Department of informational Rights and the specialists of the Unit for access to public information to discuss the documents to be developed during the mission. (403 room)

3. ACTIVITY RESULTS

3.1. Results achieved:

In the course of the activity, several documents were prepared. Please see item 3.2. below.

3.2. Documents delivered:

Several documents were drafted in the course of the expert missions under this Activity.

Firstly, the experts have prepared the paper “Suggested Areas of Improvements for the Law of Ukraine on Access to Public Information and its Implementation” which lists the shortcomings of the Law of Ukraine on Access to Public Information that were identified during this and earlier expert missions conducted within the framework of the Twinning Project. Among the issues discussed, is the clarification of the mandate of the Ombudsperson in the area of the access to information, structure of the Ukrainian Law on Access to Public Information, proportionality and transparency, re-use of public information, means of providing access to public information and time-limits, as well as preventing and responding to abuse of the right to access public information.

Secondly, the analysis of legal provisions of the Ukrainian Law on Access to Public Information revealed that there are very few rules on balancing the right to access the information and the right to personal data protection. However, some modifications are necessary in the light of the changes in the Law on Personal Data Protection. Thus, upon the request of employees of the Apparatus, draft list of minimum amendments to the Law of Ukraine on Access to Public Information, necessary for the purpose of harmonization with the (draft) Law on Personal Data Protection was prepared.

Moreover, the guidelines for state and municipal institutions on the fundamental principles for the provision of information were drafted to encourage authorities to be open for the society and involve the public in decision-making processes. The elaborated principles overview the rules for weighing competing values to make the information as accessible as possible for the society. The guidelines thus explain how to weigh competing values to strike a balance between core ideals protected by national and international human rights standards.

Finally, the experts prepared comprehensive training materials for future training in the area of access to public information (“Violations by information processors (providers) of the requirements of the Law of Ukraine on Access to Public Information”). The training materials are planned for the trainings of the length of 5 hours. Preferred training methodology: working in small groups, interactive approaches, such as peer group sessions, simulation games, case-solving tasks, etc. The training materials reflect the most relevant case law of the Court of Justice of the European Union and of the European Court for Human Rights in the area of access to public information and are based on the various kind of training methods and techniques (presentations, discussions, verbal questioning, case solving tasks, work in groups, etc.).

Annex:

1. Suggested Areas of Improvements for the Law of Ukraine on Access to Public Information and its Implementation;
2. Draft of minimum amendments to the Law of Ukraine on Access to Public Information, necessary for the purpose of harmonization with the (draft) Law on Personal Data Protection;
3. Guidelines on the Provision of Information to the Public and News Media for the Public Authorities of Ukraine
4. Training materials for training in the area of access to public information: “Violations by information processors (providers) of the requirements of the Law of Ukraine on Access to Public Information”.
5. Recommendations regarding the problematic issues in the area of access to public information in public procurement

Date: 2018-10-30

Experts: Ms. Waltraud Kotschy, Ms. Kristina Brazevič, Ms. Valerija Gedeikė, Ms. Agnė Limantė, Mr. Vytautas Valentinavičius, Ms. Skirgailė Žalimienė.