

FINANCING AGREEMENT

BETWEEN

THE GOVERNMENT OF MONTENEGRO

AND

THE EUROPEAN COMMISSION

CONCERNING THE CROSS-BORDER PROGRAMME

CROATIA - MONTENEGRO

UNDER THE IPA INSTRUMENT FOR PRE-ACCESSION
ASSISTANCE,

FOR THE YEAR 2013

(Centralised Management)



CONTENTS

Preamble

- 1. The programme**
- 2. Implementation of the programme**
- 3. Structures and authorities with responsibilities**
- 4. Funding**
- 5. Contracting deadline**
- 6. Deadline for the execution of contracts**
- 7. Disbursement deadline**
- 8. Treatment of receipts**
- 9. Eligibility of expenditure**
- 10. Retention of documents**
- 11. Roadmap for decentralisation without ex-ante controls**
- 12. Interpretation**
- 13. Partial invalidity and unintentional gaps**
- 14. Review and amendments**
- 15. Termination**
- 16. Settlement of differences**
- 17. Notices**
- 18. Number of originals**
- 19. Annexes**
- 20. Entry into force**

Annex A Cross-border programme between Croatia and Montenegro under the IPA Cross-border Co-operation component, for the year 2012 and 2013

- **Annex A1 Financing Proposal for the year 2012 and 2013 of the Cross-Border Programme Croatia – Montenegro adopted by the Commission Decision C(2012)9261 of 11 December 2012**
- **Annex A2 Revised Cross-border programme 2007-2013 IPA Cross-Border Programme Croatia Montenegro adopted by the Commission Decision C(2012)9261 of 11 December 2012**

Annex B Framework Agreement between the Commission of the European Communities and the Government of Montenegro dated 15/11/2007 on the rules for co-operation concerning EU-financial assistance to Montenegro in the framework of the implementation of the assistance under the instrument for pre-accession assistance (IPA)

Annex C Reporting



FINANCING AGREEMENT

between

THE GOVERNMENT OF MONTENEGRO

and

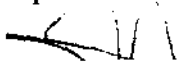
THE EUROPEAN COMMISSION

hereafter jointly referred to as "the Parties", or individually as "the beneficiary country" in the case of the Government of Montenegro, or "the Commission", in the case of the European Commission.

Whereas:

- (a) On 1 August 2006, the Council of the European Union adopted Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (hereafter: the "IPA Framework Regulation"). With effect from 1 January 2007, this instrument constitutes the single legal basis for the provision of financial assistance to candidate countries and potential candidates in their efforts to enhance political, economic and institutional reforms with a view to their eventually becoming members the European Union.
- (b) On 12 June 2007, the Commission adopted Regulation (EC) No 718/2007 implementing the IPA Framework Regulation, amended by Commission Regulation (EU) N° 80/2010 of 28 January 2010, detailing applicable management and control provisions (hereafter: the "IPA Implementing Regulation").
- (c) European Union assistance under the instrument for pre-accession assistance should continue to support the beneficiary countries in their efforts to strengthen democratic institutions and the rule of law, reform public administration, carry out economic reforms, respect human as well as minority rights, promote gender equality, support the development of civil society and advance regional cooperation as well as reconciliation and reconstruction, and contribute to sustainable development and poverty reduction.

European Union assistance for candidate countries should additionally focus on the adoption and implementation of the full *acquis communautaire*, and in particular prepare them for the implementation of the European Union's agricultural and cohesion policy.

- (d) The Parties have concluded on 15 November 2007 a Framework Agreement setting out the general rules for cooperation and implementation of EU assistance under the instrument for Pre-Accession Assistance. 

- (e) The multi-annual Cross-border programme Croatia – Montenegro for the years 2007-2013 was adopted by Decision C(2007)6139 of 12 December 2007 and revised by Decision C(2010)5830 of 20 August 2010 and by Implementing Financing Decision C(2012)9261 of 11 December 2012 (hereafter: “the programme”). The part of this programme concerning Montenegro is to be implemented by the Commission on a centralised basis.
- (f) It is necessary for the implementation of this programme that the Parties conclude a Financing Agreement to lay down the conditions for the delivery of EU assistance, the rules and procedures concerning disbursement related to such assistance and the terms on which the assistance will be managed.

HAVE AGREED ON THE FOLLOWING:

1 THE PROGRAMME

The Commission will contribute, by way of grant, to the financing of the following programme, which is set out in Annex A to this Agreement:

Programme number (CRIS): 2013/023-662 [Montenegro part].

Title: Cross-border programme Croatia - Montenegro under the IPA Cross-border co-operation Component, for the year 2012 - 2013. This Financing Agreement covers only the European Union contribution for the year 2013.

2 IMPLEMENTATION OF THE PROGRAMME

- (1) The part of this programme concerning Montenegro shall be implemented by the Commission on a centralised basis, in the meaning of Article 53a of Council Regulation (EC Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, (hereafter: "Financial Regulation"), as last modified by Regulation (EC, EURATOM) N° 1525/2007 of 17 December 2007 (hereafter: "Financial Regulation").
- (2) The programme shall be implemented in accordance with the provisions of the Framework Agreement on the Rules for co-operation concerning EU Financial Assistance to Montenegro and the implementation of the Assistance under the Instrument for Pre-Accession Assistance (IPA) concluded between the Parties on 15 November 2007 (hereafter: "the Framework Agreement"), which is set out in Annex B to this Agreement.

3 STRUCTURES AND AUTHORITIES WITH RESPONSIBILITIES

- (1) The Beneficiary shall designate a national IPA co-ordinator, in accordance with the Framework Agreement, who shall act as the representative of the Beneficiary vis-à-vis the Commission. He/she shall ensure that a close link is maintained between the Commission and the Beneficiary with regard both to the general accession process and to EU pre-accession assistance under IPA.
- (2) The national IPA co-ordinator shall also be responsible for co-ordinating the beneficiary country's participation in the relevant cross-border programmes as well as

in the transnational, interregional or sea basins programmes under other EU instruments.

- (3) The beneficiary country shall establish an operating structure for the part of the programme concerning its territory. Its functions and responsibilities are defined in the cross-border programme, to the exclusion of tendering, contracting and payments, which are the responsibility of the Commission.
- (4) The operating structure shall co-operate closely in the implementation of this programme with the operating structure of Croatia.
- (5) The operating structures of the participating countries shall set up a joint technical secretariat to assist the operating structures and the joint monitoring committee referred to in Article 142 of the IPA Implementing Regulation in carrying out their respective duties.

The joint technical secretariat may have antennae established in each participating country.

4 FUNDING

The funding for the implementation of this Agreement is as follows:

- (a) The EU contribution for the year 2013 is fixed at a maximum of EUR 500 000 (five hundred thousand euros), for the part of the Programme concerning Montenegro, as detailed in Annex A1 of Annex A to this Agreement. However, payment of the EU contribution by the Commission shall be made within the limits of the funds available.
- (b) The cost of the structures and authorities put in place by the beneficiary country for the implementation of this programme shall be borne by the Beneficiary with the exception of the cost referred to in Article 94(1)(f) of the IPA Implementing Regulation, as detailed in the Annex A to this agreement.

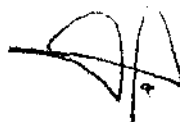
5 CONTRACTING DEADLINE

- (1) The individual contracts and agreements which implement this Agreement shall be concluded no later than three years from the date of conclusion of this Agreement.
- (2) Any funds for which no contract has been concluded before the contracting deadline shall be cancelled.

6 DEADLINE FOR THE EXECUTION OF CONTRACTS

- (1) The contracts must be executed within a maximum of two years from the end date of contracting.
- (2) The deadline for the execution of contracts may be extended before its end date in duly justified cases.

7 DISBURSEMENT DEADLINE




- (1) Disbursement of funds must be made no later than one year after the final date for the execution of contracts.
- (2) The deadline for disbursement of funds may be extended before its end date in duly justified cases.

8 TREATMENT OF RECEIPTS

- (1) Receipts for the purposes of IPA include revenue earned by an operation, during the period of its co-financing, from sales, rentals, service enrolment/fees or other equivalent receipts with the exception of:
 - (a) receipts generated through the economic lifetime of the co-financed investments in the case of investments in firms;
 - (b) receipts generated within the framework of a financial engineering measure, including venture capital and loan funds, guarantee funds, leasing;
 - (c) where applicable, contributions from the private sector to the co-financing of operations, which shall be shown alongside public contribution in the financing tables of the programme.
- (2) Receipts as defined in paragraph 1 above represent income which shall be deducted from the amount of eligible expenditure for the operation concerned. No later than the closure of the programme, such receipts shall be deducted from the relevant operation's eligibility expenditure in their entirety or pro-rata, depending on whether they were generated entirely or only in part by the co-financed operation.

9 ELIGIBILITY OF EXPENDITURE

- (1) Expenditure under this programme in Annex A shall be eligible for EU contribution if it has actually been incurred after the signature of this Agreement.
- (2) The following expenditure shall not be eligible for EU contribution under the programme in Annex A:
 - (a) taxes, including value added taxes;
 - (b) customs and import duties, or any other charges;
 - (c) purchase, rent or leasing of land and existing buildings;
 - (d) fines, financial penalties and expenses of litigation;
 - (e) operating costs;
 - (f) second hand equipment;
 - (g) bank charges, costs of guarantees and similar charges;
 - (h) conversion costs, charges and exchange losses associated with any of the component specific euro accounts, as well as other purely financial expenses;

- (i) contributions in kind;
 - (j) interest on debt.
- (3) By way of derogation from paragraph 2 above, the following expenditure shall be eligible:
- (a) value added taxes, if the following conditions are fulfilled:
 - (i) they are not recoverable by any means,
 - (ii) it is established that they are borne by the final beneficiary, and
 - (iii) they are clearly identified in the project proposal.
 - (b) charges for transnational financial transactions;
 - (c) where the implementation of an operation requires a separate account or accounts to be opened, the bank charges for opening and administering the accounts;
 - (d) legal consultancy fees, notarial fees, costs of technical or financial experts, and accountancy or audit costs, if they are directly linked to the co-financed operation and are necessary for its preparation or implementation;
 - (e) the cost of guarantees provided by a bank or other financial institutions, to the extent that the guarantees are required by national or EU legislation;
 - (f) overheads, provided they are based on real costs attributable to the implementation of the operation concerned. Flat-rates based on average costs may not exceed 25% of those direct costs of an operation that can affect the level of overheads. The calculation shall be properly documented and periodically reviewed;
 - (g) the purchase of land for an amount up to 10% of the eligible expenditure of the operation concerned.
- (4) In addition to the technical assistance for the cross-border programme referred to in Article 94 of the IPA Implementing Regulation, the following expenditure paid by public authorities in the preparation or implementation of an operation shall be eligible:
- (a) the costs of professional services provided by a public authority other than the final beneficiary in the preparation or implementation of an operation;
 - (b) the costs of the provision of services relating to the preparation and implementation of an operation provided by a public authority that is itself the final beneficiary and which is executing an operation for its own account without recourse to other outside service providers if they are additional costs and relate either to expenditure actually and directly paid for the co-financed operation.
- 

The public authority concerned shall either invoice the costs referred to in point (a) of this paragraph to the final beneficiary or certify those costs on the basis of documents of equivalent probative value which permit the identification of real costs paid by that authority for that operation.

The costs referred to in point (b) of this paragraph must be certified by means of documents which permit the identification of real costs paid by the public authority concerned for that operation.

- (5) Without prejudice to the provisions of paragraphs 1 to 4, further rules on eligibility of expenditure may be laid down in the cross-border programme in Annex A to this Agreement.


10 RETENTION OF DOCUMENTS

- (1) All documents relating to the programme in Annex A shall be kept for at least five years from the date on which the European Parliament grants discharge for the budgetary year to which the document relate.
- (2) In the case that the programme in Annex A is not definitely closed within the deadline set in paragraph 1 above, the documents relating to it shall be kept until the end of the year following that in which the programme in Annex A is closed.

11 ROADMAP FOR DECENTRALISATION WITHOUT EX-ANTE CONTROLS

- (1) The beneficiary country shall establish a detailed roadmap with indicative benchmarks and time limits to achieve decentralisation with *ex ante* controls by the Commission. In addition, the beneficiary country shall establish an indicative roadmap to achieve decentralisation without *ex ante* controls by the Commission.
- (2) The Commission shall monitor the implementation of the roadmaps mentioned in paragraph 1, and shall take due account of the results achieved by the beneficiary country in this context, in particular in the provision of assistance. The roadmap to achieve decentralisation without *ex ante* controls may refer to a phased waiver of different types of ex-ante control.
- (3) The beneficiary country shall keep the Commission regularly updated with the progress made in the implementation of this roadmap.

12 INTERPRETATION

- (1) Subject to any express provision to the contrary in this Agreement, the terms used in this Agreement shall bear the same meaning as attributed to them in the IPA Framework Regulation and the IPA Implementing Regulation.
 - (2) Subject to any express provision to the contrary in this Agreement, references to this Agreement are references to such Agreement as amended, supplemented or replaced from time to time.
 - (3) Any references to Council or Commission Regulations are made to the version of those regulations as indicated. If required, modifications of these regulations shall be transposed into this Agreement by means of amendments.
- 

- (4) Headings in this Agreement have no legal significance and do not affect its interpretation.

13 PARTIAL INVALIDITY AND UNINTENTIONAL GAPS

- (1) If a provision of this Agreement is or becomes invalid or if this Agreement contains unintentional gaps, this will not affect the validity of the other provisions of this Agreement. The Parties will replace any invalid provision by a valid provision which comes as close as possible to the purpose of and intent of the invalid provision.
- (2) The Parties will fill any unintentional gap by a provision which best suits the purpose and intent of this Agreement, in compliance with the IPA Framework Regulation and the IPA Implementing Regulation.

14 REVIEW AND AMENDMENT

- (1) The implementation of this Agreement will be subject to periodic reviews at times arranged between the Parties.
- (2) Any amendment agreed to by the Parties will be in writing and will form part of this Agreement. Such amendment shall come into effect on the date determined by the Parties.

15 TERMINATION

- (1) Without prejudice to paragraph 2, this Agreement shall terminate eight years after its signature. This termination shall not preclude the possibility for the Commission making financial corrections in accordance with Article 56 of the IPA Implementing Regulation.
- (2) This Agreement may be terminated by either Party by giving written notice to the other Party. Such termination shall take effect six calendar months from the date of the written notice.

16 SETTLEMENT OF DIFFERENCES

- (1) Differences arising out of the interpretation, operation and implementation of this Agreement, at any and all levels of participation, will be settled amicably through consultation between the Parties.
- (2) In default of amicable settlement, either Party may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of this Agreement.
- (3) The language to be used in the arbitration proceedings shall be English. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either Party. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

17 NOTICES



- (1) Any communication in connection with this Agreement shall be made in writing and in the English language. Each communication must be signed and must be supplied as an original document or by fax.
- (2) Any communication in connection with this Agreement must be sent to the following addresses:

For the Commission:

Office of Director Alexandra Cas Granje
European Commission
DG Enlargement/B,
Charlemagne Building
Rue de la Loi 170,
1040 Brussels
Belgium

For the Beneficiary Country:

Government of Montenegro
Ministry for Foreign Affairs and
European Integration
Stanka Dragojevića 2
81000 Podgorica
Montenegro
Fax: +382 81 224 552

18 NUMBER OF ORIGINALS

This Agreement is drawn up in duplicate in the English language.

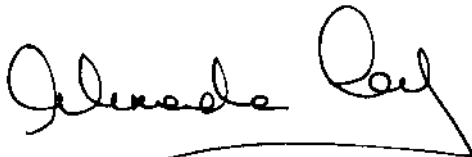
19 ANNEXES

The Annexes A, B and C shall form an integral part of this Agreement.

20 ENTRY INTO FORCE

This Agreement shall enter into force on the date of signature. Should the Parties sign on different dates, this Agreement shall enter into force on the date of signature by the second of the two Parties.

*Signed, for and on behalf of the
Commission by*



Mrs Alexandra Cas Granje
Director
European Commission
Directorate-General Enlargement
B- Croatia, Montenegro, Turkey,
Former Yugoslav Republic of
Macedonia, Island

Date: *M/03/2013*

*Signed, for and on behalf of the
Government of Montenegro by*



**H.E. Ambassador Aleksandar
Andrija Pejović**
National IPA Coordinator
Ministry of Foreign Affairs and
European Integration

Date:



**ANNEX A CROSS BORDER PROGRAMME CROATIA – MONTENEGRO
UNDER THE IPA CROSS-BORDER CO-OPERATION COMPONENT,
FOR THE YEAR 2012 AND 2013**

**APPENDIX A1 FINANCING PROPOSAL FOR THE YEARS 2012 AND 2013
OF THE CROSS-BORDER PROGRAMME CROATIA –
MONTENEGRO AS ADOPTED BY COMMISSION DECISION OF 11
DECEMBER 2012 C(2012)9261**

**APPENDIX A2 CROSS-BORDER PROGRAMME CROATIA – MONTENEGRO
2007-2013 AS REVISED BY DECISION C(2012)9261 OF 11
DECEMBER 2012**

A handwritten signature or set of initials, possibly 'AA', located at the bottom center of the page.

**ANNEX B FRAMEWORK AGREEMENT BETWEEN THE COMMISSION OF
THE EUROPEAN COMMUNITIES AND THE GOVERNMENT OF MONTENEGRO
DATED 15/11/2007**

A handwritten signature in black ink, consisting of a stylized, cursive script. The signature is located at the bottom right of the page.

ANNEX C REPORTING

1. (1) The operating structures of the beneficiary countries participating in a cross-border programme shall send the Commission and the respective national IPA coordinators an annual report and a final report on the implementation of the cross-border programme after examination by the joint monitoring committee.

The annual report shall be submitted by 30 June each year and for the first time in the second year following the adoption of the cross-border programme.

The final report shall be submitted at the latest 6 months after the closure of the cross-border programme.

2. (2) The reports referred to in paragraph 1 shall include the following information:
 - (a) (a) the progress made in implementing the cross-border programme and priorities in relation to their specific, verifiable targets, with a quantification, wherever and whenever they lend themselves to quantification, using the indicators referred to in Article 94(1)(d) of the IPA Implementing Regulation at the level of the priority axis;
 - (b) (b) the steps taken by the operating structures and/or the joint monitoring committee to ensure the quality and effectiveness of implementation, in particular:
 - monitoring and evaluation measures, including data collection arrangements,
 - a summary of any significant problems encountered in implementing the cross-border programme and any measures taken;
 - the use made of technical assistance;
 - (c) (c) the measures taken to provide information on and publicise the cross-border programme.

Where appropriate, the information referred to in points (a) to (c) of this paragraph may be provided in summary form.

Information referred to in point (b) need not be included if there has been no significant modification since the previous report.



**ANNEX A CROSS BORDER PROGRAMME CROATIA – MONTENEGRO
UNDER THE IPA CROSS-BORDER CO-OPERATION COMPONENT,
FOR THE YEAR 2012 AND 2013**

**APPENDIX A1 FINANCING PROPOSAL FOR THE YEARS 2012 AND 2013
OF THE CROSS-BORDER PROGRAMME CROATIA –
MONTENEGRO AS ADOPTED BY COMMISSION DECISION OF 11
DECEMBER 2012 C(2012)9261**

**APPENDIX A2 CROSS-BORDER PROGRAMME CROATIA – MONTENEGRO
2007-2013 AS REVISED BY DECISION C(2012)9261 OF 11
DECEMBER 2012**



Alvaro OPS GRANJE
Director

**ANNEX B FRAMEWORK AGREEMENT BETWEEN THE COMMISSION OF
THE EUROPEAN COMMUNITIES AND THE GOVERNMENT OF MONTENEGRO
DATED 15/11/2007**

A handwritten signature in black ink, consisting of a stylized, cursive script.

Walter D'AS GRAVÉ
Director

ANNEX C REPORTING

1. (1) The operating structures of the beneficiary countries participating in a cross-border programme shall send the Commission and the respective national IPA coordinators an annual report and a final report on the implementation of the cross-border programme after examination by the joint monitoring committee.

The annual report shall be submitted by 30 June each year and for the first time in the second year following the adoption of the cross-border programme.

The final report shall be submitted at the latest 6 months after the closure of the cross-border programme.

2. (2) The reports referred to in paragraph 1 shall include the following information:
 - (a) (a) the progress made in implementing the cross-border programme and priorities in relation to their specific, verifiable targets, with a quantification, wherever and whenever they lend themselves to quantification, using the indicators referred to in Article 94(1)(d) of the IPA Implementing Regulation at the level of the priority axis;
 - (b) (b) the steps taken by the operating structures and/or the joint monitoring committee to ensure the quality and effectiveness of implementation, in particular:
 - monitoring and evaluation measures, including data collection arrangements,
 - a summary of any significant problems encountered in implementing the cross-border programme and any measures taken;
 - the use made of technical assistance;
 - (c) (c) the measures taken to provide information on and publicise the cross-border programme.

Where appropriate, the information referred to in points (a) to (c) of this paragraph may be provided in summary form.

Information referred to in point (b) need not be included if there has been no significant modification since the previous report.



Andreas OIG BRANJE
Director

ANNEX 1
FINANCING PROPOSAL FOR THE YEARS 2012 and 2013
OF THE CROSS-BORDER PROGRAMME
CROATIA - MONTENEGRO

1. IDENTIFICATION

Beneficiaries	Croatia and Montenegro
CRIS number	Croatia: IPA/2012/023-631 for the year 2012 and IPA/2013/023-641 for the year 2013 Montenegro: IPA/2012/23-661 for the year 2012 and IPA/2013/23-662 for the year 2013
Years	2012 and 2013 ¹
Cost	2012: Croatia: 500 000 EUR Montenegro: 500 000 EUR Total value of the IPA contribution: 1 000 000 EUR 2013: Croatia: 500 000 EUR Montenegro: 500 000 EUR Total value of the IPA contribution: 1 000 000 EUR
Operating structures	For Croatia: Ministry of Regional Development and EU Funds For Montenegro: European Commission
Contracting Authority / Implementing Agency	For Croatia: Agency for Regional Development For Montenegro: European Commission
Final date for concluding the Financing Agreements:	For the 2012 funds: at the latest by 31 December 2013 For the 2013 funds: at the latest by 31 December 2014

¹ Projects to be financed under the 2013 allocations are subject to budgetary approval of the 2013 budget by the budgetary authority



Final date for contracting	3 years following the date of conclusion of each Financing Agreement. No deadline for audit and evaluation projects covered by this Financing Agreement, as referred to in Article 166(2) of the Financial Regulation These dates apply also to the national co-financing.
Final date for execution	2 years following the end date for contracting for each Financing Agreement These dates apply also to the national co-financing.
Sector Code	11120, 16061, 32130, 33130, 41010, 43040, 91010
Budget lines concerned	22.02.04.01
Programming Task Managers	For Montenegro: DG ELARG.B1 For Croatia: DG ELARG.B1
Implementation Task Managers	For Croatia: Agency for Regional Development For Montenegro: EU Delegation to Montenegro

2. SUMMARY

2.1. Introduction

2.1.1. Link with the MIPD

The Multi-annual Indicative Planning Document (MIPD) 2011 -2013 for Component II – Cross border Co-Operation sets out the strategic framework for the programmes financed under this Component, namely: cross-border cooperation programmes between candidate countries/potential candidates (at intra-Western Balkans borders) and cross-border cooperation between them and neighbouring EU Member States.

IPA cross-border cooperation combines cohesion and external relation objectives taking into account the specific individual needs of the border regions. Cross-border multi-annual programmes are jointly prepared by the partner countries. The priorities for IPA CBC assistance are the following:

- supporting cross-border economic, social and territorial cooperation in border areas and therefore encouraging socio-economic development of bordering regions;
- addressing common challenges in fields such as environment, natural and cultural heritage, public health, prevention of and fight against organised crime;

- ensuring efficient and secure borders;
- promoting joint small scale local actions ("people-to-people");
- supporting networks, accessibility and emergency preparedness.

2.1.2. Programming process

The process of elaborating the IPA Cross-border Programme between Croatia and Montenegro took place from February to May 2007. In addition to the representatives from local, regional and national government included in the memberships of the Joint Programming Committee (JPC) and Joint Programming Committee (JDT), arrangements were made to consult with a wider partnership drawn from the public, civil and private sector by means of regional workshops and questionnaire surveys. The JPC adopted the final draft programming document on 28 May 2007.

In accordance with Article 93(1) of the IPA Implementing Regulation, at the initiative of the Commission, in agreement with the participating countries, the cross-border programme was amended in order to update the financing plan so as to add the appropriations for the years 2012 and 2013, according to the revision of the Multi-annual Indicative Financial Framework for 2011–2013. The amendment of the programme also encompasses some minor adjustments revising outdated references. The revised programme was adopted by the Joint Monitoring Committee (JMC) on 5 December 2011.

2.1.3. List of eligible areas and adjacent areas

In Croatia, the eligible area according to Article 88 of IPA Implementing Regulation consists of 1 county: Dubrovnik-Neretva County (statistical regions equivalent to NUTS level 3 classification).

In Montenegro, the eligible areas according to Article 88 of IPA Implementing Regulation consist of 7 municipalities: Herceg Novi, Kotor, Tivat, Budva, Bar, Ulcinj, Cetinje.

In Croatia, the adjacent area according to Article 97 of IPA Implementing Regulation is: Split-Dalmatia County (statistical region equivalent to NUTS level 3 classification).

In Montenegro, the adjacent areas according to Article 97 of IPA Implementing Regulation are the municipalities of: Nikšić, Podgorica, Danilovgrad.

2.2. Global objective(s) of the programme

The global objective of the programme is to improve the quality of life in the cross border area between Croatia and Montenegro.

An additional objective of the programme is to build the capacity of local, regional and national institutions to manage EU programmes and to prepare them to manage future cross-border programmes under the European Territorial Co-operation objective of the EU Structural Funds.

The Multi-annual Indicative Planning Document for Croatia for the period 2011 – 2013 indicates that Cross-Border Cooperation, managed through Component II, will support Croatia in cross-border, and trans-national and interregional cooperation with EU Member States and IPA beneficiary countries. It will concentrate on improving the potentials for tourism, creating closer links between border regions and supporting joint environmental protection activities.

The Multi-annual Indicative Programming Document for Montenegro for the same period will support cross-border co-operation programmes with neighbouring candidate and potential candidate countries and Member States.

The programme is in line with the main national sectoral strategies in Croatia and Montenegro.

Given the limited resources available under IPA 2007-2013, it has been decided not to address problems such as underdeveloped infrastructure, discrepancies between urban and rural areas, low employability of the work force etc., but to focus on soft activities that can boost local development in general and enhance the level of co-operation.

2.3. Priority axis, the related measures and their specific aspects concerning the implementation of the 2012–2013 budget

The priorities and measures defined in this cross-border programme are structured in such a way as to respect and provide for the implementation of the specific objectives. One priority has been identified for the cross-border cooperation interventions. A horizontal priority is focused on technical assistance, ensuring the effective management and implementation of the programme.

As regards Croatia, care will be taken to ensure that there is no operational or financial overlap, including at the level of participant, with any of the measures incorporated in the Operational Programmes for Croatia under IPA Components I, III, IV and V (Regional, Human Resources, and Agriculture and Rural Development).

Each cross-border programme shall establish eligibility rules for the selection of operations which ensure the same eligibility conditions for similar actions, as well as respect of Union standards, where relevant, among different cross-border programmes and with other IPA components.

Priority 1: Creation of favourable environmental and socio-economic conditions in the programme area by improvement of the co-operation in the jointly selected sectors and good neighbourly relations in the eligible areas.

This priority is a response to problems which are similar and in some cases common to both sides of the border. The protection and management of natural resources, such as the national parks, and the cultural heritage are considered as one of the key potentials for cross-border co-operation. The tourism sector which is one of the main economic activities in the programming area is another sector with an important potential. To release this potential, the environmental problems, particularly waste management and pollution control, need to be tackled.

Priority 1 will be implemented by 3 measures.

Measure 1: joint actions for environment, nature and cultural heritage protection

The measure supports the establishment of cross-border networks for joint environmental, nature and cultural heritage protection and thereby finding solutions to common environmental problems. Such network activities could be the managing of waste (both solid waste and waste water) and an efficient use of water, including the adoption of water efficient technologies, with a view to reducing pressures on water resources, or finding ways to reduce land and sea pollution. It also supports joint interventions in connection with ecological threats or natural disasters such as fire which is a recurrent



phenomenon in the area. The support will give preference to actions that seek to bring innovative solutions and strategies for environmental, nature and cultural heritage protection.

The measure will be contracted through calls for proposals.

Measure 2: joint actions in the area of tourism and cultural space

The second measure supports actions related to tourism and the cultural space. It is aimed at giving an impetus to the economic development of the programming area by supporting actions and initiatives related to the provision of services related to tourism. These services could be e.g.: education schemes for employees in the tourism sector, support to the development of new tourism products, quality certification of local products and services, joint marketing initiatives etc.

The measure will be contracted through calls for proposals.

Measure 3: Small cross-border community development projects

The third measure, small cross-border community development projects, aims at improving cooperation between people, education institutions and civil society organisations on both sides of the border to boost community development and to improve neighbourhood relations. It will support people-to-people actions in areas such as culture, tourism and education, and pay particular attention to the inclusion of marginalised groups, the civil society and local democracy. Examples of activities: common cross-border educational programmes, co-operation between national minorities, actions supporting local democracy, creation of cross-border culture networks etc.

The measure will be contracted through calls for proposals.

Priority 2: Technical assistance (TA) to increase administrative capacity in the management and implementation of the CBC programme.

Priority 2 will be implemented by 2 measures.

Measure 1: Programme administration and implementation

This measure will provide support for the work of the national Operating Structures and the Joint Monitoring Committee in programme management. It will finance the establishment and functioning of the Joint Technical Secretariat and its antenna, including cost of staff with the exclusion of salaries of public officials. It will also ensure the provision of advice and support to the final beneficiaries in project development and implementation.

Measure 2: Programme information, publicity and evaluation

The second TA measure will give support to programme information, publicity and evaluation. It will ensure programme awareness amongst local, regional and national decision-makers as well as the inhabitants of the programming area and the general public in both countries. Furthermore, the measure will support the provision of expertise to the Joint Monitoring Committee for the planning and carrying out of programme evaluation.

Tentative timetable and indicative amounts for the implementation of the measures:



For Priorities 1 and 2, it is tentatively foreseen that the two contracting authorities launch a joint call for proposals including all measures concerning the total amount of funds for the years 2012 and 2013 in the first half of 2013.

The essential selection and award criteria for the award of grants should be those laid down in the practical guide (PRAG) to contract procedures for EU external aid. The detailed selection and award criteria for the award of grants will be laid down in Call for proposals–Application Pack (Guidelines for applicants).

For grants awarded through Calls for proposals, the use of lump sums and/or flat rate financing is possible (in accordance with Art. 181 of the Implementing Rules to the Financial Regulation), up to an amount of EUR 25,000 per grant. Where relevant, the detailed conditions for the use of lump sums or flat rate financing shall be included in the Call for proposal/Guidelines for applicants.

For Priority 2 considering that the relevant national authorities (Operating Structures in Croatia and Montenegro) enjoy a *de facto* monopoly situation (in the sense of Art. 168, paragraph 1, sub-paragraph c of the Implementing Rules² to the Financial Regulation³) for the implementation of the cross-border programme, the relevant contracting authorities in both countries may establish individual direct grant agreements without call for proposals with the Operating Structures for amounts up to those provided under the TA Priority 2 in each country. Subcontracting by the Operating Structures of the activities covered by the direct grant agreements (e.g. TA, evaluation, publicity etc.) is allowed in accordance with Article 120 of the Financial Regulation and Article 184 of the Implementing Rules to the Financial Regulation. The direct grant agreements can be signed as soon as the respective Financing Agreements have been concluded. For the purpose of an efficient use of TA funds, a close co-ordination between national authorities (Operating Structures, CBC coordinators) of the participating countries is required.

2.4. Overview of past and on-going CBC experience, including lessons learned and donor co-ordination

Croatia

Projects/programmes which have been implemented:

- CARDS 2001 'Strategy and Capacity Building for Border Region Co-operation' (Identification of future projects on borders with Serbia, Montenegro, Bosnia and Herzegovina)
- CARDS 2002 'Strategy and Capacity Building for Regional Development' (Institutional arrangements for management of CBC)
- CARDS 2003 'Local Border Regional Development' (Grant scheme with Slovenia)

² Regulation (EC, Euratom) No 2342/2002 (OJ L 357, 31.12.2002, p.1)

³ Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.09.2002, p.1)

- CARDS 2003 'Technical Assistance for Management of Neighbourhood Programmes' (Support to JTS for trilateral programme Croatia-Slovenia-Hungary)
- CARDS 2004 'Institution and Capacity Building for CBC' (Support for the Ministry of Regional Development, Forestry and Water Management)
- CARDS 2004 'Border Region Co-operation' (Grant scheme with Bosnia and Herzegovina, Serbia and Montenegro); 8 projects implemented Transnational Programme CADSES 2004-2006; 9 projects implemented
- PHARE 2005 'Cross-Border Cooperation between Croatia, Slovenia and Hungary' (Trilateral grant scheme), Neighbourhood Programme between Croatia, Slovenia and Hungary 2004-2006; 25 projects implemented
- PHARE 2005 'Adriatic Cross-Border Cooperation between Croatia and Italy, Phare CBC / INTERREG III A - Adriatic New Neighbourhood Programme 2004-2006; 35 projects implemented
- PHARE 2006 'Cross-Border Cooperation between Croatia, Slovenia and Hungary' (Trilateral grant scheme), Neighbourhood Programme between Croatia, Slovenia and Hungary 2004-2006; 21 projects implemented

PHARE 2006 'Adriatic Cross-Border Cooperation between Croatia and Italy, Phare CBC / INTERREG III A - Adriatic New Neighbourhood Programme 2004-2006; 17 projects implemented

Projects/programmes currently under implementation

Projects:

- IPA 2008 Programme for Croatia, Twinning project – Assistance with the management of Objective 3 under the Cohesion Policy

Programmes:

- IPA 2007 and IPA 2008 CBC Programmes Croatia - Bosnia and Herzegovina (14 projects under implementation), Croatia – Montenegro (5 projects under implementation), Croatia – Serbia (11 projects under implementation), Croatia – Hungary (101 projects under implementation), Croatia – Slovenia (45 projects under implementation), CBC IPA Adriatic (33 projects under implementation), ERDF European Territorial Co-operation transnational programmes "South-East Europe" (9 projects under implementation) and "Mediterranean" (6 projects under implementation)

Montenegro

Programmes which are currently under implementation:



- CARDS 2006/INTERREG IIIA Adriatic New Neighbourhood Programme 2004-2006 (on the last call for proposal 12 projects were selected in which Montenegrin partners took part)
- Trans-national Programme CADSES 2004-2006 (Montenegrin partners were included in 2 projects)
- IPA 2007, IPA 2008 and IPA 2009 CBC Programmes Montenegro - Croatia, Montenegro - Bosnia and Herzegovina, Montenegro - Serbia, Montenegro - Albania, CBC IPA Adriatic, ERDF European Territorial Co-operation transnational programmes "South-East Europe" and "Mediterranean"

Joint Montenegro - Croatian projects

- CARDS 2006/ INTERREG IIIA Adriatic New Neighbourhood Programme (Montenegro took part in 9 projects with Croatian partners within this multilateral Programme on the last call for proposal)
- Trans-national Programme CADSES 2004-2006 (under the 4th call for project proposals the project partners from Croatia and Montenegro participated and cooperated in the project Plan Coast – Spatial Planning in Coastal zones)
- IPA CBC ADRIATIC – Croatian and Montenegrin partners cooperate in 16 projects: A3-NET - Strengthening and NETWORKING of small Airports facilities in Adriatic areas; ADRI-SEAPLANES - Implementing Seaplanes System in Adriatic Basin; ADRIA.MOVE IT - Support to sustainable forms of mobility in the coastal towns; ADRIA.MUSE; AdriaticMoS - Developing of Motorways of Sea system in Adriatic region; ADRIMOB - Sustainable coast MOBility in the ADRIatic area; ADRISTORICAL LANDS - History, culture, tourism, arts and ancient crafts in the european adriatic territory; AHVN - Adriatic Health and Vitality Network; ARCHEO.S. - System of the Archaeological Sites of the Adriatic Sea; F.L.A. - Developing the wood and furniture supply chain network in the Adriatic Area.; PITAGORA - Platform for the Information Technology aimed at Getting Opportunities to reduce ICT gap in the Adriatic area; POWERED - Project of Offshore Wind Energy: Research, Experimentation, Development; S.I.M.P.L.E. - Strengthening the Identity of Minority People Leads to Equality; SHAPE - Shaping an Holistic Approach to Protect the Adriatic Environment: between coast and sea; SLID - Social and Labour Integration of the Disabled; YOUTH ADRINET - Sharing experiences and developing joint tools in order to increase the participation of the YOUTH ADRIatic population in the civil society and create a NETWORK ;
- ERDF Transnational programme South East Europe SEE – Croatian and Montenegrin partners cooperate in 3 projects: DMCSEE –Drought Centre for South East Europe; SEETAC – South East European Transport Axis Cooperation; SEE Digi TV – South East European Digital Television
- IPA 2007, IPA 2008, IPA 2009 CBC Programme Croatia - Montenegro

Lessons learned



Both countries have gained experience from previous involvement in cross-border co-operation programmes, especially those involving Member States with a solid cross-border co-operation practice that could be transmitted to those countries with less experience. As a result, the areas bordering Member States have much more capacity and knowledge of cross-border co-operation projects than the areas bordering non-Member States. This situation was reflected during the implementation of the CARDS 2004 "Border Region Co-operation programme", when neighbouring areas from Croatia, Bosnia and Herzegovina, Serbia and Montenegro had the first opportunity to apply for small cross-border co-operation projects. There was a general lack of knowledge on how to prepare and manage projects, and local stakeholders found it difficult to find partners on the other side of the borders.

Experience with border region co-operation so far indicates that a solid preparatory phase, including awareness-raising and training prior to launching activities, is crucial for the outcome of the programme.

The thematic evaluation of CBC programmes under the PHARE programme concluded that most projects had a clear impact in one part of the border region, but that joint projects were the exception rather than the norm. Hence the importance to ensure that projects is a result of joint local or regional initiatives. Another conclusion of the above evaluation is that synchronisation in joint projects is crucial in terms of results, impact and sustainability. Therefore it is important that the partners have established agreed co-ordination plans and mechanisms before the Financing Agreements are signed.

Since there are already two Calls for Proposals published under this programme, beneficiaries in the area covered by the programme have gained valuable experience in EU practices, public procurement, application and implementation of projects.

The EU Delegation had contracted experts to conduct monitoring visits of projects financed under the Cross-Border and Trans-National Cooperation Programmes under IPA 2007 and 2008. A total of 32 contracts have been visited during the months of June and September 2011, including all projects contracted under the first Call for Proposals for the Programme CRO-MNE. The conclusions of the monitoring have been positive and no risks have been identified which would endanger the implementation of the programme.

An Interim Evaluation of the Cross-Border Programmes between Candidate/Potential Candidate Country (Intra-Western Balkan Borders) under the Cross-Border Cooperation Component of IPA was completed in June 2011.

Donor co-ordination

In line with Article 20 of the IPA Regulation and Article 6 (3) of the IPA Implementing Regulations, in 2007 the European Commission asked the representatives of Member States and local IFIs in Croatia and Montenegro to provide their comments regarding the draft multi-annual cross-border co-operation programme submitted to the Commission. There were no comments to the cross-border programme between Croatia and Montenegro.

2.5. Horizontal issues

The programme will promote sustainable management of the environment by enhancing cooperation among institutions to implement joint actions for environmental protection.

The programme will also support gender mainstreaming and equal opportunities policies through the selection of projects that include specific consideration to equal opportunities for genders, ethnicities and disabled according to the principles of the European Union.

2.6. Benchmarks

2012	N	N+1 (cumulative)	N+2 (cumulative)	N+3 (cumulative)
Number of direct grant agreement in Croatia	0	1	1	1
Number of direct grant agreement in Montenegro	0	1	1	1
Number of joint calls for proposals launched (in Croatia and Montenegro)	1	1	1	1
Contracting Rate (%) in Croatia	0	60	100	100
Contracting Rate (%) in Montenegro	0	60	100	100

"N" being the date of conclusion of the Financing Agreement

2013	N	N+1 (cumulative)	N+2 (cumulative)	N+3 (cumulative)
Number of direct grant agreement in Croatia	0	1	1	1
Number of direct grant agreement in Montenegro	0	1	1	1
Number of joint calls for proposals launched (in Croatia and Montenegro)	1	1	1	1
Contracting Rate (%) in Croatia	0	100	100	100
Contracting Rate (%) in Montenegro	0	100	100	100

"N" being the date of conclusion of the Financing Agreement

2.7. Roadmap for the decentralisation of the management of EU funds without ex ante controls by the Commission

In Croatia, the preparations for the waiver of ex ante controls are on-going. The Decision to waive ex ante controls for Component II should be taken before the date of accession, otherwise any contracts signed between the date of accession and the date on which the Commission decision is adopted will

not be considered eligible in accordance with Article 29 of the 2011 Act of Accession. The Commission's Decision should be based on documentation demonstrating that Croatia's management system for Component II is well prepared and fully operational.

In Montenegro, preparations towards decentralised management for IPA are on going. Roadmaps for Component I and II with Action Plans were adopted by the Government in April 2011. In June 2011, the National Decree on organisation of the decentralised management for IPA components I to IV was adopted by the Government. As regards Component II, The Head of the Operating Structure and the Head of the CBC Body were appointed in June as well. The compliance assessment will start in the first quarter of 2012.

3. BUDGET FOR 2012 AND 2013

3.1. Indicative 2012 financial table for Croatia

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾
Priority axis 1	450 000	85	79 412	15	529 412	88
Priority axis 2	50 000	71	20 000	29	70 000	12
TOTAL	500 000	83	99 412	17	599 412	100

⁽¹⁾ Expressed in % of the Total (IPA plus National contributions) (column (c))

⁽²⁾ Expressed in % of the grand total of column (c). It indicates the relative weight of the each priority with reference to the total funds (IPA + National)

3.2. Indicative 2012 financial table for Montenegro

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾
Priority axis 1	450 000	85	79 412	15	529 412	88
Priority axis 2	50 000	71	20 000	29	70 000	12
TOTAL	500 000	83	99 412	17	599 412	100

⁽¹⁾ Expressed in % of the Total (IPA plus National contributions) (column (c))

⁽²⁾ Expressed in % of the grand total of column (c). It indicates the relative weight of the each priority with reference to the total funds (IPA + National)



3.3. Indicative 2013 financial table for Croatia

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾
Priority axis 1	450 000	85	79 412	15	529 412	88
Priority axis 2	50 000	71	20 000	29	70 000	12
TOTAL	500 000	83	99 412	17	599 412	100

⁽¹⁾ Expressed in % of the Total (IPA plus National contributions) (column (c))

⁽²⁾ Expressed in % of the grand total of column (c). It indicates the relative weight of the each priority with reference to the total funds (IPA + National)

3.4. Indicative 2013 financial table for Montenegro

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾
Priority axis 1	450 000	85	79 412	15	529 412	88
Priority axis 2	50 000	71	20 000	29	70 000	12
TOTAL	500 000	83	99 412	17	599 412	100

⁽¹⁾ Expressed in % of the Total (IPA plus National contributions) (column (c))

⁽²⁾ Expressed in % of the grand total of column (c). It indicates the relative weight of the each priority with reference to the total funds (IPA + National)

3.5. Principle of co-financing applying to the projects funded under the programme

The EU contribution has been calculated in relation to the eligible expenditure, which for the "Cross-border programme Croatia – Montenegro" is based on the total expenditure, as agreed by the participating countries and laid down in the cross-border programme.

The EU contribution at the level of priority axis shall not exceed the ceiling of 85% of the eligible expenditure.

The EU contribution for each priority axis shall not be less than 20% of the eligible expenditures.

The provisions of Article 90 of the IPA Implementing Regulation apply.

The co-financing under priority axis I will be provided by the final grant beneficiaries and can come from public or private funds. The co-financing under priority axis II will be provided by national public funds.

4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of Implementation

The part of this programme concerning Croatia shall be implemented in accordance with Article 53c of the Financial Regulation⁴ and the corresponding provisions of the Implementing Rules⁵. The Beneficiary Country will continue to ensure that the conditions laid down in Article 56 of the Financial Regulation are respected at all times."

The ex-ante control by the Commission shall apply in accordance to the Commission Decision on the Conferral of management powers in accordance to Article 14 of the IPA Implementing Regulation.

The part of this programme concerning Montenegro shall be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation⁶ and the corresponding provisions of the Implementing Rules⁷".

In the event of centralised management the role of the Commission in the selection of operations under a cross-border programme among beneficiary countries is specified in Article 140 of the IPA Implementing Regulation.

4.2. General rules for Procurement and grant award procedures

Procurement shall follow the provisions of Part Two, Title IV of the Financial Regulation and Part Two, Title III, Chapter 3 of its Implementing Rules as well as the rules and procedures for service, supply and works contracts financed from the general budget of the European Communities for the purposes of cooperation with third countries adopted by the Commission on 24 May 2007 (C (2007)2034).

Grant award procedures shall follow the provisions of Part One, Title VI of the Financial Regulation and Part One, Title VI of its Implementing Rules.

Where appropriate, the Contracting Authorities should also use the standard templates and models facilitating the application of the above rules provided for in the "Practical Guide to contract procedures for EU external actions" ("Practical Guide") as published on the EuropeAid website⁸ at the date of the initiation of the procurement or grant award procedure."

4.3. Environmental Impact Assessment and Nature Conservation

All investments shall be carried out in compliance with the relevant EU environmental legislation.

⁴ Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.09.2002, p.1)

⁵ Regulation (EC, Euratom) No 2342/2002 (OJ L 357, 31.12.2002, p.1)

⁶ Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.09.2002, p.1)

⁷ Regulation (EC, Euratom) No 2342/2002 (OJ L 357, 31.12.2002, p.1)

⁸ current address:

http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm

The procedures for environmental impact assessment as set down in the EIA Directive⁹ fully apply to all investment projects under IPA. If the EIA Directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive.

If a project is likely to affect sites of nature conservation importance, an appropriate nature conservation assessment shall be made, equivalent to that provided for in Article 6 of the Habitats Directive¹⁰.

5. MONITORING AND EVALUATION

5.1. Monitoring

The implementation of the cross-border programme will be monitored by the joint monitoring committee referred to in Article 142 of the IPA Implementing Regulation, established by the participating beneficiary countries, which include representatives of the Commission.

In Croatia the implementation of the programme will also be monitored through the IPA monitoring committee in accordance with Article 58 of the IPA Implementing Regulation.

The IPA monitoring committee shall assess the effectiveness, quality and coherence of the implementation of the programme to ensure the achievements of the programme objectives and enhance the efficiency of the assistance provided.

In Montenegro the Commission may undertake any actions it deems necessary to monitor the programme concerned.

5.2. Evaluation

Programmes shall be subject to evaluations in accordance with Article 141 of the IPA Implementing Regulation, with an aim to improve the quality, effectiveness and consistency of the assistance from EU funds and the strategy and implementation of the cross-border programmes.

6. AUDIT, FINANCIAL CONTROL, ANTIFRAUD MEASURES, FINANCIAL ADJUSTMENTS, PREVENTIVE MEASURES AND FINANCIAL CORRECTIONS

6.1. Audit, Financial Control and Anti-fraud measures

The accounts and operations of all parties involved in the implementation of this programme, as well as all contracts and agreements implementing this programme, are subject to, on the one hand, the supervision and financial control by the Commission (including the European Anti-Fraud Office), which may carry out checks at its discretion, either by itself or through an outside auditor and, on the other hand, audits by the European Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegations in the Beneficiary Countries."

⁹ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40).

¹⁰ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L206, 22.7.1992).



In order to ensure the efficient protection of the financial interests of the European Union, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96¹¹."

The controls and audits described above are applicable to all contractors, subcontractors and grant beneficiaries who have received EU funds.

6.2. Financial adjustments

In Croatia the national authorising officer, who bears in the first instance the responsibility for investigating all irregularities, shall make the financial adjustments where irregularities or negligence are detected in connection with the implementation of this programme, by cancelling all or part of the EU assistance. The national authorising officer shall take into account the nature and gravity of the irregularities and the financial loss to the EU assistance.

In case of an irregularity, including negligence and fraud, the national authorising officer shall recover the EU assistance paid to the beneficiary in accordance with national recovery procedures.

6.3. Audit trail

In Croatia the national authorising officer shall ensure that all the relevant information is available to ensure at all times a sufficiently detailed audit trail. This information shall include documentary evidence of the authorisation of payment applications, of the accounting and payment of such applications, and of the treatment of advances, guarantees and debts.

6.4. Preventive Measures

Croatia shall ensure investigation and effective treatment of suspected cases of fraud and irregularities and shall ensure the functioning of a control and reporting mechanism equivalent to that provided for in Commission Regulation 1828/2006¹². All suspected or actual cases of fraud and irregularity as well as all measures related thereto taken must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud or irregularity to report, the Beneficiary Country shall inform the Commission of this fact within two months following the end of each quarter.

Irregularity shall mean any infringement of a provision of applicable rules and contracts, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget.

Fraud shall mean any intentional act or omission relating to: the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Union or budgets managed by, or on behalf of, the European Union; non disclosure of information in violation of a specific obligation with the same effect; the misapplication of such funds for purposes other than those for which they are originally granted.

¹¹ Council Regulation (EC, Euratom) No 2185/96 (OJ L 292; 15.11.1996, p. 2)

¹² OJ L 371, 27.12.2006, p.1.

The Beneficiary Country shall take any appropriate measure to prevent and counter active and passive corruption practises at any stage of the procurement procedure or grant award procedure, as well as during the implementation of corresponding contracts.

Active corruption is defined as the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Union's financial interests.

Passive corruption is defined as the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Union's financial interests.

The authorities of the beneficiary country, including the personnel responsible for the implementation of the programme, shall also undertake to take whatever precautions are necessary to avoid any risk of conflict of interest, and shall inform the Commission immediately of any such conflict of interest or any situation likely to give rise to any such conflict.

6.5. Financial corrections

In order to ensure that the funds are used in accordance with the applicable rules, in Croatia the Commission shall apply clearance-of-accounts procedures or financial correction mechanisms in accordance with Article 53c (2) of the Financial Regulation and as detailed in the Framework Agreement concluded between the Commission and Croatia.

A financial correction may arise following:

- identification of a specific irregularity, including fraud; or
- identification of a weakness or deficiency in the management and control systems of the beneficiary country.

If the Commission finds that expenditure under this programme has been incurred in a way that has infringed applicable rules, it shall decide what amounts are to be excluded from EU financing.

The calculation and establishment of any such corrections, as well as the related recoveries, shall be made by the Commission following the criteria and procedures provided for in the IPA Implementing Regulation.

7. NON SUBSTANTIAL REALLOCATION OF FUNDS

The authorising officer by delegation (AOD), or the authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management, may undertake non substantial reallocations of funds without an amending financing decision being necessary. In this context, cumulative reallocations not exceeding

20% of the total amount allocated for the programme, subject to a limit of EUR 4 million, shall not be considered substantial, provided that they do not affect the nature and objectives of the programme. The IPA Committee shall be informed of the above reallocation of funds.

8. LIMITED ADJUSTMENTS IN THE IMPLEMENTATION OF THE PROGRAMME

Limited changes in the implementation of this programme affecting essential elements listed under Article 90 of the Implementing Rules to the Financial Regulation, which are of an indicative nature¹³, may be undertaken by the Commission's authorising officer by delegation (AOD), or by the Commission's authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

¹³ These essential elements of an indicative nature are, for grants, the indicative amount of the call for proposals and, for procurement, the indicative number and type of contracts envisaged and the indicative time frame for launching the procurement procedures.

