



# TERMS OF REFERENCE

## Contents

<b>1.SHORT PROJECT BACKGROUND INFORMATION.....</b>	<b>2</b>
<b>2. Overall objective of the project .....</b>	<b>2</b>
<b>3. Scope and Methodology .....</b>	<b>3</b>
<b>3.1 Specific activities .....</b>	<b>Error! Bookmark not defined.</b>
<b>4 Skills and Qualifications.....</b>	<b>3</b>
<b>5. Reporting Arrangements .....</b>	<b>4</b>
<b>The Expert reports to Iniciativa Kosovare për Stabilitet Executive Director and to the Project Manager. .....</b>	<b>4</b>
<b>6. Duration of the assignment .....</b>	<b>4</b>

## 1. SHORT PROJECT BACKGROUND INFORMATION

The implementation of labour-related laws is quite poor in Kosovo and subject to grave criticism. One basic problem of its implementation is the general situation in the field, particularly the high unemployment rate, which causes employees to remain in their positions regardless of the working condition, despite breaches of their rights. An additional obstacle to the implementation of labour related legislation has been the lack of implementing and monitoring capacities of responsible institutions.

Aside from the lack of capacities to implement the law on the part of Labour Inspectorate, the low awareness on the part of workers and employers about the law has also made it possible for breaches to go unnoticed and/or unpunished. The divisions among leadership of different trade union (TU) organizations has often been noted as a factor hindering the development of a common platform for meaningful social dialogue.

Cross-accusations among trade unions and sharp divisions amongst their leadership have undermined all attempts to mobilize resources in trade union activism, and particularly among the private sector. The situation is expected to be further deteriorated with the ongoing pandemic, that has largely affected and is expected to have a further devastating effect on the already scarce job market and the weak private sector in Kosovo.

By supporting litigation cases related to violations of labour legislation, the project seeks to make case law an instrument to implementation of legal provisions and raising the awareness of those discriminated against, to address the injustice done towards them through the legal system. Mediation is an underutilized legal mechanism that the project seeks to promote in resolving labour-related conflicts.

However, alternative dispute resolution is a relatively new concept in Kosovo, only in 2008 the first Law on Arbitration and the Law on Mediation were adopted, followed by the Law of 2018 which introduced compulsory mediation. Adhering to this type of out-of-court mechanism for disputes is still relatively neglected by the business community.

Accepting arbitration and mediation remains challenging. Moreover, the general lack of awareness was remains a difficult challenge to address.

## 2. Overall objective of the project

The Overall Objective of the Project is to contribute to greater social justice by improving implementation of labour rights and labour-related legislation through enabling active engagement of civil society and social partners.

A greater social justice would contribute to better distribution of opportunities, wealth and privileges in the society. This would directly enhance the condition in the labour market for all workers and especially the more vulnerable groups: women, and formal and informal workers in the private sector, as the least protected categories in the labour market, more prone to being poor.

For the first time in Kosovo, the project seeks to utilize strategic conflict mitigation and mediation as an approach to improve the implementation of labour related legislation.

Engagement of the judiciary system in improving the implementation of laws, represents a unique opportunity for advancing the implementation quality of labour related legislation.

### 3. Scope and Methodology

IKS intends to commission a local Conflict Mitigation and Mediation Services Expert for offering training for Resolution- ADR to BSPK members. IKS and BSPK will coordinate this effort, but the expert would be responsible for organizing trainings and communicate with lawyers from federations. IKS reserves the right to review and approve the methodology and all instruments, guides, and or administrative procedures as necessary to comply with IKS procedures.

Through this activity, there are several steps that the expert need to do:

1. Provide trade union members training programmes for resolving cases on violations of labour and OSH Law
2. Promote the resolution of conflict through mediation and other dispute resolution practices;
3. Support the expansion and adoption of mediation and dispute resolution in labour related cases;

*The specific objectives of this contract are, therefore, to support IKS's efforts by the following means:*

### 4 Skills and Qualifications

- Minimum of five years of experience in implementing similar activities;
- Have passed the BAR exam;
- ADR-trained dispute resolution;
- Extensive knowledge of Trade Unions functioning.
- Knowledgeable in Kosovo legislation;
- Cultural understanding and local knowledge, necessary to promoting ADR;
- Experience in team work and stakeholder management;
- Experience in training activities;

## 5. Reporting Arrangements

The Expert reports to Kosovar Initiative for Stability- Executive Director and to the Project Manager.

## 6. Duration of the assignment

The intended commencement period is 12 days for the period June – October2021.