

## FINANCING AGREEMENT SPECIAL CONDITIONS

The European Commission, hereinafter referred to as "**the Commission**", acting on behalf of the European Union, hereinafter referred to as "**the Union**",

of the one part, and

Montenegro, hereinafter referred to as "**the IPA III beneficiary**", represented by the Ministry of European Affairs,

of the other part,

have agreed as follow:

### Article 1 - The multiannual action programme

- (1) The Union agrees to finance and the IPA III beneficiary agrees to accept the financing of the following multiannual action programme as described in Annex I:

Trans-European Transport Network core network extension in Montenegro, Route 4, section Matesevo – Andrijevica

Global commitment number(s):

For year 2024: JAD.1472274

This multiannual action programme is financed from the Union Budget under the following basic act: Instrument for Pre-Accession Assistance, IPA III<sup>1</sup>.

- (2) The total estimated cost of this multiannual action programme is EUR 600 000 000 and the maximum Union contribution to this multiannual action programme is set at EUR 100 000 000.

This Union contribution shall be split into yearly commitments for the period 2024-2027 in accordance with Annex I. Nothing in this Financing Agreement can be interpreted as implying a financial commitment of the Union in relation to credits which have not yet been approved by adoption of the EU budget. The Commission shall inform in writing the IPA III beneficiary about the adoption of the subsequent budgetary commitments indicated in Annex I.

This multiannual action programme requires financial contributions from both the IPA III beneficiary and the Union. The breakdown of the respective financial contributions is set out in Annex I.

- (3) The multiannual action programme shall be implemented in accordance with the Action document in Annex I.

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<sup>1</sup> Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing an Instrument for Pre-accession Assistance (IPA III), OJ L 330, 20.9.2021, p. 1.



## **Article 2 – Execution period and operational implementation period**

- (1) The execution period of this Financing Agreement, as defined in Article 12 of Annex II (General Conditions), is set at 12 years from the conclusion of this Financing Agreement, or the agreement on subsequent budgetary commitments.
- (2) The duration of the operational implementation period of this Financing Agreement, as defined in Article 12 of Annex II (General Conditions), is set at 6 years from the conclusion of this Financing Agreement, or the agreement on subsequent budgetary commitments.

## **Article 3 – Addresses and Communication**

All communication concerning the implementation of this Financing Agreement shall be in writing, shall refer expressly to the multiannual action programme as identified in Article 1(1) and shall be sent to the following addresses:

### **a) for the Commission**

Ms Valentina Superti  
Director D, Western Balkans  
Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR)  
Rue de la Loi 15  
European Commission  
B-1049 Brussels, Belgium  
e-mail: [NEAR-D2@ec.europa.eu](mailto:NEAR-D2@ec.europa.eu)

### **b) for the IPA III beneficiary**

Mr Bojan Vujovic  
Deputy National IPA Coordinator  
Ministry of European Affairs  
Bulevar Revolucije 15  
81000 Podgorica,  
Montenegro  
E-mail: [bojan.vujovic@mep.gov.me](mailto:bojan.vujovic@mep.gov.me)

## **Article 4 – OLAF contact point**

The contact point of the IPA III beneficiary having the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in order to facilitate OLAF's operational activities shall be:

AFCOS contact point/AFCOS office  
Ms Nataša Kovačević  
Ministry of Finance of Montenegro  
Stanka Dragojevića 2, 81000 Podgorica, Montenegro  
[natasa.kovacevic@mif.gov.me](mailto:natasa.kovacevic@mif.gov.me)



## Article 5 – Financial Framework Partnership Agreements

The multiannual action programme shall be implemented in accordance with the provisions of the Financial Framework Partnership Agreement (FFPA) between the European Commission and Montenegro on the arrangements for implementation of Union financial assistance to Montenegro under the Instrument for Pre-Accession Assistance (IPA III) which entered into force on 29 October 2022 (hereafter referred to as 'the FFPA'). This Financing Agreement supplements the provisions of the FFPA. In case of conflict between, on the one hand, the provisions of this Financing Agreement and, on the other hand, the provisions of the FFPA, the latter shall take precedence.

## Article 6 - Annexes

(1) This Financing Agreement is composed of:

- a) these Special Conditions
- b) Annex I: Action Document for Trans-European Transport Network core network extension in Montenegro, Route 4, section Matesevo – Andrijevica
- c) Annex IA: Budget Table
- d) Annex II: General Conditions

In the event of a conflict between the provisions of the Annexes and the provisions of these Special Conditions, the latter shall take precedence. In the event of a conflict between the provisions of Annex I and the provisions of Annex II, the latter shall take precedence.

## Article 7 – Conclusion and entry into force

This Financing Agreement shall be considered concluded on the date on which it is signed by the last party, and at the latest by 31 December 2025.

This Financing Agreement shall enter into force on the date on which it is signed by the last party.

This Financing Agreement is drawn up in duplicate in the English language, one being handed to the Commission and one to the IPA III beneficiary.

For the IPA III beneficiary

~~Mr Bojan Vujovic~~ *Ms Maida Gorčević*  
~~Deputy National IPA Coordinator~~ *Minister*  
Ministry of European Affairs

Date: *2/12/2024*

Signature

*Maida Gorčević*

For the Commission

Ms Valentina Superti  
Director D, Western Balkans  
Directorate-General for Neighbourhood Policy and  
Enlargement Negotiations, European Commission

Date: *12/12/24*

Signature:

*[Handwritten signature]*

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## ANNEX II - GENERAL CONDITIONS

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## **Part One: Provisions applicable to activities for which the IPA III beneficiary is the contracting authority under IMBC**

### **Article 1 - General principles**

- (1) The purpose of Part One is to lay out the rules for implementing the entrusted budget-implementation tasks as described in Annex I and to define rights and obligations of the IPA III beneficiary and the Commission respectively in carrying out these tasks.

Part One shall apply to the budget-implementation tasks entrusted to the IPA III beneficiary related to the Union contribution alone, or combined with funds of the IPA III beneficiary or funds of a third party, in case such funds are implemented in joint co-financing.

- (2) The IPA III beneficiary shall remain responsible for the fulfilment of the obligations stipulated in this Financing Agreement and in the Financial Framework Partnership Agreement (FFPA). In accordance with Article 6, Article 18, Article 19 and Article 21, the Commission reserves the right to interrupt payments, and to suspend and/or terminate this Financing Agreement.
- (3) The IPA III beneficiary shall respect the minimum rate of its contribution specified in Annex I. In case of contributions from both the IPA III beneficiary and the Union, the IPA III beneficiary contribution shall be made available at the same time as the corresponding contribution from the Union.
- (4) For the purpose of the application of Article 25 of the FFPA on data protection, personal data shall be:
- processed lawfully, fairly and in a transparent manner in relation to the data subject;
  - collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
  - adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
  - accurate and, where necessary, kept up to date;
  - processed in a manner that ensures appropriate security of the personal data and
  - kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed.

Personal data included in documents to be kept by the IPA III beneficiary in accordance with paragraph 2 of Article 1a has to be deleted once the deadlines set out in that paragraph have expired.

### **Article 1a – Procurement and grant award**

- (1) Without prejudice to Article 18(5) of the FFPA, the tasks referred to in paragraph 1 of Article 1 shall be carried out by the IPA III beneficiary in accordance with the procedures and standard documents laid down and published by the Commission for the award of procurement and grant contracts in external actions, in particular, the practical guide on contract procedures for European Union external action (PRAG), in force at the time of the launch of the procedure in question, as well as in accordance with the required visibility and communication standards referred to in Article 2(2).

The IPA III beneficiary shall conduct the procurement and grant award procedures, conclude the resulting contracts, and ensure that all relevant documents for audit trail are in the language of this Financing Agreement.

- (2) Without prejudice to Article 49 of the FFPA, the IPA III beneficiary shall keep all relevant financial and contractual supporting documents from the date of the entry into force of this Financing Agreement, or as from an earlier date in case the procurement procedure, call for proposals or direct grant award procedure was launched prior to the entry into force of this Financing Agreement, for five years as from the date of closure of a programme. The IPA III beneficiary shall keep in particular

the following:

- (a) Procurement procedures:
- i) Forecast notice with proof of publication of the procurement notice and any corrigenda;
  - ii) Appointment of shortlist panel;
  - iii) Shortlist report (incl. annexes) and applications;
  - iv) Proof of publication of the shortlist notice;
  - v) Letters to non-shortlisted candidates;
  - vi) Invitation to tender or equivalent;
  - vii) Tender dossier including annexes, clarifications, minutes of the meetings, proof of publication;
  - viii) Appointment of the evaluation committee;
  - ix) Tender opening report, including annexes;
  - x) Evaluation / negotiation report, including annexes and bids received;<sup>1</sup>
  - xi) Notification letter;
  - xii) Cover letter for submission of contract;
  - xiii) Letters to unsuccessful candidates;
  - xiv) Award / cancellation notice, including proof of publication;
  - xv) Signed contracts, amendments, riders, implementation reports, and relevant correspondence.
- (b) Calls for proposals and direct award of grants:
- i) Appointment of the evaluation committee;
  - ii) Opening and administrative report including annexes and applications received;<sup>2</sup>
  - iii) Letters to successful and unsuccessful applicants following concept note evaluation;
  - iv) Concept note evaluation report;
  - v) Evaluation report of the full application or negotiation report with relevant annexes;
  - vi) Eligibility check and supporting documents;
  - vii) Letters to successful and unsuccessful applicants with approved reserve list following full application evaluation;
  - viii) Cover letter for submission of grant contract;
  - ix) Award/cancellation notice with proof of publication;
  - x) Signed contracts, amendments, riders and relevant correspondence.

In addition, financial and contractual documents referred to in paragraph 2(a) and 2(b) shall be complemented by all relevant supporting documents as required by the procedures referred to in paragraph 1, as well as all relevant documentation relating to payments, recoveries and operating costs, for example project and on the spot check reports, acceptance of supplies and works, guarantees, warranties, reports of supervising engineers.

- (3) Operations co-financed by the Union under the Programme may also receive financing from an international organisation, a Member State, a third country or a regional organisation.

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<sup>1</sup> Elimination of unsuccessful bids five years after the closure of the procurement procedure.

<sup>2</sup> Elimination of unsuccessful applications three years after the closure of the grant procedure.



### Article 1b – Exclusion and administrative sanctions

- (1) When applying the procedures and standard documents laid down and published by the Commission for the award of procurement and grant contracts, the IPA III beneficiary shall accordingly ensure that no EU financed procurement or grant contract is awarded to an economic operator or grant applicant if the economic operator or grant applicant, who either itself, or a person having powers of representation, decision making or control over it, is in one of the exclusion situations provided for in the relevant procedures and standard documents of the Commission.
- (2) The IPA III beneficiary shall inform the Commission immediately when a candidate, tenderer or applicant is in an exclusion situation referred to in paragraph (1), or has committed irregularities and fraud as defined in Article 51(5) of the FPPA, or has shown significant deficiencies in complying with main obligation in the implementation of a legal commitment financed by the Union budget.
- (3) The IPA III beneficiary shall take into account the information contained in the Commission's Early Detection and Exclusion System (EDES) when awarding procurement and grant contracts. Access to the information can be provided through the liaison point(s) or via consultation using the following means: (European Commission, Directorate-General for Budget, Accounting Officer of the Commission, MO15, B-1049 Brussels, Belgium and by email to BUDG-C01-EXCL-DB@ec.europa.eu with copy to the Commission address identified in Article 3 of the Special Conditions). Any contract or grant concluded with a contractor or grant beneficiary that is in an exclusion situation at the time of conclusion of the contract shall be excluded from Union financing and the financial corrections mechanism in accordance with Article 7a may be applied.
- (4) Where the IPA III beneficiary becomes aware of an exclusion situation referred to in paragraph (1) in the implementation of the tasks described in Annex I, the IPA III beneficiary shall, under the conditions of its national legislation, impose upon the economic operator or grant applicant, a rejection from the given procedure and an exclusion from its future procurement or grant award procedures. The IPA III beneficiary may also impose a financial penalty proportional to the value of the contract concerned. Rejections, exclusions and/or financial penalties shall be imposed following an adversarial procedure ensuring the right of defence of the person concerned. The IPA III beneficiary shall notify the Commission in accordance with paragraph (2) of this Article.

### Article 2 - Communication and Visibility

- (1) In accordance with Article 24 of the FPPA, the IPA III beneficiary shall take the necessary measures to ensure the visibility of EU funding for the activities entrusted to it, and prepare a coherent plan of communication and visibility activities, which should be submitted to the Commission for an agreement within 2 months after the entry into force of this Financing Agreement.
- (2) These communication and visibility activities shall comply with the Communications and Visibility Manual for EU External Actions laid down and published by the Commission in force at the time of the activities.

### Article 3 - *Ex-ante* and *ex-post* controls on grant and procurement procedures and *ex-post* controls on contracts and grants to be performed by the Commission

- (1) The Commission may exercise *ex-ante* controls on award procedures for procurement and grants for the following stages:
  - (a) approval of contract notices for procurement and any corrigenda thereof;
  - (b) approval of tender dossiers and guidelines for applicants for grants;
  - (c) approval of the composition of Evaluation Committees;
  - (d) approval of evaluation reports, rejection and award decisions<sup>3</sup>;

<sup>3</sup> For service contracts this steps includes *ex-ante* controls concerning approval of the shortlist.



- (e) approval of contract dossiers and contract addenda.
- (2) With regard to *ex-ante* controls the Commission shall decide:
- (a) to perform *ex-ante* controls on all files, or
  - (b) to perform *ex-ante* controls on a selection of such files, or
  - (c) to completely dispense with *ex-ante* controls.
- (3) If the Commission decides to perform *ex-ante* controls in accordance with paragraph 2(a) or (b) it shall inform the IPA III beneficiary of the files selected for *ex-ante* controls. The IPA III beneficiary shall provide all the documentation and information necessary to the Commission upon being informed that a file has been selected for *ex-ante* control, at the latest at the time of submission of the contract notice or the guidelines for applicants for publication.
- (4) The Commission may decide to perform *ex-post* controls on the award procedures that have not been subjected to *ex-ante* control (within 6 months of the signature of the contract).
- (5) The Commission may decide to perform *ex-post* controls, including audits and on-the-spot controls, at any time on any contracts or grants awarded by the IPA III beneficiary arising out this Financing Agreement. The IPA III beneficiary shall make available all the documentation and information necessary to the Commission upon being informed that a file has been selected for *ex-post* control. The Commission may authorise a person or an entity to perform *ex-post* controls on its behalf.

#### **Article 4 - Bank accounts, accounting systems, and costs recognised**

- (1) After the entry into force of this Financing Agreement, the Accounting Body and the Intermediate Body for Financial Management (IBFM) of the IPA III beneficiary that is the Contracting Authority for the Programme shall open at least one bank account denominated in euro. The total bank balance for the Programme shall be the sum of the balances on all the Programme bank accounts held by the Accounting Body and all participating IBFMs in the IPA III beneficiary. Reporting on all bank accounts linked to each programme shall be recorded via IPA-APP<sup>4</sup>.
- (2) The IPA III beneficiary shall prepare and submit to the Commission disbursement forecast plans for the duration of the implementation period of the Programme following the template in point (d) of Annex III. These forecasts shall be updated and submitted with each request for funds referred to in Article 5(1) and 5(3), with the annual financial report referred to in Article 14(2) and with the forecast of likely payment requests referred to in Article 33(3) FFPA. The disbursement forecasts plans shall be based on real and actual needs and supported by a documented detailed analysis (including the planned contracting and payment schedule per contract) which shall be available to the Commission upon request.
- (3) The initial disbursement forecast plan shall contain summary annual disbursement forecasts for the whole implementation period and monthly disbursement forecasts for the first twelve months of the Programme. Subsequent plans shall contain summary annual disbursement forecasts for the balance of the implementation period of the Programme and monthly disbursement forecasts for the following fourteen months.
- (4) The IPA III beneficiary is required to establish and maintain an accounting system in accordance with Clause 4(3)(a) of Annex A to the FFPA which will hold at least the information for the contracts managed under the Programme indicated in Annex IV.
- (5) Pursuant to Article 57(2) of the FFPA, costs recognised in the accounting system maintained under the section 4 of this Article must have been incurred, accepted and paid and correspond to actual costs proven by supporting documents and shall be used when appropriate to clear pre-financing paid by the IPA III beneficiary under local contracts.

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<sup>4</sup> IPA-APP is a dedicated IT application developed by DG NEAR to replace iPerseus that was the tool used for monitoring the implementation of pre-accession funds under indirect management by beneficiary countries (IMBC).

#### **Article 5 - Provisions on payments made by the Commission to the IPA III beneficiary**

- (1) Each request for pre-financing shall comprise a declaration of expenditure for the Programme, including the amounts contracted, disbursed and costs recognised.
- (2) The first pre-financing payment shall be for 100% of the forecast disbursements for the first year of the disbursement forecast plan pursuant to Article 4(2). This request for pre-financing shall be supported by the bank mandates for all the bank accounts of the Programme, if applicable.
- (3) The IPA III beneficiary shall submit subsequent pre-financing payment requests when the total bank balance for the Programme falls below the disbursements forecast for the following five months of the Programme.
- (4) Each request for additional pre-financing shall include:
  - a) The bank balances for the Programme at the cut-off date of the request;
  - b) The updated bank mandates for all the bank accounts of the Programme, if applicable;
  - c) A forecast of disbursement for the Programme for the following fourteen months at the cut-off date of the request as referred to in Article 4(2);
  - d) Reporting in IPA-APP.
- (5) The IPA III beneficiary may request for each subsequent pre-financing the amount of total disbursements forecast for the fourteen months following the cut-off date of the request, less the balances referred to in paragraph 4(a) at the cut-off date of the request for funds, increased by any amount funded by the IPA III beneficiary under paragraph 6 and not yet reimbursed.

The Commission reserves the right to reduce each subsequent pre-financing payment if the total bank balances held by the IPA III beneficiary under this Programme exceeds the disbursement forecast for the next fourteen months.
- (6) Where the payment is reduced under paragraph 5, the IPA III beneficiary must fund the Programme from its own resources up to the amount of the reduction. The IPA III beneficiary may then request the reimbursement of that funding as part of the next request for funds as specified in paragraph 5.
- (7) Pursuant to Article 33(1) of FFPA, the Commission reserves the right to process partial payments within the limits of the funds available. Once funds are made available again, the Commission shall process immediately the payment of the remaining amount.
- (8) The Commission shall have the right to recover excessive bank balances which have remained unused for more than twelve months. Before exercising this right, the Commission shall invite the IPA III beneficiary to give reasons for the delay in disbursing the funds and to demonstrate a continuing need for them within the next following two months.
- (9) Interest generated by the bank accounts used for this Programme shall not be due to the Commission.
- (10) Following Article 33(4) of the FFPA, when the time limit for payment request is interrupted by the Commission for more than two months, the IPA III beneficiary may request a decision by the Commission on whether the interruption is to be continued.
- (11) The certified final statement of expenditure referred to in Article 36(1)(a) of the FFPA shall be submitted by the NAO no later than 16 months after the end of operational implementation period.

#### **Article 6 - Interruption of payments**

- (1) Without prejudice to the suspension or termination of this Financing Agreement according to Articles 18 and 19 respectively, as well as without prejudice to Articles 38 and 39 of the FFPA, the Commission may interrupt payments partially or fully, if:
  - (a) the Commission has established, or has serious concerns that the IPA III beneficiary has committed substantial errors, irregularities or fraud questioning the legality or regularity of the underlying particular transactions in the implementation of the Programme, or has failed to

comply with its obligations under this Financing Agreement, including obligations regarding the implementation of the Visibility and Communication plan:

- (b) the Commission has established, or has serious concerns, that the IPA III beneficiary has committed systemic or recurrent errors, irregularities, fraud or breach of obligations under this or other Financing Agreements, provided that those errors, irregularities, fraud or breach of obligations have a material impact on the implementation of this Financing Agreement or call into question the reliability of the IPA III beneficiary's internal control system or the legality and regularity of the underlying expenditure.

#### **Article 7 - Recovery of funds**

- (1) In addition to cases referred to in Article 40 of the FPPA, the Commission may recover the funds from the IPA III beneficiary as provided in the Financial Regulation, in particular in case of:
  - (a) failure to ensure achievement of outcomes and use of outputs for the intended purpose as set out in Annex I
  - (b) non eligible expenditure;
  - (c) non respect of the co-financing rate, as provided in Annex I;
  - (d) expenditure incurred as a result of errors, irregularities, fraud or breach of obligations in the implementation of the Programme, in particular in the procurement and grant award procedures.
  - (e) weakness or deficiency in the management and control systems of the IPA III beneficiary which leads to application of financial correction.
- (2) In accordance with national law, the NAO shall recover the Union contribution paid to the IPA III beneficiary from recipients who were in any situation defined in paragraph 1 points (b) or (d) of this Article or referred to in Article 40 of the FPPA. The fact that the NAO does not succeed in recovering all or part of the funds shall not prevent the Commission from recovering the funds from the IPA III beneficiary.
- (3) Amounts unduly paid or recovered by the IPA III beneficiary, amounts from financial, performance and pre-financing guarantees lodged on the basis of procurement and grant award procedures, amounts from financial penalties imposed by the IPA III beneficiary on candidates, tenderers, applicants, contractors or grant beneficiaries, to the IPA III beneficiary shall be either re-used for the Programme or returned to the Commission.

#### **Article 7a – Financial corrections and closure**

Further to Articles 42, 43 and 47 of the FPPA, supplementary guidance on the examination and acceptance of accounts procedure, including financial corrections, and closure shall be provided by the Commission.

## **Part Two: Provisions applicable to budget support**

### **Article 8 - Policy dialogue**

The IPA III beneficiary and the Commission commit to engage in a regular constructive dialogue at the appropriate level on the implementation of this Financing Agreement.

### **Article 9 - Verification of conditions and disbursement**

- (1) The Commission shall verify the conditions for the payment of the tranches of the budget support component, as identified in the relevant Appendix to Annex I.
- (2) Where the Commission concludes that the conditions for payment are not fulfilled, it shall inform the IPA III beneficiary thereof without undue delay.
- (3) Disbursement requests submitted by the IPA III beneficiary shall be eligible for EU financing provided that they are in accordance with the provisions set out in Annex I and the relevant Appendix and that they are submitted during the operational implementation phase.
- (4) The IPA III beneficiary shall apply its national foreign exchange regulations in a non-discriminatory manner to all disbursements of the budget support component.

### **Article 10 - Transparency of budget support**

The IPA III beneficiary hereby agrees to the publication by the Commission, of this Financing Agreement and any amendment thereof, including by electronic means, and of such basic information on the budget support which the Commission deems appropriate. The content of such publication shall be in accordance with the EU laws applicable to the protection of personal data.

### **Article 11 - Recovery of budget support**

All or part of the budget support disbursements may be recovered by the Commission, with due respect to the principle of proportionality, if the Commission establishes that payment has been vitiated by a serious irregularity attributable to the IPA III beneficiary, in particular if the IPA III beneficiary provided unreliable or incorrect information, or if corruption or fraud was involved.

## **Part Three: Provisions applicable to this Financing Agreement as a whole, irrespective of the implementation method**

### **Article 12 - Execution period, operational implementation period and contracting deadline**

- (1) The execution period of the Financing Agreement is the period during which the Financing Agreement is implemented and includes the operational implementation period as well as a closure phase. The duration of the execution period is stipulated in Article 2(1) of the Special Conditions, and it shall start on the conclusion of this Financing Agreement and it shall end on the final date for implementing the Financing Agreement.
- (2) The operational implementation period is the period in which all operational activities covered by procurement contracts, grant contracts and contribution agreements are completed. The duration of this period is stipulated in Article 2(2) of the Special Conditions, and it shall start on the conclusion of this Financing Agreement.
- (3) The operational implementation period shall be respected by the Contracting Authority when concluding and implementing procurement contracts, grant contracts and contribution agreements within this Financing Agreement.
- (4) Without prejudice to Article 29(2) of the FFPA, costs related to the activities shall be eligible for EU financing only if they have been incurred during the operational implementation period. The costs incurred before the entry into force of this Financing Agreement shall not be eligible for EU financing unless provided otherwise in Article 7 of the Special Conditions.
- (5) Pursuant to Article 29(3)(b) of the FFPA, and without prejudice to Article 28 thereof and Article 7 of the Special Conditions, the following expenditure incurred by the IPA III beneficiary shall not be eligible for funding under this financing agreement:
  - a) bank charges, costs of guarantees and similar charges;
  - b) fines and financial penalties;
  - c) expenses of litigation;
  - d) currency exchange losses;
  - e) debts and debt service charges (interest);
  - f) provisions for losses, debts or potential future liabilities;
  - g) credits to third parties, unless otherwise specified in the special conditions;
  - h) negative interest charged by banks or other financial institutions.
- (6) The procurement contracts, grant contracts and contribution agreements shall be concluded at the latest within three years of the conclusion of the Financing Agreement, except for:
  - (a) amendments to legal commitments already concluded, which do not result in an increase of the EU contribution;
  - (b) legal commitments to be concluded after early termination of an existing procurement contract;
  - (c) legal commitments relating to audit and evaluation, which can be signed after the operational implementation period;
  - (d) change of the implementing entity.
- (7) A procurement contract, grant contract or contribution agreement which has not given rise to any payment within two years of its signature shall be automatically terminated and its funding shall be de-committed, except in case of litigation before judicial courts or arbitral bodies.



### **Article 13 - Permits and authorisation**

Without prejudice to Article 27 of the FFPA, any type of permit and/or authorisation required for the implementation of the Programme shall be provided in due time by the competent authorities of the IPA III beneficiary, in accordance with national law.

### **Article 14 - Reporting requirements**

- (1) For the purpose of the general reporting requirements to the Commission set out in Article 59 of the FFPA on the annual report on the implementation of IPA III assistance, the NIPAC shall use the template provided by the Commission.
- (2) For the purpose of Article 60 of the FFPA, the NIPAC shall submit a final report to the Commission on the implementation of the activities implemented under indirect management by the IPA III beneficiary of this Programme at the latest sixteen months after the end of operational implementation period. The NIPAC shall use the template provided by the Commission.
- (3) For the purpose of Article 61(1) of the FFPA the NAO shall provide by 15 January of the following financial year in electronic format a copy of the data held in the accounting system established under Article 4(4). This should be supported by a signed un-audited summary financial report in accordance with point (c) of Annex III.
- (4) For the purpose of the specific reporting requirements under indirect management set out in Article 61(2)(a) and 61(3) of the FFPA, the NAO in the IPA III beneficiary shall use the templates provided for in points (a) and (b) of Annex III.

### **Article 15 - Intellectual property rights**

- (1) Contracts financed under this Financing Agreement shall ensure that the IPA III beneficiary acquires all necessary intellectual property rights with regard to information technology, studies, drawings, plans, publicity and any other material made for planning, implementation, monitoring and evaluation purposes.
- (2) The IPA III beneficiary shall guarantee that the Commission, or any body or person authorised by the Commission, shall have access and the right to use such a material. The Commission will only use such material for its own purposes.

### **Article 16 - Consultation between the IPA III beneficiary and the Commission**

- (1) The IPA III beneficiary and the Commission shall consult each other before taking any dispute relating to the implementation or interpretation of this Financing Agreement further pursuant to Article 20.
- (2) Where the Commission becomes aware of problems in carrying out procedures relating to the implementation of this Financing Agreement, it shall establish all necessary contacts with the IPA III beneficiary to remedy the situation and take any steps that are necessary.
- (3) The consultation may lead to an amendment, suspension or termination of this Financing Agreement.
- (4) The Commission shall regularly inform the IPA III beneficiary of the implementation of activities described in Annex I, which do not fall under Part One of these General Conditions.

### **Article 17 - Amendment of this Financing Agreement**

- (1) Any amendment of this Financing Agreement shall be made in writing, including by an exchange of letters.
- (2) If the IPA III beneficiary requests an amendment, the request shall be submitted to the Commission at least three months before the amendment is intended to enter into force except in duly justified cases.

- (3) The Commission can amend the documents in Annexes III and IV without this necessitating an amendment to this Financing Agreement. The IPA III beneficiaries shall be informed in writing about any such amendment and its entry into force.

#### **Article 18 - Suspension of this Financing Agreement**

- (1) The Financing Agreement may be suspended in the following cases:
- (a) The Commission may suspend the implementation of this Financing Agreement if the IPA III beneficiary breaches an obligation under this Financing Agreement;
  - (b) The Commission may suspend the implementation of this Financing Agreement if the IPA III beneficiary breaches any obligation set under the procedures and standard documents referred to in Article 18(2) of the FFPA;
  - (c) The Commission may suspend the implementation of this Financing Agreement if the IPA III beneficiary does not meet requirements for entrusting budget implementation tasks;
  - (d) The Commission may suspend the implementation of this Financing Agreement if the IPA III beneficiary decides to suspend or cease the EU membership accession process;
  - (e) The Commission may suspend this Financing Agreement if the IPA III beneficiary breaches an obligation relating to respect for human rights, democratic principles and the rule of law and in serious cases of corruption or if the IPA III beneficiary is guilty of grave professional misconduct proven by any justified means. Grave professional misconduct is to be understood as any of the following:
    - a violation of applicable laws or regulations or ethical standards of the profession to which a person or entity belongs, or
    - any wrongful conduct of a person or entity which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence.
  - (f) This Financing Agreement may be suspended in cases of force majeure, as defined below. "Force majeure" shall mean any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations, not attributable to error or negligence on their part (or the part of their contractors, agents or employees) and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure. A party shall not be held in breach of its obligations if it is prevented from fulfilling them by a case of force majeure of which the other party is duly informed. A party faced with force majeure shall inform the other party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimise possible damage. If force majeure impacts only part of the Programme, the suspension of the Financing Agreement can be partial. Neither of the Parties shall be held liable for breach of its obligations under this Financing Agreement if it is prevented from fulfilling them by force majeure, provided it takes measures to minimise any possible damage.
- (2) The Commission may suspend this Financing Agreement without prior notice.
- (3) The Commission may take any appropriate precautionary measure before suspension takes place.
- (4) When the suspension is notified, the consequences for the on-going or to be signed procurement contracts, grant contracts, and contribution agreements shall be indicated.
- (5) A suspension of this Financing Agreement is without prejudice to the interruption of payments and termination of this Financing Agreement by the Commission in accordance with Article 6 and Article 19.
- (6) The parties shall resume the implementation of the Financing Agreement once the conditions allow, with the prior written approval of the Commission. This is without prejudice to any amendments of this Financing Agreement which may be necessary to adapt the Programme to the new implementing conditions, including, if possible, the extension of the operational implementation and execution

periods, or the termination of this Financing Agreement in accordance with Article 19.

#### **Article 19 - Termination of this Financing Agreement**

- (1) If the issues which led to the suspension of this Financing Agreement have not been resolved within a maximum period of 180 days, either party may terminate the Financing Agreement at 30 days' notice.
- (2) When the termination is notified, the consequences for the on-going procurement and grant contracts, contribution agreements and such contracts or grants, and contribution agreements to be signed shall be indicated.
- (3) The termination of this Financing Agreement shall not preclude the possibility of the Commission to make financial corrections in accordance with Articles 43 and 44 of the FFPA.

#### **Article 20 – Applicable law, settlement of disputes**

- (1) This Agreement is governed by EU law.
- (2) If a dispute concerning the interpretation, application or validity of the Agreement cannot be settled amicably, it shall be settled by arbitration in accordance with the 2012 PCA Arbitration Rules, subject to the following:

(a) Panel composition

For claims of EUR 500 000 or above: the panel shall be composed of three arbitrators. Each party shall appoint one arbitrator within 40 calendar days after the notice of arbitration has been sent. The two arbitrators appointed by the parties shall in turn appoint a third arbitrator to act as presiding arbitrator.

For claims below EUR 500 000: the panel shall be composed of one arbitrator, unless the parties agree otherwise.

If the panel is not composed within 80 calendar days after the notice of arbitration is sent, either party may request the PCA Secretariat or other mutually acceptable other neutral authority to appoint the necessary arbitrator(s).

(b) Seat

The seat of the arbitration panel shall be The Hague, Netherlands.

(c) Language

The language of the proceedings shall be English or another mutually acceptable official language of the European Union. Evidence may be produced in other languages, if agreed by the parties.

(d) Procedure

Recourse to interim measures, third party interventions and amicus curiae interventions is excluded.

If the panel is requested by a party to treat information or material confidentially, the decision shall be made in form of a reasoned order and after hearing the other party (10 calendar days to submit observations). The panel shall weigh the reasons for the request, the nature of the information and the right to effective judicial protection. The panel may in particular:

- make disclosure subject to specific undertakings or
- decide against disclosure, but order the production of a non-confidential version or summary of the information or material, containing sufficient information to enable the other party to express its views in a meaningful way.

If the panel is requested to hear the case in camera, the decision shall be made after hearing the other party (10 calendar days to submit observations). The panel shall take into account the reasons for the request and the objections of the other party (if any).

If the panel is requested to interpret or apply European Union law, it shall stay the proceedings and request the 'President of the High Court of Paris' (Président du Tribunal de grande instance de Paris, 'juge d'appui'), in accordance with Articles 1460 and 1505 of the French Civil Procedural Code to request a preliminary ruling from the Court of Justice of the European Union in accordance with Article 267 TFEU. The proceedings before the arbitral tribunal shall resume once the decision by the juge d'appui is taken. The decision of the Court of Justice and of the juge d'appui shall be binding on the panel.

The arbitral award shall be final and binding on the parties and be carried out by them without delay.

Either party may however request that the award is reviewed by the The Hague Court of Appeal (Gerechtshof Den Haag) on the basis of the applicable national law. In this case, the award shall not be considered final until the end of this procedure. The decision by the reviewing court shall be binding on the panel.

(e) Costs

The costs of arbitration shall consist of:

- the fees and reasonable expenses of the arbitrators
- reasonable costs of experts and witnesses as approved by the panel and
- the fees and expenses of the PCA Secretariat for the arbitration proceedings (e.g. catering, providing for clerks, room, interpretation).

The arbitrators' fees shall not exceed:

- EUR 30 000 per arbitrator if the contested amount is below EUR 1 000 000
- 15% of the contested amount if that amount is above EUR 1 000 000. In any case the arbitrators' fees shall not exceed EUR 300 000.

The costs of arbitration shall be borne by the parties in equal share, unless otherwise agreed.

The parties shall bear their own costs of legal representation and other costs incurred by them in relation to the arbitration.

(f) Privileges and immunities

The agreement to pursue arbitration under the 2012 PCA Arbitration Rules does not constitute and cannot be interpreted as a waiver of privileges or immunities of any of the parties, to which they are entitled.

**Article 21 – EU restrictive measures**

(1) Definitions

- (a) "EU Restrictive Measures" means restrictive measures adopted pursuant to the Treaty on European Union (TEU) or to the Treaty on the Functioning of the European Union (TFEU).
- (b) "Restricted Person" means any entities, individuals or groups of individuals designated by the EU as subject to the EU Restrictive Measures<sup>5</sup>.

- (2) In all their relations, the Parties recognise that under EU law no EU funds or economic resources are to be made available directly or indirectly to, or for the benefit of, Restricted Persons.

<sup>5</sup> [www.sanctionsmap.eu](http://www.sanctionsmap.eu). The sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal of the European Union (OJ). In case of discrepancy between the published legal acts and the updates on the website it is the OJ version that prevails.



- (3) The IPA III Beneficiary shall ensure that no transaction subject to a verified hit against the EU sanctions list shall benefit directly or indirectly from EU funding. The IPA III Beneficiary commits to ensure this obligation:
  - (a) by screening for hits against the EU sanctions list, before entering into, and before making payments under, the relevant agreements, each Contractor, Grant Beneficiary, and Final Recipient with whom the IPA III Beneficiary has or is expected to have a direct contractual relationship (direct recipient), so as to assess whether such recipient is a Restricted Person.
  - (b) by screening or through other appropriate means (that may include an ex-post verification) on a risk based approach basis, that no entity that would indirectly receive EU funding is a Restricted Person.
- (4) In the event that IPA III Beneficiary assesses that any of the recipients (direct or indirect) of the EU funding is a Restricted Person, IPA III Beneficiary shall promptly inform the Commission.
- (5) Without prejudice to the obligation in point 3 above, should the Commission assess that the use of Union financial assistance under IPA III results or has resulted in a breach of EU restrictive measures, the corresponding amounts shall not be eligible for the Union financial assistance under IPA III. This is without prejudice to any rights that the Commission may have to suspend or terminate the action affected by such breach, to recover any EU funding contributed by the Commission, or to suspend or terminate this financing agreement.
- (6) The determination of remedial measures will be made in accordance with the principle of proportionality. Remedial measures shall apply only to the EU funding made available to, or for the benefit of, a recipient for the period during which it remained a Restricted Person.
- (7) This clause is without prejudice to the exceptions contained in the EU Restrictive Measures.





**THIS ACTION IS FUNDED BY THE EUROPEAN UNION**

**ANNEX**

to the Commission Implementing Decision on the multiannual action plan 2024 – 2027 in favour of Montenegro for extension of the TEN-T core network – Bar-Boljare Highway

**Action Document for Trans-European Transport Network core network extension in Montenegro, Route 4, section Matesevo – Andrijevica**

**MULTIANNUAL ACTION PLAN**

This document constitutes the multiannual work programme in the sense of Article 110(2) of the Financial Regulation, and annual and multiannual action plans and measures in the sense of Article 9 of IPA III Regulation and Article 23(2) of NDICI - Global Europe Regulation.

**1. SYNOPSIS**

**1.1. Action Summary Table**

<b>Title</b>	<b>Trans-European Transport Network core network extension in Montenegro, Route 4, section Matesevo – Andrijevica</b>
<b>OPSYS</b>	OPSYS business reference: ACT-62736
<b>ABAC</b>	ABAC Commitment level 1 number: JAD.1472274 (for allocation 2024) JAD.1476216 (for allocation 2025) JAD.1476251 (for allocation 2026) JAD.1476252 (for allocation 2027)
<b>Basic Act</b>	Financed under the Instrument for Pre-accession Assistance (IPA III)
<b>Economic and Investment Plan (EIP)</b>	Yes Priorities: “Transport - extension of the Trans-European Transport Network (TEN-T) core network”
<b>EIP Flagship</b>	Yes Flagships: “II Connect North-South”
<b>Team Europe</b>	No
<b>Beneficiary of the action</b>	Montenegro
<b>Programming document</b>	IPA III Programming Framework
<b>PRIORITY AREAS AND SECTOR INFORMATION</b>	
<b>Window and thematic priority</b>	Window 3- Green agenda and sustainable connectivity Thematic Priority: Transport (100%)

<b>Sustainable Development Goals (SDGs)</b>	Main SDG: Goal 9: Industry, innovation and infrastructure: Build resilient infrastructure, promote inclusive and sustainable industrialization, and foster innovation			
<b>DAC code</b>	210 – Transport & Storage – 100%			
	21020 – Road Transport – 100%			
<b>Main Delivery Channel</b>	46015 - European Bank for Reconstruction and Development			
<b>Targets</b>	N/A			
<b>Markers (from DAC form)</b>	<b>General policy objective</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Participation development/good governance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Aid to environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gender equality and women's and girl's empowerment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Reproductive, maternal, new-born and child health	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Disaster Risk Reduction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Inclusion of persons with Disabilities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Nutrition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	Biological diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Combat desertification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change mitigation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Climate change adaptation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Policy objectives</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Principal objective</b>
	EIP	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	EIP Flagship	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	
Tags:	YES	NO		
Transport	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Environment and climate resilience	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Digital	<input type="checkbox"/>	<input checked="" type="checkbox"/>		

**Internal markers and Tags**

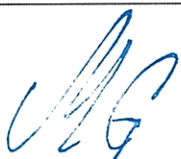
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Economic development (incl. private sector, trade and macroeconomic support)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Human Development (incl. human capital and youth)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Health resilience	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Migration and mobility	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Agriculture, food security and rural development	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rule of law, governance and Public Administration reform	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Digitalisation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tags	YES		NO
digital connectivity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
digital governance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
digital entrepreneurship	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
digital skills/literacy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
digital services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Connectivity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tags	YES		NO
digital connectivity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
energy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
transport	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
health	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
education and research	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Migration	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reduction of Inequalities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COVID-19	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### BUDGET INFORMATION

<b>Amounts concerned</b>	<p>Budget line: 15 02 02 01</p> <p>Total estimated cost: EUR 600 000 000</p> <p>Total amount of EU budget contribution: EUR 100 000 000</p> <p>The contribution is for an amount of:</p> <p>EUR 1 500 000 from the general budget of the European Union for 2024,</p> <p>EUR 8 500 000 from the general budget of the European Union for 2025,</p> <p>EUR 40 000 000 from the general budget of the European Union for 2026, and,</p> <p>EUR 50 000 000 from the general budget of the European Union for 2027.</p>
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	<p>subject to the availability of appropriations for the respective financial years following the adoption of the relevant annual budget, or as provided for in the system of provisional twelfths.</p> <p>This action is co-financed in joint co-financing by:</p> <ul style="list-style-type: none"> <li>- European Bank for Reconstruction and Development for an amount of EUR 200 000 000;</li> <li>- Government of Montenegro for an amount of EUR 300 000 000.<sup>1</sup></li> </ul>
<b>MANAGEMENT AND IMPLEMENTATION</b>	
<b>Implementation modalities (management mode and delivery methods)</b>	<b>Indirect management</b> with the entity(ies) to be selected in accordance with the criteria set out in section 4.4.4
<b>Final Date for conclusion of Financing Agreement</b>	For the budgetary commitment of 2024 At the latest by 31 December 2025
Final date for agreement on subsequent yearly budget allocations for implementation of the Financing Agreement	For the budgetary commitment of 2025 at the latest by 31 December 2026  For the budgetary commitment of 2026 at the latest by 31 December 2027  For the budgetary commitment of 2027 at the latest by 31 December 2028
<b>Final date for concluding contribution agreements</b>	3 years following the date of conclusion of the financing agreement for 2024 budgetary commitment (or the agreement on subsequent budgetary commitments), with the exception of cases listed under Article 114(2) of the Financial Regulation
<b>Indicative \operational implementation period</b>	72 months following the conclusion of the Financing Agreement for 2024 budgetary commitment (or the agreement on subsequent budgetary commitments)
<b>Final date for implementing the Financing Agreement</b>	12 years following the conclusion of the financing agreement for 2024 budgetary commitment (or the agreement on subsequent budgetary commitments)



<sup>1</sup> Additional EU grant amount of up to EUR 100 000 000 is envisaged to be provided to the project.

## 1.2. Summary of the Action

In October 2020, the European Commission adopted a comprehensive Economic and Investment Plan (EIP) for the Western Balkans<sup>2</sup>, which aims to spur the long-term economic recovery of the region, support a green and digital transition, foster regional integration and convergence with the European Union.

The EIP offers a path for a successful regional economic integration to help accelerate convergence with the EU and close the development gap between EU Member States and the Western Balkans region. The EIP will increase the competitiveness of the Western Balkans. Its implementation will have to be accompanied with the relevant reform measures.

The EIP Communication identifies ten flagships with the expectation that these would unlock significant investments in particular in the field of digital, sustainable transport, clean energy transition and environment. To support the implementation of mature transport flagship projects, identified in the EIP, this action will support Montenegro in further development of the TEN-T road Route 4. Co-financing to complement a loan for the construction of the next priority section of the Bar-Boljare highway will be secured. The action is in line with previous IPA and notably Western Balkans Investment Framework (WBIF) support to the transport sector in Montenegro and it is a key subsidy to ensure that an otherwise marginal economical viable action is prepared to the highest standards and subsequently timely implemented. Finally, the action will contribute to the objectives of the IPA III thematic Window 3, being dedicated to sustainable connectivity and the green agenda, while at global level it will contribute to building of a resilient infrastructure in line with the Goal 9 of the Agenda for Sustainable Development.

## 1.3 Beneficiary of the Action

The action shall be carried out in Montenegro.

## 2. RATIONALE

### 2.1. Context

This action will continue to support the implementation of the Economic and Investment Plan (EIP) for the Western Balkans and the accompanying Connectivity Agenda, which aims to spur the long-term recovery of the region. Sustainable transport, environmental protection and climate action, clean energy, digital connectivity, and enhanced links through sustainable infrastructures are key to economic integration and accelerated development within the region and with the European Union. Improving connectivity within the region as well as with the EU is a key factor for growth and jobs in the Western Balkans. TEN-T extension to the Western Balkans allows speeding up policy and regulatory reforms and concentrate efforts and investments on key corridors and interconnectors.

The Trans-European Transport core network (TEN-T Core network) forms the backbone for transportation in European Union single market. It removes bottlenecks, upgrades infrastructure, and streamlines cross border transport operations for passengers and businesses throughout the EU. The TEN-T policy addresses the implementation and development of a Europe-wide network of railway lines, roads, inland waterways, maritime shipping routes, ports, airports and railroad terminals. The ultimate objective is to close gaps, remove bottlenecks and technical barriers, as well as to strengthen social, economic, and territorial cohesion in the EU. Extending the TEN-T core and comprehensive network to the Western Balkans ensures closer integration

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<sup>2</sup> COM(2020) 671. 6.10.2020 - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — An economic and investment plan for the western Balkans

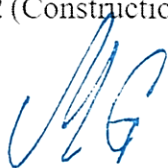
with the EU as well as the basis for leveraging investments in infrastructure, such as EU support through the Western Balkans Investment Framework (WBIF).

Investment grant support through the WBIF blending platform started in 2015 with the launch of the Connectivity Agenda for the Western Balkans. Between 2015 and 2020, EUR 1 billion EU co-financing has been approved under IPA II for transport and energy investment projects. During 2020-2022, 40 flagship investments of a total of EUR 5.7 billion have started implementation, directly contributing to the implementation of the EIP and to the objectives of the Global Gateway. These projects have a wider regional spill over, such as those along the "Route 4" which extend the road and railway connection on TEN-T core network along the axis from Vrsac (Romanian border) – Belgrade (Serbia) – Podgorica (Montenegro) that continues to Montenegro's Adriatic seaport of Bar.

Owing in part to prospect of EU membership, Montenegro has made an effort and progressed in the transport policy sector. It is moderately prepared in the area of trans-European networks. It has not yet aligned its legislation with the Trans-European transport networks *acquis*, but has reached a satisfactory level of preparation regarding strategic development of the transport networks in accordance with TEN-T design and objectives. These priorities are also in line with the National Transport Development Strategy (TDS) for 2019-2035, currently undergoing an alignment with the sustainable and smart mobility strategy for the Western Balkans of the Transport Community. Montenegro is the signatory of the Transport Community Treaty, aiming to bring the Western Balkans (WB) closer to the EU by creating a fully integrated transport network among the WB, as well as with the EU. Progress has been made in TEN-T compliance criteria requiring policy reform and horizontal action (Intelligent Transport System, tolling interoperability, road safety), but tangible results on the ground have yet to materialise. Progress was mainly achieved within the framework of the dedicated Action Plans steered by the Transport Community. Over the years these proved to be essential tools for catalysing regional policy reforms. Nonetheless, a considerable amount of work lies ahead before progress is translated into quantifiable improvements on the TEN-T Network in the Western Balkans.

Following the completion of the initial priority section of the Bar – Boljare highway – Section III – and the withdrawal of grant funding for the Budva bypass, Montenegro has yet to secure funding for a majority of its EIP Flagship projects crossing its territory. After the COVID-19 pandemic period, the list of ongoing major projects in Montenegro was declining, and it is crucial to expedite the progress of EIP flagship projects currently under preparation to re-align with the evolving pace of TEN-T Network development in the region. Development needs of Montenegro remain acute, especially when it comes to investment and development of physical infrastructure. In order to optimise infrastructure development, Montenegro has developed a Single Project Pipeline (SPP) for investments in the fields of transport, energy, environment and social infrastructure. Improving project preparation remains one of the most urgent priorities for the transport sector. Various technical assistance projects under the Infrastructure Project Facility (IPF) and Project Preparation Facility (PPF) support were used as complementary intervention to this action.

One of the most relevant interventions to this action is an ongoing Technical Assistance support under the WBIF grant WB28-MNE-TRA-01 with a total amount for Technical Assistance of EUR 6 000 000. It was mobilised for the update of the Feasibility Study on the entire Road Route 4 – Bar-Boljare Highway and to deliver on the Detailed Design of the study selected next priority section. Therefore, the technical assistance will be used in a two-phased approach. Within phase 1 for the purpose of updating the recently concluded feasibility study (FS) for the entire Bar-Boljare road alignment and within phase 2 for the Detailed Design / Environmental and Social Impact Assessment (ESIA) (up to the level enabling the issuance of the building permits and consents according to the applicable Montenegrin law) and supervision and work's tender preparation for the next priority highway section identified by the FS update. The updating of the FS will optimise the traffic model and forecasts, assess potential cost-saving options, re-estimate the CAPEX and OPEX, update the cost-benefit analysis and re-assess the implementation plan in order to propose the most cost-effective, climate resilient -friendly and environmentally sound solution for the corridor. This activity will be executed with due consideration of the previously executed WBIF TA Grants, namely WB18-MNE-TRA-02 (Construction of Bar - Boljare Highway: Feasibility Study with Cost-Benefit Analysis), WB17-MNE-



TRA-02 (Preliminary Design and ESIA for section IV Matesevo – Andrijevica) and WB17-MNE-TRA-03 (Preliminary Design and ESIA for Bypass Podgorica: section II Smokovac – Tolosi - Farmaci). The Preliminary Design (PD) and Environmental and Social Impact Assessment (ESIA) for section IV Matesevo – Andrijevica are completed and will be of particular relevance for the action implementation as those will inform the drafting of the tender dossier for the procurement of the works contractor in accordance with the design and built model of contracting.

The road investment that this action will support is a complex and critical investment for the future of Montenegro and the region for the longer term and goes along with multimodality and parallel rail sector development of a comprehensive logistics corridor. The sequencing of investments along the corridor is only rewarding from a macro-economic and environmental perspective if the most beneficial transport solution for the entire corridor will be achieved. The next priority road section will be selected and implemented respecting sound economic and financial management, European policies and standards while taking into account the regional development perspective of the country and region. However, Montenegro is desirous to fast-track implementation of section IV Matesevo – Andrijevica and the current action is geared to support the country to deliver a quality project in accordance with European standards.

## 2.2. Problem Analysis

Montenegro's transport sector suffers from constraints induced by a difficult mountainous topography and alignments crossing differing climate zones, which require increased investment and maintenance expenditure - particularly for railway and road infrastructure. Poor quality of transport infrastructure hampers economic growth due to low quality and high cost of transportation, as well as low safety standards. Due to substantial hinterland demands, the limitations on available transport corridors and the geological position of its main seaport, Montenegro is a transport-country, which currently performs under its economic potential. Unfortunately, its transport assets are not up to the technical and safety standards. Montenegro also faces continued challenges from weak competitiveness, high unemployment and significant brain drain. Convergence efforts need to be stepped up through implementing structural reforms, overcoming structural weaknesses, strengthening innovation potential, and embarking on swift green and digital transition. Given the fact that public funds are scarce, there is a clear need to concentrate investments, as well as policy and regulatory efforts. By injecting substantial additional funds, this action shall boost progress on the flagships identified in the EIP.

Enhancing road transport connections represents a national priority for Montenegro, in particular as regards the corridor linking Bar, the main port of Montenegro, to the border with Serbia at Boljare. Attention should be given to aligning investments with actual traffic projections and with the goals for CO2 emission reductions under a green transport sector transition. When it comes to asset preservation, transport infrastructure continues to deteriorate, as available funds for road and railway infrastructure maintenance remain insufficient, and the vicious cycle of construction followed early rehabilitation efforts perpetuates. Effective, safe and secure transportation systems are essential to Montenegro's economic growth and prosperity through facilitation and improvement of the mobility of citizens and goods, as they also have significant impacts on education, social development and environment. While adequate transport infrastructure is a precursor for economic growth, its implementation process must also take into account possible detrimental impacts, whether it is at local, regional or global level, particularly with regard to environment and health.

In the recent years, Montenegro features a sharp increase in the total number of registered vehicles coupled with the aging of the overall vehicle fleet. On the other hand, the percentage of public transport is very low and this is almost entirely dependent on fossil fuels. The present technical state of the fleet in Montenegro, which has over 210,000 registered vehicles, is largely unsatisfactory. The average age of registered vehicles is about 12 years. Urban communities, notably Podgorica and coastal cities are facing traffic congestion, which ultimately results in air pollution from exhaust gases and noise pollution from vehicles. With an increase in the financial means of citizens, along with the development of new roads, an even greater increase in the number of road vehicles is expected.

Montenegro is committed to the development of the defined Trans-European Transport Network (TEN-T) extension and links to the neighbouring EU Member States. It continued cooperating with the Transport Community Secretariat and implementing its six action plans, although progress is registered to be moderate. Road safety remains a serious concern with casualties way above the EU average. The latest 2022 road safety report records 73 people killed in traffic accidents on the roads in Montenegro, which compared to 2021 (55), represents a sharp increase of 32.7%. The number of road fatalities per million inhabitants in the economy was 118 in 2022, 157% higher than the EU average of 46. There is a pressing need for immediate action to improve road safety, given the concerning increase in road fatalities and the significant deviation from the EU average. The 2020-2022 programme for road safety did not yield the expected results, with no improvement or reduction of fatal and serious road traffic accidents. A new road safety strategy for 2023-2030 is still at a draft stage and should be adopted as soon as possible. Montenegro should also set up a dedicated road safety agency. Challenges remain in effectively enforcing the international agreements on carriage of dangerous goods by roads.

Montenegro is focusing on two pillar investments linked to the development of the road and rail TEN-T core Route 4. The rail transport network is undergoing an intensive maintenance and modernisation as to ensure adequate connections for multi-modal maritime-railway transportation from the port of Bar. There is identified a potential medium term development goal of a logistical multimodal transport terminal in Podgorica and Bijelo Polje. Ultimately, the almost parallel Bar – Boljare Highway and the Bar – Vrbnica railway line would be developed into a green, multimodal logistical corridor with complementing modes of transport. This makes mandatory a shift of investment magnitude towards the more efficient modes of transport to reduce road congestion and the environmental impact of the transport sector. In addition, improvements to cross-border transport links are taking place to improve the economic integration of Montenegro with its neighbours and with the EU Member States. Here the electrification of the rail link from Podgorica to the Albanian border would match the ambitious projects currently progressing across this border in the neighbouring country.

In the previous decade, there was a sharp increase in Montenegro's public debt to foreign financial institutions and companies, in particular those related to China's increased interest in investing in the transport infrastructure projects in Montenegro as part of its Belt and Road Initiative. The USD 1 billion loan used to build the first section of the Bar-Boljare highway has raised concerns on the economic dependence on China, as well as on transparency and deviation from commitments Montenegro has undertaken under the SAA and the transport community treaty. Following completion of the first section of the highway, the efforts were made towards decreasing these fiscal vulnerabilities. Nevertheless, in order to pursue its challenging investment plans in long-term safe and sustainable transport, Montenegro is committed to continue making use of the EIP for the Western Balkans with a view to finding more transparent alternatives for financing infrastructure projects.

Against the above background and in a context of sustained extensive investments needs, restricted national budget and limited borrowing capacity, this action will support Montenegro in further development of the TEN-T road Route 4, by securing co-financing for the construction of the next section of the Bar-Boljare highway. The action is in line with previous IPA and notably WBIF support to the transport sector in Montenegro and it is key to ensure that the action will be prepared to the highest standards and subsequently timely implemented.

The action will concern a wide range of stakeholders (local communities, civil society organisations, property owners and landowners, businesses and other affected groups) with differing interests that will require varied levels of engagement and information. Specific communication activities therefore need to be focused to meet the needs of particular individuals and groups, particularly vulnerable groups in the interests of best transparency. This requires a thorough understanding of the stakeholders and their interest in the proposed action. The action shall be implemented as an example of good practice in the development of transport infrastructure with the aim of involving stakeholders and maintaining good communication practices throughout the life of the action. Therefore, stakeholder engagement process has to be initiated in early stages and will be further carried out based on the technical analysis, environmental and social appraisal performed

so far. As regards the administrative structures, the overall responsibility for the development, management and coordination of the transport sector in Montenegro lies with the Ministry of Transport and Maritime Affairs. Administrative bodies are established under the umbrella of the Ministry to act as public authority, regulator or safety and security authority for the different modes of transport. Capacities for coordination and communication amongst entities, as well as project management remain acutely weak on account of staff fluctuations and political uncertainties. The state-owned company “Monteput” is being assigned with the tasks of the construction supervision, coordination and management of the overall Bar-Boljare project and together with the Ministry will assume the main influence in raising the interest of each stakeholder to support or contest the action. This process will be guided by the Stakeholder Engagement Plan (SEP) that will be prepared to meet the requirements of the relevant international financing institution (i.e. European Bank for Reconstruction and Development).

### 2.3. Lessons Learned

Through the experience built over the years with previous financing provided under IPA, a set of lessons learned have been identified under this action. This includes:

**Western Balkans Investment Framework:** During the previous IPA financial perspectives, Montenegro has been mainly benefiting from the WBIF supported investments to advance on the implementation of the EIP and connectivity agenda. Despite challenges, it is confirmed to be a possible financial mechanism to continue implementing the national investment priorities and EU policy objectives, beneficiary strategies and macro-regional strategies. It also provided substantial technical assistance and financing support to bring projects to maturity, including the one being subject to this action.

**Strategic Planning and Project Prioritisation:** Past experience shows how important it is to have sound data and commitments to earlier communicated strategies in place, as well as project prioritisation methodologies allowing assigning efficiently the limited financial resources to the most urgent priority projects. In that sense, financial programming of infrastructure projects requires special attention taking into account complementary studies such as environmental impact assessment, economic and financial feasibility, cost-benefit methodology, and affordability limitations (fiscal space). In this case, project prioritisation has been conducted rejecting projects not meeting the necessary relevant requirements, having also in mind the budget constraints, and optimising financing.

**Sector Coordination:** Additionally, competent authorities need to be very proactive in cooperation with relevant stakeholders at central and local level and to improve internal and inter-sectoral cooperation with other ministries in the programming and implementation of projects financed with the support of IPA. As coordination among stakeholders is recognised as a crucial problem and overcoming, this is even more the case now with the new integrated and coordinated approach in IPA III, where comprehensive and clear information flows and focus on common understanding of responsibilities, obligations and deadlines is required. As shown in the past years, the Sector Working Group in Transport must ensure an effective coordination role, in line with the new integrated approach promoted under IPA III. It is also expected to fully coordinate and make use of synergies with the Transport Community Secretariat.

**EU procedures especially for Public Procurement:** Transport bodies need to build capacity for implementation of IPA procedures, especially those related to Public Procurement. Internal capacities in the line Ministries for preparing adequate tender dossiers have to be reinforced. Based on the cumulated experience in IPA II, national implementing entities require to be strengthened and reinforced. For an economy of scale and in order to increase cost efficiency, synergies and incentivise competition, clustering and proposing of sufficiently large sections of comprehensive works tenders is to be followed as a general approach.

**Staff Turn-over and administrative capacity:** Lessons learned from past assistance proves that capacity building process is key for ensuring sustainability. High employee turnover, reliance on temporary staff and

lack of expert skills in the administration are the order of the day. This situation definitely hinders proper implementation of policies and projects. It is therefore essential to build upon knowledge management and capitalisation, including practical approaches to training, mentoring, coaching and coordination mechanisms aiming to contribute to staff retention.

**Donor coordination:** the European Union remains by far the principal donor in Montenegro, or the exclusive donor in several areas, including transport. Besides the EU, the transport sector has also attracted several bilateral donors such as Czech Republic, Germany, France and Italy, as well as International Finance Institutions (IFIs) such as the EXIM Bank of China, EIB and EBRD among others. International donors are playing an active role in financing both road and railway infrastructure projects. This does not explicitly point to joint programming, although the linkage between actors is now better formalised under the WBIF. Montenegro may still turn away from the well-established donors in order to further develop its first priority road infrastructure (larger scale, implying higher costs and more environmental impact). China is intensifying messages to provide one-stop solutions. Those could be eventually disadvantageous in economic and environmental terms to Montenegro.

**Technical standards:** The necessary steps to assess road projects along its feasibility criteria, is proven to be challenging to Montenegro. The countries rigid position vis-à-vis the project sizing and construction standards – a request for full highway profile for some sections of the Bar-Boljare highway, has complicated technical discussions to make a decision regarding the right sizing of the project in line with expected road traffic volumes and environmental standards. The EU is committed to continue its support to the action with the necessity to pursue a financial and environmentally sustainable solution.

### 3. DESCRIPTION OF THE ACTION

#### 3.1. Intervention Logic

The Overall Objective of this action is to facilitate the development and improvement of the transport infrastructure in Montenegro, thereby contributing to the overall efficiency and effectiveness of road transport operations in the Western Balkans region and leading to sustained and sustainable economic growth.

The Specific Outcome of this action is:

- Outcome 1: Contribute to the fulfilment of the objectives established in the EIP Investment Flagships: Flagship 2 “Connecting North to South” – TEN-T Road Route 4 linking Belgrade to Podgorica to the Montenegrin port of Bar will be further advanced.

The Output to be delivered by this action contributing to the corresponding Outcome is:

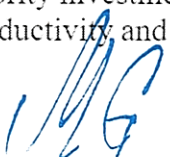
- 1.1 Contributing to Outcome 1: Financial support for the construction of the section Matesevo-Andrijevica of the Bar-Boljare highway and improved connectivity in line with the TEN-T regulatory requirements.

The underlying intervention logic for this action is based on the following:

EU support under this action will focus on fast, efficient, safe, sustainable and environmentally friendly transport links, both within Montenegro and with the neighbouring countries. The EIP clearly identifies the investment priorities in the different sectors under IPA III. This action supports a comprehensive approach towards a sustainable and safer development of the main transport corridors in the Western Balkans region and the implementation of joint EU – Western Balkan investment priorities.

The Bar-Boljare highway (BBH) connects the Adriatic Coast (Port of Bar) to the border with Serbia (Boljare).

The BBH was initially included in the South-East Europe Transport Observatory (SEETO) Comprehensive Regional Transport Network on Route 4 (Annex III Vol. 30/33 and 31/33) in October 2011 as the country’s priority investment and component of the EU integration strategy with the aim of increasing traffic safety and productivity and reducing regional imbalances. Most significantly, BBH is part of the Indicative Extension of



the TEN-T Core and Comprehensive Networks in the Western Balkans as provided for by the Commission Delegated Regulation (EU) 2016/7581 and included in Annex I.1 to the Treaty establishing the Transport Community.

The importance of the full implementation of BBH has increased due to the signing of the EU Transport Community Treaty on 12 July 2017, which aims to increase investments in transport infrastructure, create a single transport market in the region and integration into the common EU market, increase road safety, and remove physical barriers. The latter is also one of the goals of the South-East Europe 2020 Strategy, alongside the reduction of transport costs and better exploitation of infrastructure in the SEETO network in order to facilitate trade flows in the region. This aspect is very important for Montenegro's poorly utilised diverse natural resources and economic potential in order to stimulate economic growth and development.

By crossing Montenegro starting from Bar to the border with Serbia at Boljare, the Detailed Spatial Plan of the BBH defines the implementation stages and the route of the highway through Djurmani (Bar)- Sozina Tunnel - Farmaci (Podgorica) - Smokovac (Podgorica) - Uvac - Matesevo - Andrijevica - Berane - Boljare. The BBH will be approximately 180 km. The main characteristics of each section, as currently described in the Detailed Spatial Plan are presented below:

- Section I: Djurmani – Farmaci, approximately 43.5 km long
- Section II: Farmaci - Smokovac (Podgorica Bypass), approximately 16.5 km long
- Section III: Smokovac – Matesevo, approximately 41 km long (constructed and open to traffic in July 2022)
- Section IV: Matesevo – Andrijevica, approximately 23.5 km long
- Section V: Andrijevica – Boljare is approximately 55 km long

The first section Smokovac-Matesevo was completed and put into commercial use in July 2022. Consequently, Montenegro is eager to continue the construction of the highway and to that end the section from Matesevo to Andrijevica has been prioritized in accordance with the Detailed Spatial Plan and in order to further encourage road links development towards an area close to Kosovo's border and Boljare at the border with Serbia.

The **Matešev - Andrijevica section**, extends across the steep slopes - mountainous terrain from Matešev (elev. 1,060 m) to Andrijevica (elev. 780 m) through the Tresnjevik Mountain. In a broad geographical sense, the project area of the road section from Matešev to Andrijevica is characterised by the river basins of Tara in the west, Lim in the east and the mountain Tresnjevik crossing between the before mentioned basins. Generally, there is a low degree of urbanization along the section, with a small number of villages and with the city centre of Andrijevica near the end of the highway section. The Tresnjevik Mountain crossing is critical for the highway alignment and determines its technical complexity. From a technical perspective the highway will link the «low lands» area of the Tara River tributaries (the Dreka valley) with the «low lands» of the Lima river tributaries (the valley of Krica River) through Tresnjevik tunnel. This tunnel is the key object of the entire section because it overcomes the altitude difference between Tara and Lim river basins, as well as the Trešnjevik Mountain. The topography along these parts of the alignment, with very steep ground slopes (locally up to 75%), creates the need for extensive retaining structures (pile walls, lane cover, reinforced embankment), both upstream and downstream of the road main axes.

The preliminary designed length of the subject section of the highway is 23.5 km which is featured by a 3.5 km tunnel Tresnjevik and 5 km of various bridge structures. The mountainous topography along the alignment also dictates the need for extensive retaining structures (piles, lane cover and reinforced embankment) and for moderation in the selection of the cross-section's road profile. The maximum design speed will be 100 km/h, with a typical 2x2 road cross section (lane width of 3.5 m) and emergency lanes (width of 2.5 m) on all open road sections of the route. The road section ends with the Andrijevica interchange which will be constructed in two phases (i.e. first phase without the connection to the future road axis to Kosovo). The subject section is also featured by a number of planned auxiliary structures and facilities, such as maintenance base, toll stations, petrol/charging stations, parking lots, information centres and others.



### 3.2. Indicative Activities

#### Activities related to Output 1.1

The EU contribution provided will co-finance through an investment grant the implementation of a mature strategic road transport infrastructure project in Montenegro outlined in the EIP under the flagship II Connect North-South. Advantage will be taken of new digital technologies, prioritising green elements in infrastructure projects, multimodal and road safety, in full compliance with the trans-European transport network policy.

The main activity will consist in the construction of the next section of the Bar-Boljare highway (Matesevo Andrijevisa), via grant-loan arrangements between the European Commission and the EBRD. This will be done through the signature of contribution agreement with the EBRD. The lead IFI will take principle responsibility for the implementation of the project. Investment in the subject section of the highway will contribute to:

- Reduced travel times;
- Reduced vehicle operating costs;
- Increased transport safety significantly reducing the number of traffic accidents;
- Foster intermodal transport;
- Transport integration of the southern, central and northern parts of Montenegro, a more balanced regional development and the creation of necessary preconditions for connecting with the Trans-European corridor network ;
- Reduced operation and maintenance costs of transport infrastructure;
- Increased trade flows within Montenegro and with the neighbouring countries;
- Tourism development;
- Job creation (during construction and after for operation and maintenance).

The project contributes to the implementation of the EIP for Western Balkans flagship investments, as identified in cooperation with the beneficiaries, contributing to spur the socio-economic convergence with the EU and underpin further advances of the common regional market.

EU grant support will be channelled through the EBRD and will leverage further capital to enhance the investment capacity in public transport infrastructure in Montenegro. The project documentation encompassing the construction of the section of the highway shall be screened for environment and climate risk and based on relevant environmental and social impact assessments, appropriate assessment under the Birds and Habitats Directives, as well as climate risk assessments, in accordance with the environment and social safeguards of the lead financial institution (EBRD), while also respecting relevant Montenegrin and EU requirements.

### 3.3. Mainstreaming

Implementing partner financial institutions and eligible local financial institutions will ensure that all projects activities financed with EU resources respect European Union principles and commitments in terms of environmental and social impact (e.g. gender issues, equal opportunities, minorities and vulnerable groups, etc.), climate action (zero-emissions or low carbon development, climate proofing), as well as public procurement, state aid, trade policy, equal opportunities and will also respect the principles of sound financial management with effective and proportionate anti-fraud measures as well as gender equality, good governance and human rights.

#### **Environmental Protection, Climate Change and Biodiversity**

Environment, climate change and disaster resilience are assessed as part of the Environmental Impact Assessments (EIA). To a great extent this assessment has been already prepared with the WBIF technical

assistance support on drafting of the preliminary design documentation. These requirements are applied to the implementing partner financial institutions in charge for the implementation of the projects. Partner financial institutions shall take into consideration the applicable environmental and social standards and monitoring mechanisms, as well as the environmental and climate risk categories for each project. Infrastructure projects shall be aligned with sector strategic planning, including, when relevant the Paris climate agreement.

### **Gender equality and empowerment of women and girls**

As per OECD Gender DAC codes identified in section 1.1, this action is labelled as G0.

This action will be responsive equally to the needs of both women and men. This is particularly important in Western Balkans, where women still face additional barriers compared to men while trying to enter the labour market. Implementing partners must take into account the EU's Action Plan on Gender Equality and Women's Empowerment in External Action 2021–2025 (GAP III), which aims to accelerate progress on empowering women and girls, and safeguard gains made on gender equality during the 25 years since the adoption of the Beijing Declaration and its Platform for Action. The EBRD has a gender inclusion action plan and indicators in place to measure and report the impact of the investments under the gender perspective.

Consultation with civil society organisations, including beneficiary agencies and NGOs, community-based organisations, and women's groups would be carried out, when possible, to ensure a balanced impact on both women and men of the investments.

### **Other considerations if relevant**

The main condition that must be in place for an effective and timely implementation of the action is that the proposed investments is a priority for Montenegro. There is therefore a need of building consensus among main stakeholders through close collaboration among International Financial Institutions, representatives from the beneficiary economies, municipalities, service providers, and other relevant stakeholders in the public and private sphere such as business organisations.

For an effective and timely implementation of the action, both the national political stability and the quality of project design documentation is essential. A key condition to attract and leverage investment is a stable or improving macroeconomic and market environment in Montenegro. Stable political and security climate, as well as legal certainties on the beneficiary level are also fundamental to secure smooth implementation of the investment.

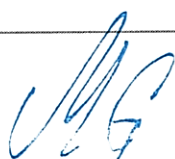
It is also crucial that project documentation (designs, tender documents, building permits) submitted by implementing partner financial institution are of sufficient quality and volume, provide sufficient added-value and are fully mature to be implemented. In addition, local counterparts and beneficiaries need to demonstrate a full ownership and commitment in order to deliver the action's outputs effectively and according to the needs of the instrument and the implementing partner.

It should also be added that in parallel with the action all stakeholders will interact locally with policymakers and larger business community, participate in different consultative processes as to share legal and economic expertise on laws and regulations pertinent to the implementation of public infrastructure investments in Montenegro. There are significant opportunities to combine activities across beneficiary structures to deliver mutually reinforcing, integrated public investment that maximises value for money.

### 3.4. Risks and Assumptions

Category	Risks	Likelihood (High/Medium/Low)	Impact (High/Medium/Low)	Mitigating measures
2- planning, processes and systems	Fiscal space; absorption capacities: Impact of the projects on public debt levels, limited availability of budgetary funds and borrowing capacity for the projects	M	M	The project should be linked to multiannual budgetary commitments to demonstrate sustainability. Public debt and recent trajectory and expected medium term trajectory should be closely monitored. Impact on the sovereign or sub-sovereign loan/guarantee attached to the project on debt sustainability.
1-external environment	Environment and climate risks : Assessment of the adequacy of the environmental and social safeguards of the implementing partners not sufficient. This can lead to inadequate attention to environmental, climate and social risks.	M	H	The applicable environmental and social safeguards will be assessed, and stricter requirements in line with EU requirements and lead financing institution will be introduced. Active involvement in the monitoring on environment and climate change aspects of the investment.
1-external environment	Economic risk : Macroeconomic instability as well as the impact of increasing interest rates and reliance of increased sovereign lending on banks, as well as increased inflation could negatively affect the project cost. If the economic situation would further deteriorate once the public funds have been invested, the	M	M	Participating Financial Institution will be carefully selected using IFI's standard selection criteria for integrity and business conduct, financial stability, capacity and appetite for investment / lending. In addition, the financial capacity, maturity and relevance of projects supported by the public sector will be carefully taken into account and monitoring of the projects will be done to ensure early-detection of potential issues.

Category	Risks	Likelihood (High/ Medium/ Low)	Impact (High/ Medium/ Low)	Mitigating measures
	performance of the underlying investments may deteriorate and eventually collapse. Further deterioration of the economic situation (e.g. continued, increased inflation) can have an adverse effect on the action in terms of final beneficiaries reached and leverage achieved.			
3-people and the organisation Ownership	Ownership: Change in management/ ownership, and/or lack of management response in benefiting public entities and contracting authority. Lack of engagement and ownership (participation, commitment, and consensus must be secured)	M	M	A comprehensive TA support and an efficient consultant deployment will further minimise the risk of slow roll-out and improper implementation. Monitoring will also be a key activity to ensure good implementation and detect and address potential hiccups in advance.
1- external environment	Political risks: The following issues can affect implementation of infrastructure projects: (i) change of government having an impact on the project.	M	M	Regular dialogue, including at high level, regular governance meetings

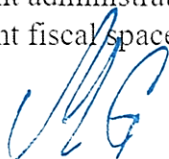


Category	Risks	Likelihood (High/ Medium/ Low)	Impact (High/ Medium/ Low)	Mitigating measures
	(ii) politically related issues not necessarily linked to the project but affecting it and/or (iii) lack of sufficiently strong political support for the project.			
4-legality and regularity aspects	Implementation risks: Slow implementation for a variety of reasons, on which funding and financing counterparts have often limited influence (e.g. delays caused by disagreement agreeing project design and the precise scope of work for consultants in the case of services, or the lack of project maturity and procurement issues). Land ownership, permits and environmental risks can be detrimental to timely implementation of the investment.	H	H	The main factor to take into consideration is quality of project preparation, taking also into account that well prepared and highly economically viable projects are those less likely to suffer from delays. These factors will be monitored carefully throughout implementation to raise and address pertinent issues and developments. Shareholders will actively supervise the performance of the investment.

### External Assumptions

Assumptions related to the implementation of the action include:

- the beneficiary will remain politically committed;
- local ownership of the action outputs;
- financial sustainability through and efficient operation and maintenance of the infrastructures;
- governments' commitment towards the European perspective;
- sufficient administrative capacity of beneficiaries;
- sufficient fiscal space and absorption capacities.




### 3.5. Indicative Logical Framework Matrix

Results	Results chain: Main expected results	Indicators	Baselines (values and years)	Targets (values and years)	Sources of data	Assumptions
<b>Impact</b>	To facilitate the development and improvement of the transport infrastructure in Montenegro, thereby contributing to the overall efficiency and effectiveness of road transport operations in the Western Balkans region and leading to sustained and sustainable economic growth	GDP growth rate  Value of trade in goods and services (EUR million)	Tbd	Tbd	European Commission Reports, National Statistic Institutes, Central Banks reports, Government budget reports Public Finance statistics Eurostat.	<i>Not applicable</i>
<b>Outcome 1</b>	Advanced implementation of the EIP Investment Flagships: Flagship 2 "Connecting North to South" – TEN-T Road Route 4 linking Belgrade to Podgorica to the Montenegrin port of Bar	Total length (km) of the indicative extension of the TEN-T road core network in Montenegro supported by the EU through new construction	41	64.5	Transport Community Permanent Secretariat reports, EIB and EBRD specific reports of the region, EIP regular implementation report.	Political commitment from beneficiaries, sufficient administrative capacity in the beneficiaries, continued government commitment towards the EU perspective, financial sustainability
<b>Output 1 related Outcome 1</b>	Constructed Matesevo-Andrijeva section of the Bar-Boljare highway and improved connectivity in line with the TEN-T regulatory requirements	Length of new or upgraded roads (Km) (Ind. 3.2.4.1)	0	23.5	Transport Community Permanent Secretariat reports, EIB and EBRD specific reports of the government, EIP regular implementation report.	Political commitment from beneficiaries, sufficient administrative capacity in the beneficiaries, continued government commitment towards the EU perspective, financial sustainability

## **4. IMPLEMENTATION ARRANGEMENTS**

### **4.1. Financing Agreement**

In order to implement this action, it is envisaged to conclude a financing agreement with Montenegro.

### **4.2. Indicative Implementation Period**

The indicative operational implementation period of this action, during which the activities described in section 3 will be carried out and the corresponding contracts and agreements implemented, is 72 months from the date of conclusion of the financing agreement or agreement on the subsequent budgetary commitments. Extensions of the implementation period may be agreed by the Commission's responsible authorising officer by amending this Financing Decision and the relevant contracts and agreements.

### **4.3. Implementation Modalities**

The Commission will ensure that the EU appropriate rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures.

#### **4.3.1. Indirect Management with a pillar-assessed entity**

This action may be implemented in indirect management with the EBRD.

This implementation entails, among others, the contracting, implementation, information and visibility, monitoring and reporting of the action activities, and the evaluation thereof whenever relevant, in accordance with the principle of sound financial management, and for ensuring the legality and regularity of the expenditure incurred in the implementation of the infrastructure investment project in Montenegro, namely the Flagship 2 "Connecting North to South" – TEN-T Road Route 4 linking Belgrade to Podgorica to the Montenegrin port of Bar, section Matesevo-Andrijevica.

The envisaged entity has been selected using the following criteria: i) longstanding experience in procuring, and ii) managing contract implementation of major infrastructure investment projects. The EBRD has a track record and expertise as one of the founding members of the WBIF. It is a longstanding partner in the inception, realisation and implementation of the WBIF. Over the 10 years of operation of the WBIF, the EBRD has in partnership with the Commission successfully prepared and / or implemented infrastructure projects and demonstrated the capacity to be entrusted with the implementation of the action.

#### **4.4. Scope of geographical eligibility for procurement and grants**

The geographical eligibility in terms of place of establishment for participating in procurement and grant award procedures and in terms of origin of supplies purchased as established in the basic act and set out in the relevant contractual documents shall apply, subject to the following provisions.

The Commission's authorising officer responsible may extend the geographical eligibility on the basis of urgency or of unavailability of services in the markets of the countries or territories concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of this action impossible or exceedingly difficult (Article 28(10) NDICI-Global Europe Regulation).

#### 4.5. Indicative Budget

Indicative Budget components	EU Contribution 2024 (EUR)	EU Contribution 2025 (EUR)	EU Contribution 2026 (EUR)	EU Contribution 2027 (EUR)	Total EU Contribution 2024 - 2027 (EUR)	Indicative third-party contribution, in currency identified
Methods of implementation – cf. section 4.3	1 500 000	8 500 000	40 000 000	50 000 000	100 000 000	500 000 000
Indirect management with EBRD – cf. section 4.3.1						
Evaluation – cf. section 5.2 Audit – cf. section 5.3	[may be covered by another Decision]	N.A.	N.A.	N.A.	N.A.	N.A.
Strategic Communication and Public Diplomacy – cf. section 6	[may be covered by another Decision]	N.A.	N.A.	N.A.	N.A.	N.A.
Contingencies	0	0	0	0	0	0
Totals EU contribution 2024-2027	1 500 000	8 500 000	40 000 000	50 000 000	100 000 000	500 000 000

#### 4.6. Organisational Set-up and Responsibilities

Overall responsibility for the implementation of the action lies with the EBRD and the Ministry of Transport and Maritime Affairs in charge of coordinating activities among stakeholders and defining the implementation timeframe of activities. The Ministry is in direct communication with all administrative bodies involved in the management and implementation of the action. EBRD shall apply the same standard of due diligence and care as applied to its own operations and shall implement the action in accordance with its own rules and procedures.

One of the administrative bodies established under the competence of the Ministry to act as public enterprise in terms of planning, construction, operation and maintenance of highways and expressways is Monteput. On the other hand, the Transport Administration performs tasks related to the management, development, construction, reconstruction, maintenance and protection of the state roads of Montenegro. For the policy development of the national road network, the Directorate for Road Infrastructure has the mandate to develop projects in the subsector, in full coordination with Monteput and Transport Administration.

The Government of Montenegro has established the Council for Public Investments, chaired by the prime minister, and composed of other members representing relevant ministries (finance, economy, transport,

ecology, EU affairs, energy, urban planning), Montepulciano, Transport Administration and Union of municipalities. Inter alia, the council is tasked to coordinate activities in the process of preparing the construction of highways and other capital projects infrastructure facilities in the field of road economy; coordinate cooperation with international financial institutions and investors; achieve international cooperation with international organizations for improvement of planning and implementation of the capital budget. Representatives of the Commission and relevant international financial institutions may be in attendance in the capacity of observers or reporters, without the right to vote.

As part of its prerogative of budget implementation and to safeguard the financial interests of the Union, the Commission may participate in the above governance structures set up for governing the implementation of the action.

## 5. PERFORMANCE MEASUREMENT

### 5.1. Monitoring and Reporting

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process, and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its Outputs and contribution to the achievement of its Outcomes, and if possible at the time of reporting, contribution to the achievement of its Impacts, as measured by corresponding indicators, using as reference the logframe matrix.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

Arrangements for monitoring and reporting, including roles and responsibilities for data collection, analysis and monitoring:

#### *Internal monitoring*

The Commission is responsible to ensure the overall monitoring of the investment and activities implemented under the action. To this end, the Commission collects, contractually agreed, reporting from the implementing partners that allows it to gather relevant performance data (process, output and outcome indicators) which are analysed and serve to track the progress versus the targets and milestones established. To complement this, the Commission organises regularly review meetings with relevant stakeholders, which include:

- Regular meetings between partner country, EBRD and EU Delegation;
- Ad-hoc bilateral meetings with IFIs and beneficiaries to discuss specific issues with the most appropriate composition;
- Review meetings, held regularly, together with EU Delegation and geographic desks to timely identify issues and envisage actions.

The overall progress (including the compliance, coherence, effectiveness, efficiency and coordination in implementation of financial assistance), will be monitored through the following means: implementing IFIs' own monitoring, Result Orientated Monitoring (ROM) system; beneficiaries' own monitoring; joint monitoring by the European Commission (DG NEAR) and the EU Delegation. Monitoring and evaluation reports may be launched by the European Commission as part of the regular monitoring and evaluation plans on external assistance.

#### *Operational monitoring*

The European Commission monitors operationally the implementation of the action through regular interchanges with EBRD and reporting provided by external consultants present on the territory. Regular meetings and exchanges with the EU Delegations are an essential element of the operational monitoring on the projects implemented through EIP.

### *Financial monitoring*

The European Commission also regularly monitors financially the implementation of the IPA funds contributing to EIP.

EBRD shall produce annual progress reports and financial reports on the use of the funds received as well as submit the most recent annual audit report produced by external auditors.

## **5.2. Evaluation**

Having regard to the importance of the action, a mid-term and ex-post evaluations will be carried out for this action, contracted by the Commission.

A mid-term evaluation will be carried out for problem solving, learning purposes, in particular with respect to environmental and implementation risks. Independent evaluations of operations may be carried out by EBRD. Upon request, the results of such missions may be reported to the European Commission.

Ex-post evaluation will be carried out for accountability and learning purposes at various levels (including for policy revision), taking into account in particular the fact that this action should contribute to the main objectives of the EIP.

The Commission shall form a Reference Group (RG) composed by representatives from the main stakeholders at both EU and national (representatives from the government, from civil society organisations (private sector, NGOs, etc.), etc.) levels. If deemed necessary, other donors will be invited to join. The Commission shall inform the implementing partner at least 6 months in advance of the dates envisaged for the evaluation exercise and missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders following the best practice of evaluation dissemination. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project.

## **5.3. Audit and Verifications**

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audit or verification assignments for one or several contracts or agreements.

## **6. STRATEGIC COMMUNICATION AND PUBLIC DIPLOMACY**

All entities implementing EU-funded external actions have the contractual obligation to inform the relevant audiences of the Union's support for their work by displaying the EU emblem and a short funding statement as appropriate on all communication materials related to the actions concerned. To that end they must comply

with the instructions given in the 2022 guidance document *Communicating and raising EU visibility: Guidance for external actions* (or any successor document).

This obligation will apply equally, regardless of whether the actions concerned are implemented by the Commission, the partner country, service providers, grant beneficiaries or entrusted or delegated entities such as UN agencies, international financial institutions and agencies of EU Member States. In each case, a reference to the relevant contractual obligations must be included in the respective financing agreement, procurement and grant contracts, and contribution agreements.

Visibility and communication measures specific to this action shall be complementary to the broader communication activities implemented directly by the European Commission services and/or the EU Delegation. The European Commission and the EU Delegation should be fully informed of the planning and implementation of the specific visibility and communication activities, notably with respect to the communication narrative and master messages.

Implementing partners shall keep the Commission and the EU Delegation fully informed of the planning and implementation of specific visibility and communication activities before the implementation. Implementing partners will ensure adequate visibility of EU financing and will report on visibility and communication actions as well as the results of the overall action to the relevant monitoring committees.

## 7. SUSTAINABILITY

The key aspect in ensuring the sustainability of the action's results will be a strict focus on the projects imbedded in the beneficiary's sector strategies and sector work programmes. The political commitment from the beneficiaries to keep developing and maintaining the completed infrastructures, as well as a strong involvement of the existing structures, (e.g. Transport Community), will be decisive to attain and sustain the action's objective.

The availability of financing for sustainable transport projects can be also effective in developing necessary auxiliary infrastructure, including intelligent transport system, charging infrastructure for electrical vehicles, etc. Furthermore, the action will increase the overall safety performance rate of Montenegrin roads, through construction of a new road infrastructure fully in accordance with the TEN-T compliance criteria.

The action is supporting the improvement of transport infrastructure, which in general play an important role in sustainable socio-economic and economic progress of a society. Construction of the section Matesevo-Andrijevica can be considered justified from the standpoint of social and economic importance for several reasons as it will intensify work on a number of activities on the road route 4 which will have impact in the long term such as: agriculture, tourism, connectivity, wood processing industry, etc. The action will be implemented in an area through which people and goods will flow, increasing cooperation with neighbouring cities in production and consumption and thus allowing the area to become a more developed part of Montenegro.

The action will contribute to both national and regional economic growth and competitiveness. It will provide efficient, safe and fast connection between the underdeveloped northern and developed southern area of Montenegro, giving the opportunity of convergence and integration between these areas and improving people and goods mobility. Economic benefits are having a major impact on the sustainability, comprising of reductions in road users' costs, i.e. travel time costs, vehicle operating costs, environmental costs and accident costs. The most significant (in monetary terms) economic benefits are travel time savings and accidents costs.

The action will also facilitate access of Montenegro to regional markets and decrease of the direct purchase costs, improving the business environment in Montenegro. Moreover, the engagement of local construction companies, equipment, materials providers, and labour in the construction process, will have further positive

effects on the economy. It will also enhance the touristic potential of the northern area of Montenegro, by improving the connections of the developing winter tourism resorts, thus positioning Montenegro as a full-year tourist destination in line with the respective tourism strategy.

Since the Bar-Boljare Highway belongs to the extension of the TEN-T and Comprehensive Networks in the Western Balkans, it will provide efficient connection between north, central and south European Union, and the Western Balkans. It will increase the potential of the Port of Bar by improving its connection to the corridor, which would allow for increased exports from the landlocked countries in the region. However, as with any new motorway construction, there will be some residual negative impacts, for example in terms of land take, involuntary resettlement, use of scarce resources and visual change to landscape.



## Appendix 1: IDENTIFICATION OF THE PRIMARY INTERVENTION LEVEL FOR REPORTING IN OPSYS

A Primary intervention (project/programme) is a coherent set of results structured in a logical framework aiming at delivering development change or progress. Identifying the level of the primary intervention will allow for:

- ✓ Differentiating these Actions or Contracts from those that do not produce direct reportable development results, defined as support entities (i.e. audits, evaluations);
- ✓ Articulating Actions and/or Contracts according to an expected common chain of results and therefore allowing them to ensure a more efficient and aggregated monitoring and reporting of performance;
- ✓ Having a complete and exhaustive mapping of all results-bearing Actions and Contracts.

The present Action identifies as

<b>Contract level</b> (i.e. Grants, <i>Contribution Agreements</i> , any case in which foreseen individual legal commitments identified in the budget will have different log frames, even if part of the same Action Document)		
<input checked="" type="checkbox"/>	Single Contract 1	foreseen individual legal commitment (or contract)





