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COMMISSION DECISION

C(2009)7620 of 12/10/2009

adopting the Cross-border programme Croatia – Bosnia and Herzegovina under the IPA-Cross-Border Co-operation Component for the year 2009

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)¹, and in particular Article 14(2)(a) thereof,

Whereas:

- (1) Regulation (EC) No 1085/2006 lays down the objectives and main principles for pre-accession assistance to candidates and potential candidate countries.
- (2) In accordance with Article 7 of Regulation (EC) No 1085/2006, the assistance should be provided through multi-annual or annual programmes, which can be established by country, by group of countries or by component. These programmes should be drawn up in accordance with the general policy framework referred to in Article 4 of Regulation (EC) No 1085/2006 and the relevant multi-annual indicative planning documents referred to in Article 6 of that Regulation.
- (3) The Council has established an Accession Partnership for Croatia² and a European Partnership for Bosnia and Herzegovina³. The Commission has adopted on 18 September 2008 the Multi-annual Indicative Planning Documents 2008-2010 for Croatia and on 23 September 2008 the Multi-annual Indicative Planning Document 2008-2010 for Bosnia and Herzegovina which present the main priorities for pre-accession assistance to those countries⁴.
- (4) In accordance with Article 91 of Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an Instrument for Pre-accession Assistance (IPA)⁵ (hereinafter referred to as the "IPA Implementing Regulation"), the Commission adopted on 10 December 2007 the multi-annual cross-border programme Croatia - Bosnia and Herzegovina 2007-2009 (Decision C(2007)5934).

¹ OJ L 210, 31.7.2006, p. 82.

² Council Decision 2008/119/EC of 12 February 2008 (OJ L 42, 16.02.2008, p. 51-62).

³ Council Decision 2008/211/EC of 18 February 2008 (OJ L 80, 19.03.2008, p. 18-31).

⁴ For Croatia: C(2008)5057; for Bosnia and Herzegovina: C(2008)5144.

⁵ OJ L 170, 29.6.2007, p.1

- (5) This multi-annual "Cross-border programme Croatia - Bosnia and Herzegovina" aims at providing assistance through two priorities for the creation of cross-border networks and partnerships and developing joint cross-border actions with a view to revitalizing the economy, protecting the nature and the environment and increasing social cohesion in the programming area. A third priority will provide technical assistance ensuring the effective management and implementation of the programme.
- (6) This "Cross-border programme Croatia - Bosnia and Herzegovina" was implemented for the year 2007 by the financing Decision C(2007)5934 of 10 December 2007 and for the year 2008 by the financing Decision C(2008)3814 of 25 July 2008. A new financing decision needs to be adopted for the implementation in the year 2009.
- (7) For the year 2009 this decision meets the requirements of Article 90 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation No 1605/2002⁶ and constitutes thus a financing decision within the meaning of Article 75(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁷.
- (8) As regards operating structure for the part of the programme concerning Croatia, the Agency for Regional Development (ARD) replaces the Central Finance and Contracting Agency (CFCA) as Implementing Agency, as a result of streamlined procedures put in place by the Croatian authorities in order to comply with IPA requirements for the conferral of management powers on Croatia which was decided by the Commission on 14 November 2008.
- (9) The measures provided for by this Decision are in accordance with the opinion of the IPA Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The Financing proposal for the year 2009 of the "Cross-border programme Croatia – Bosnia and Herzegovina", as set out in the Annex to this Decision is hereby adopted.

The part of this programme concerning Croatia shall be implemented by decentralised management. The part of this programme concerning Bosnia and Herzegovina shall be implemented by centralised management.

The programme corresponding to budget year 2009 shall be implemented by means of Financing Agreements to be concluded between the Commission and the Government of each of the participating countries in conformity with the Framework Agreements concluded between the same parties on 27 August 2007 for Croatia and on 20 February 2008 for Bosnia and Herzegovina. Each such Financing Agreement shall cover the Community contribution for the beneficiary country and the year concerned.

⁶ OJ L 357, 31.12.2002, p. 1.

⁷ OJ L 248, 16.9.2002, p.1.

Article 2

The maximum amount of Community contribution shall be EUR 1.0 million for Croatia and EUR 1.0 million for Bosnia and Herzegovina to be financed through Item 22.020401 of the general budget of the European Communities for the year 2009.

Done at Brussels,

For the Commission

Member of the Commission

ANNEX

FINANCING PROPOSAL FOR THE YEAR 2009 OF THE CROSS– BORDER PROGRAMME CROATIA – BOSNIA AND HERZEGOVINA

1. IDENTIFICATION

| | |
|---|---|
| Beneficiaries | Croatia and Bosnia and Herzegovina |
| CRIS number | Croatia IPA/2009/021/176 Bosnia and Herzegovina IPA/2009/021/166 |
| Year | 2009 |
| Cost | Croatia: EUR 1.0 million Bosnia and Herzegovina: EUR 1.0 million Total value of the IPA contribution: EUR 2.0 million |
| Operating structures | Croatia: Ministry of Regional Development, Forestry and Water Management ⁸ Bosnia and Herzegovina: Directorate for European Integration |
| Implementing Authorities | For Bosnia and Herzegovina: European Commission For Croatia: Agency for Regional Development (ARD) ⁹ |
| Final date for concluding the Financing Agreements: | at the latest by 31 December 2010 |
| Final date for contracting | 2 years following the date of conclusion of the Financing Agreement. No deadline for audit and evaluation projects covered by this Financing Agreement, as referred to in Article 166(2) of the Financial Regulation These dates apply also to the national co-financing. |
| Final date for execution | 2 years following the end date for contracting. These dates apply also to the national co-financing. |
| Sector Code | 11120, 16061, 32130, 33210, 41010, 43040, 91010 |
| Budget lines concerned | 22.020401 |
| Programming Task Managers | For Croatia: DG ELARG. B.1 For Bosnia and Herzegovina: DG ELARG. C.1 |

⁸ Former Ministry of the Sea, Tourism, Transport and Development (MSTTD). The name of the Ministry was changed at the end of 2007.

⁹ The Agency for Regional Development (ARD) replaces the Central Finance and Contracting Agency (CFCA) as Implementing Agency.

| | |
|------------------------------|--|
| Implementation Task Managers | <p>For Croatia: European Commission Delegation to Croatia, Operations Section 1</p> <p>For Bosnia and Herzegovina: European Commission Delegation to Bosnia and Herzegovina, Operations Section II</p> |
|------------------------------|--|

2. SUMMARY

2.1. Introduction

2.1.1. *Programming process*

The programming process took place from December 2006 to May 2007. The programme was developed following a process of wide consultation with the local stakeholders and potential beneficiaries on both sides of the border. The first bilateral meeting between the representatives of the national institutions responsible for the IPA component II took place on 22 December 2006. At that meeting the process of programme elaboration was discussed and agreed between the two sides.

On 22 March 2007, the Joint Programming Committee (JPC) met for the first time. The JPC consists of representatives from the Croatian and Bosnia and Herzegovina national authorities as well as regional authorities from the bordering regions. The aim of the meeting was to define the task description for the Joint Programming Committee and the Joint Drafting Team respectively.

During the months of March and April 2007, the content of the SWOT (strengths, weaknesses, opportunities and threats) analysis was discussed and adopted at the second Joint Programming Committee meeting in Sarajevo on 20 April 2007. During the month of April 2007, the programme beneficiaries discussed the programme's strategic parts (priorities, measures and activities) which were adopted at the third meeting of the Joint Programming Committee meeting in Zagreb on 11 May 2007. The JPC adopted the final draft programming document on 25 May 2007.

2.1.2. *List of eligible areas*

In Croatia, the eligible area according to Article 88 of IPA Implementing Regulation consists of 9 Counties (statistical regions equivalent to NUTS level 3 classification):

Vukovarsko-Srijemska County, Brodsko-Posavska County, Sisačko-Moslavačka County, Karlovačka County, Ličko-Senjska County, Zadarska County, Šibensko-Kninska County, Splitsko-Dalmatinska County, Dubrovačko-Neretvanska.

In Bosnia and Herzegovina, the eligible area according to Article 88 of IPA Implementing Regulation consists of 95 Bosnia and Herzegovina municipalities (three economic regions):

North-East: Bijeljina, Teočak, Ugljevik, Lopare, Tuzla, Lukavac, Celič, Brčko, Srebrenik, Petrovo, Gračanica, Dobož istok, Gradačac, Pelagicevo, Donji Zabar, Orašje, Domaljevac-Samac, Samac, Modriča, Vukosavlje, Odžak, Bosanski Brod, Srebrenica, Bratunac, Milići, Han Pijesak, Vlasenica, Kladanj, Šekovići, Kalesija Osmaci, Zvornik, Banovići, Živinice, Kalesija, Sapna,

North-West: Prnjavor,, Srbac, Laktaši, Čelinac, Kotor Varoš, Skender Vakuf/Kneževo, Dobretići, Šipovo, Jajce, Jezero, Mrkonjić Grad, Banja Luka, Bosanska Gradiška, Bosanska Dubica, Prijedor, Oštra Luka, Sanski Most, Ključ, Ključ/Ribnik, Mrkonjić Grad/Vlasinje, Glamoč, Bosansko Grahovo, Drvar, Istočni Drvar, Petrovac-Drinić, Bosanski Petrovac, Bosanska Krupa, Krupa na Uni, Novi Grad, Bosanska Kostajnica, Bužim, Velika Kladuša, Cazin, Bihać, Doboje, Derventa

Herzegovina: Prozor/Rama, Konjic, Nevesinje, Gacko, Bileća, Trebinje, Ravno, Ljubinje, Berkovići, Mostar, Jablanica, Kupres, Kupres (RS), Tomislavgrad, Posušje, Široki Brijeg, Čitluk, Stolac, Neum, Čapljina, Ljubuški, Grude, Livno, Istočni Mostar.

In Croatia, adjacent areas according to Article 97 of the IPA Implementing Regulation, are: Osječko-Baranjska County, Požeško-Slavonska County, Zagrebačka County, Bjelovarsko-Bilogorska County, Primorsko-Goranska County, (statistical regions equivalent to NUTS level 3 classification).

2.2. Global objective(s) of the programme

The global objective of the programme is to encourage the creation of cross-border networks and partnerships and the development of joint cross-border actions with a view to revitalising the economy, protecting the nature and the environment and increasing social cohesion of the programming area.

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

The Multi-annual Indicative Planning Document for Croatia for the period 2008-2010 indicates that Cross-Border Cooperation, managed through Component II, will support Croatia in cross-border, and trans-national and interregional cooperation with EU Member States and IPA beneficiary countries. It will concentrate on improving the potentials for tourism, creating closer links between border regions and supporting joint environmental protection activities.

The Multi-annual Indicative Planning Document for Bosnia and Herzegovina for the same period will support activities aimed at promoting and enhancing cross-border co-operation and the socio-economic integration of border regions. This will be done through the strengthening of economical, social, environmental and cultural ties between respective participating countries, including people-to-people type actions.

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

Given the limited resources available under IPA 2007-2013 and the size of the programming area, the ambition of this programme is first and foremost to contribute to the revival of border links and activities in the programming area by encouraging co-operation at local level on common environmental and socio-economic problems.

2.3. Priority axis, the related measures and their specific aspects concerning the implementation of the 2009 budget

The priorities and measures defined in this cross-border programme are structured in such a way as to respect and provide for the implementation of the specific objectives. Two priorities have been identified for the cross-border cooperation. They have been chosen with a view to directing assistance into areas of concrete potential, such as the tourism and SME sectors and into areas that would raise the quality of life and improve social cohesion through protection of the nature and environment and through improved access to services. In addition, one priority is focusing on technical assistance, ensuring the effective management and implementation of the programme.

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

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

Priority 1: Creation of a Joint Economic Space

This priority is a response to the difficult economic situation on both sides of the border, which is characterised by a declining population, a high degree of dependence on an underdeveloped agricultural sector and an SME sector that face problems like lack of access to credit, of expertise and entrepreneurship. The tourism sector is well developed in the western part of the programming area – close to the Adriatic coast – but quite underdeveloped in the central and eastern parts. Some of the main obstacles for the development of the tourism sector are poor tourism infrastructure (mainly in con-coastal areas), low level of marketing as well as lack of information exchange within the tourism operators and other economic sectors (especially agriculture).

The objective of this priority is to contribute to the integration of the economy in border areas by encouraging cooperation in the field of tourism and SME support and entrepreneurship promotion. The specific objectives are to develop recognisable joint tourist offers based on common environmental and cultural heritage and improve the competitiveness of the local tourism economy. Furthermore, the programme will support the development of the regional economy by strengthening the SME sector and business support institutions and services.

The creation of a common Economic Space will be implemented by two measures:

Measure 1: Joint development of tourism offer

The joint development of tourism offer will support the improvement and diversification of tourist products and services as well as the joint marketing of these products and services. The measure will mobilise the potentials within the environmental and cultural areas and contribute to the upgrading of skills of people working with tourism, agriculture and culture.

Types of actions eligible could be e.g.: certification of local products, tourism promotion and marketing initiatives, preservation and valorisation of cultural heritage, development of thematic (cross-border) routes etc.

Measure 2: Promotion of entrepreneurship

The second measure supports the promotion of entrepreneurship and initiatives to increase the competitiveness and innovativeness of the SME sector. The measure encourages schemes that create business, research or education networks across the border. This could be: training and education activities for SMEs, development of partnerships between SMEs and universities or joint business support institutions.

Measures 1 and 2 will essentially be implemented through calls for proposals.

Priority 2: Improved Quality of Life and Social Cohesion

Priority 2 is a response to the social and environmental problems of the border area. The level of unemployment is high, especially in the rural areas, and there is a lack of active employment measures to address this situation. There is a general tendency of brain drain and lack of access to education and social services.

In the environment sector, Croatia and Bosnia and Herzegovina face the same challenges and have the same opportunities. On both sides of the border there are important natural amenities – natural parks and rivers, but no co-ordination as to how to protect the environment e.g. through waste water management, nor is there any co-ordinated efforts on how to deal with natural disasters like flooding or fire fighting. The minefields are also a common problem in the programming area. It is estimated that 305,000 unexploded mines, covering some 1,800 km² still need to be cleared.

The overall objective of priority 2 is to enhance the quality of life in border areas by reducing damages/risks to the environment and increasing social cohesion in local communities. There are two specific objectives: the first one will be to protect and preserve the environment and encourage the sustainable use of natural resources in border regions through joint actions and awareness raising campaigns. The second specific objective aims at enabling access to community based services that have an impact on the well-being and social cohesion of local citizens and communities.

The following two measures are intended to improve the quality of life and social cohesion:

Measure 1: Protection of nature and environment

The protection of nature and the environment is important on its own, but it is also important for tourism development. Therefore this measure will support initiatives that prevent the degradation of the environment and that promote sustainable use of natural resources. Examples of activities could be: joint planning documents for water supply and waste water treatment, studies on renewable energy, awareness raising activities on environmental protection and joint intervention actions in the case of flooding or fire.

Measure 2: Improved accessibility of community based services in the border area

The second measure will focus on the well-being and social cohesion of the local communities and contribute to the improvement of cross-border relations. The measure will

support the development of people-to-people actions across the border in areas such as education, social and health care, culture and sports. It will involve local authorities, civil society and social partners and encourage the establishment of cross-border networks around social cohesion activities. These could be: joint youth initiatives, assistance to marginalised groups, easier access to health, culture and education etc.

Measures 1 and 2 will essentially be implemented through calls for proposals.

Tentative Timetable and indicative amount of the call for proposals for Priority 1 (Creation of joint economic space) and Priority 2 (Improved Quality of Life and Social Cohesion)

For the budget 2009, the proposal is to launch one single, joint call for proposal, tentatively in the second half of 2010 ; all four measures under Priority 1 and Priority 2, covering both large (e.g. EUR 50 000 – EUR 300 000) and small (e.g. EUR 20 000– EUR 50 000) grants. The essential selection and award criteria for the award of grants as laid down in the practical guide to contract procedure for EC external aid (PRAG) should apply. The detailed selection and award criteria will be laid down in the Call for proposals–Application Pack (Guidelines for applicants).

Generally, cross-border capacity building will be a horizontal theme underpinning Priority 1 and 2 and, will, wherever possible, be integrated into all the measures in these priorities. Cross-border capacity will be built by giving preference to projects which:

- (a) Improve the collaboration and pooling of experience between local and regional stakeholders in order to increase cross-border co-operation.
- (b) Intensify and consolidate cross border dialogue and establish institutional relationships between local administrations and other relevant local or regional stakeholders.
- (c) Equip local and regional authorities' actors with information and skills to develop, implement and manage cross-border projects.

The following catalytic effects are foreseen: improving of environmental standards, improving of social and cultural welfare, sustainable use of local material and human resources, transfer of know-how through project co-operation, effects of entrepreneurship that ultimately will remove the need for external funding in the future and the creation of job opportunities. Furthermore, the implementation of projects will stimulate and create a positive environment for further co-operation.

The national co-financing commitments guarantee that the EU principle of additionality is fully incorporated.

Priority 3: Technical Assistance

The objective of the technical assistance priority is to improve the quality of cross-border co-operation and management tools. It will mainly cover expenses directly related to the implementation of the programme: expenses to disseminate information and ensure the visibility of the programme, raise awareness in the cross-border region, promote co-operation and exchange of experiences; administrative and logistic costs for the joint structure of the programme (Joint Monitoring committee, Joint Technical Secretariat and its antenna, including cost of staff with the exclusion of salaries of public officials), which includes monitoring and first-level control, expenses for participation in different meetings related to the implementation of the programme.

Priority 3 will be implemented by 2 measures:

Measure 1: Support to Programme administration and implementation

This measure will provide support for the work of the national Operating Structures and the Joint Monitoring Committee in programme management. It will also ensure the provision of advice and support to the final beneficiaries in project development and implementation.

Measure 2: Support to programme information, publicity and evaluation

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

Considering that the relevant national authorities (Operating Structure in Croatia and in Bosnia and Herzegovina) enjoy a *de facto* monopoly situation (in the sense of Art. 168, paragraph 1, sub-paragraph c of the Implementing rules to the Financial Regulation) for the implementation of the cross-border programme, the relevant contracting authorities in both countries will establish an individual direct grant agreement without call for proposal with the Operating Structure for up to the amount provided under the Priority 3 in each country. Subcontracting by the Operating Structure of the activities covered by the direct agreement (e.g. TA, evaluation, publicity etc.) is allowed in accordance with Article 120 of the Financial Regulation¹⁰ and Article 184 of the Implementing Rules¹¹ to the Financial Regulation.

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

Croatia

– Projects that have been implemented

- CARDS 2001 'Strategy and Capacity Building for Border Region Co-operation' (Identification of future projects on borders with Serbia, Bosnia and Herzegovina, Montenegro)
- CARDS 2002 'Strategy and Capacity Building for Regional Development' (Institutional arrangements for management of CBC)
- CARDS 2003 'Local Border Regional Development' (Grant scheme with Slovenia)
- CARDS 2003 'Technical Assistance for Management of Neighbourhood Programmes' (Support to JTS for trilateral programme Croatia-Slovenia-Hungary)

¹⁰ Regulation 1605/2002 (OJ L 248, 16.9.2002, p.1).

¹¹ Regulation 2342/2002 (OJ L 357, 31.12.2002, p.1).

- PHARE 2005 'Cross-Border Cooperation between Croatia, Slovenia and Hungary' (Trilateral grant scheme), Neighbourhood Programme between Croatia, Slovenia and Hungary 2004–2006; 25 projects implemented
- PHARE 2005 'Adriatic Cross-Border Cooperation between Croatia and Italy, Phare CBC / INTERREG III A - Adriatic New Neighbourhood Programme 2004–2006; 35 projects implemented
- PHARE 2006 'Cross-Border Cooperation between Croatia, Slovenia and Hungary' (Trilateral grant scheme), Neighbourhood Programme between Croatia, Slovenia and Hungary 2004–2006; 21 projects implemented

– Projects/programmes currently under implementation

Projects

- CARDS 2004 'Institution and Capacity Building for CBC' (Support for Ministry of Sea, Tourism, Transport and Development)
- CARDS 2004 'Border Region Co-operation' (Grant scheme with Serbia, Bosnia and Herzegovina, Montenegro); 8 project under implementation

Programmes

- PHARE 2006 'Adriatic Cross-Border Cooperation between Croatia and Italy, Phare CBC / INTERREG III A - Adriatic New Neighbourhood Programme 2004–2006; 17 projects under implementation
- Trans-national Programme CADSES 2004-2006; 9 projects under implementation
- IPA 2007 and IPA 2008 CBC Programmes Croatia/Bosnia and Herzegovina, Croatia/Montenegro, Croatia/Serbia, Croatia/Hungary, Croatia/Slovenia, CBC IPA Adriatic, ERDF European Territorial Co-operation transnational programmes "South-East Europe" and "Mediterranean"

Bosnia & Herzegovina

– Projects currently under implementation:

- CARDS 2004-2006 Adriatic Neighbourhood Programme
- Trans-national Programme CADSES 2004-2006
- IPA 2007 and IPA 2008 CBC Programmes Bosnia and Herzegovina/Croatia, Bosnia and Herzegovina/Serbia, Bosnia and Herzegovina/Montenegro, CBC IPA Adriatic, ERDF European Territorial Co-operation transnational programmes "South-East Europe" and "Mediterranean" (the latter only under IPA 2008 funding)

Whilst both countries have experience of EC- funded cross-border cooperation (CBC) programmes with other countries, they have limited experience of cooperation with each other. Over the period 2004-2006 only the grant scheme 'Cross-Border Regions Co-operation

with Serbia, Montenegro, Bosnia and Herzegovina' (funded from the Croatian CARDS 2004 allocation) have Croatian and Bosnian partners. Under this grant scheme 8 projects have been contracted. In addition, INTERREG IIIA Adriatic CBC has funded 7 projects (out of 36 with Croatian beneficiaries) involving Croatian-Bosnian partnerships. However, only 5 of these have partners inside the programming area. An additional 35 projects with Croatian and Bosnian partners have been contracted under the second call of the Adriatic programme.

Under the ongoing IPA 2007 and IPA 2008 CBC Croatia/Bosnia and Herzegovina programme, the authorities of the two countries have put in place a Joint Monitoring Committee and a Joint Technical Secretariat in order to prepare for the first call for proposals to be launched in the first semester of 2009.

Lessons learned

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

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

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

Donor Co-ordination

In line with Article 20 of the IPA Regulation and Article 6 (3) of the IPA Implementing Regulations, in 2007 the European Commission asked the representatives of Member States and local IFIs in Croatia and Bosnia and Herzegovina to provide their comments regarding the draft multi-annual cross-border co-operation programme submitted to the Commission. The Commission received comments from the British Embassy in Zagreb and from the World Bank.

2.5. Horizontal issues

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

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

2.6. Benchmarks

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

| | N | N+1 (cumulative) | N+2 (cumulative) |
|--|-----|---------------------|---------------------|
| Number of direct grant agreements in Croatia | 1 | 1 | 1 |
| Number of direct grant agreements in Bosnia and Herzegovina | 1 | 1 | 1 |
| Number of calls for proposals launched in Croatia and Bosnia and Herzegovina | 1 | 1 | 1 |
| Contracting Rate (%) in Croatia | 10% | 100% | 100% |
| Contracting Rate (%) in Bosnia and Herzegovina | 10% | 100% | 100% |

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

According to Article 8(4)(c) of the IPA Implementing Regulation, the beneficiary country shall establish a roadmap with indicative benchmarks and time limits to achieve decentralisation without ex ante controls by the Commission.

As regards previous EC financial instruments (Phare and CARDS), a decentralisation with *ex ante* control has been conferred to **Croatia** by the Commission in February 2006. A follow up audit mission from ELARG E.5 audit unit took place in February 2007 to verify the fulfilment of conditions for the conferral of management as laid down in the Commission Decision. As regards IPA, the European Commission and the Government of the Republic of Croatia signed on 27 August 2007 the framework agreement on the rules for co-operation concerning EC financial assistance to Croatia under IPA. The Commission decided on 14 November 2008 to confer on Croatia, while maintaining *ex ante* controls by the European Commission Delegation, management powers under IPA Component II. The roadmap for the decentralisation of the management of IPA funds without *ex ante* controls by the Commission will be established once all auditors' follow-up recommendations contained in the Commission Decision on conferral will have been addressed by the Croatian authorities within agreed deadlines.

In **Bosnia and Herzegovina**, preparations for decentralised management of EC funds are ongoing. In June 2008, the Council of Ministers adopted a Strategy for the Implementation of the Decentralised Implementation System (DIS). Main DIS structures and functions are in place. Technical assistance foreseen under CARDS and IPA supports the preparation process. Bosnia and Herzegovina aims at accreditation within the next two years.

3. BUDGET FOR 2009

3.1. Indicative 2009 financial table for Croatia (EUR)

| | IPA Community contribution | | National contribution | | Total (IPA plus National contributions) | |
|-----------------|----------------------------|------------------|-----------------------|--------------------|---|--------------------|
| | EUR (a) | % ⁽¹⁾ | EUR (b) | (%) ⁽¹⁾ | EUR (c)=(a)+(b) | (%) ⁽²⁾ |
| Priority axis 1 | 450 000 | 85% | 79 411.76 | 15% | 529 411.76 | 45% |
| Priority axis 2 | 450 000 | 85% | 79 411.76 | 15% | 529 411.76 | 45% |
| Priority axis 3 | 100 000 | 85% | 17 647.06 | 15% | 117 647.06 | 10% |
| TOTAL | 1 000 000 | 85% | 176 470.58 | 15% | 1 176 470.58 | 100% |

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

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

3.2. Indicative 2009 financial table for Bosnia and Herzegovina (EUR)

| | IPA Community contribution | | National contribution | | Total (IPA plus National contributions) | |
|-----------------|----------------------------|------------------|-----------------------|--------------------|---|--------------------|
| | EUR (a) | % ⁽¹⁾ | EUR (b) | (%) ⁽¹⁾ | EUR (c)=(a)+(b) | (%) ⁽²⁾ |
| Priority axis 1 | 450 000 | 85% | 79 411.76 | 15% | 529 411.76 | 45% |
| Priority axis 2 | 450 000 | 85% | 79 411.76 | 15% | 529 411.76 | 45% |
| Priority axis 3 | 100 000 | 85% | 17 647.06 | 15% | 117 647.06 | 10% |
| TOTAL | 1 000 000 | 85% | 176 470.58 | 15% | 1 176 470.58 | 100% |

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

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

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

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

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

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

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

4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of Implementation

The part of this programme concerning Croatia shall be implemented in accordance with Article 53c of the Financial Regulation¹² and the corresponding provisions of the Implementing Rules¹³. The Beneficiary Country will continue to ensure that the conditions laid down in Article 56 of the Financial Regulation are respected at all times.

The ex-ante control by the Commission shall apply to the tendering of contracts, launch of call for proposals and the award of contracts and grants until the Commission allows for decentralised management without ex-ante controls as referred in Article 18 of the IPA Implementing Regulation.

The part of this programme concerning Bosnia and Herzegovina shall be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation¹⁴ and the corresponding provisions of the Implementing Rules¹⁵.

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

4.2. General rules for Procurement and grant award procedures

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

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

Where appropriate, the Contracting Authorities shall also use the standard templates and models facilitating the application of the above rules provided for in the "Practical Guide to contract procedures for EC external actions" ("Practical Guide") as published on the EuropeAid website¹⁶ at the date of the initiation of the procurement or grant award procedure.

4.3. Environmental Impact Assessment and Nature Conservation

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

¹² See footnote 3 *supra*.

¹³ See footnote 4 *supra*.

¹⁴ See footnote 3 *supra*.

¹⁵ See footnote 4 *supra*.

¹⁶ current address:

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

The procedures for environmental impact assessment as set down in the EIA-directive¹⁷ fully apply to all investment projects under IPA. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive.

If a project is likely to affect sites of nature conservation importance, an appropriate nature conservation assessment shall be made, equivalent to that provided for in Article 6 of the Habitats Directive must be documented¹⁸.

5. MONITORING AND EVALUATION

5.1. Monitoring

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

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

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

In Bosnia and Herzegovina, the Commission may undertake any actions it deems necessary to monitor the programme concerned.

5.2. Evaluation

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

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

6.1. Audit, Financial Control and Anti-fraud measures

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

¹⁷ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40).

¹⁸ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L206, 22.7.1992).

includes measures such as ex-ante verification of tendering and contracting carried out by the Delegations in the Beneficiary Countries.

In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96¹⁹.

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

6.2. Financial adjustments

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

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

6.3. Audit trail

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

6.4. Preventive Measures

Croatia shall ensure investigation and effective treatment of suspected cases of fraud and irregularities and shall ensure the functioning of a control and reporting mechanism equivalent to that provided for in Commission Regulation 1828/2006²⁰. All suspected or actual cases of fraud and irregularity as well as all measures related thereto taken must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud or irregularity to report, the Beneficiary Country shall inform the Commission of this fact within two months following the end of each quarter.

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

Fraud shall mean any intentional act or omission relating to: the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation

¹⁹ Council Regulation (EC, Euratom) No 2185/96 of 11 November 1996, OJ L 292; 15.11.1996; p. 2.

²⁰ OJ L 371, 27.12.2006, p.1.

or wrongful retention of funds from the general budget of the European Union or budgets managed by, or on behalf of, the European Union; non disclosure of information in violation of a specific obligation with the same effect; the misapplication of such funds for purposes other than those for which they are originally granted.

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

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

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

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

6.5. Financial correction

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

A financial correction may arise following:

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

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

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

7. NON SUBSTANTIAL REALLOCATION OF FUNDS

The authorising officer by delegation (AOD), or the authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management, may undertake non substantial reallocations of funds without an amending financing decision being necessary. In this context, cumulative reallocations not exceeding 20% of the total amount allocated for the programme, subject to a limit of EUR 4 million, shall not be considered substantial, provided that they do not affect the nature and objectives of the programme. The IPA Committee shall be informed of the above reallocation of funds.

8. LIMITED ADJUSTMENTS IN THE IMPLEMENTATION OF THE PROGRAMME

Limited adjustments in the implementation of this programme affecting elements listed under Article 90 of the Implementing Rules to the Financial Regulation, which are of an indicative nature²¹, may be undertaken by the authorising officer by delegation (AOD), or by the authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

²¹ These essential elements of an indicative nature are, for grants, the indicative amount of the call for proposals and, for procurement, the indicative number and type of contracts envisaged and the indicative time frame for launching the procurement procedures.