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COMMISSION DECISION

C(2009)6367 of 18/08/2009

adopting the Cross-border programme Bosnia and Herzegovina – Serbia 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 a European Partnership for Bosnia and Herzegovina² and a European Partnership for Serbia³. The Commission has adopted on 23 September 2008 the Multi-annual Indicative Planning Documents 2008-2010 for Bosnia and Herzegovina and on 4 September 2008 the Multi-annual Indicative Planning Document 2008-2010 for Serbia 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 18 December 2007 the multi-annual cross-border programme Bosnia and Herzegovina-Serbia 2007-2009 (Decision C(2007)6344).
- (5) This multi-annual cross-border programme Bosnia and Herzegovina - Serbia aims at providing assistance to bring together the people, communities and economies of the eligible area to jointly participate in the development of a cooperative area, using its human, natural, cultural and economic resources and advantages with the overall objective to stimulate the economies and reduce the relative isolation of the eligible

¹ OJ L 210, 31.7.2006, p. 82.

² Council Decision 2008/211/EC of 18 February 2008 (OJ L 80, 19.3.2008, p. 18-31).

³ Council Decision 2008/213/EC of 18 February 2008 (OJ L 80, 19.3.2008, p. 46-70).

⁴ For Bosnia and Herzegovina: C(2008)5144; for Serbia: C(2008)4693.

⁵ OJ L 170, 29.6.2007, p.1

area by strengthening joint institutional networks and the capacities of human resources.

- (6) This cross border programme Bosnia and Herzegovina - Serbia was implemented for the year 2007 by the financing Decision C(2007)6344 of 18 December 2007 and for the year 2008 by the financing Decision C(2008)3708 of 23 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) 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 Bosnia and Herzegovina – Serbia", as set out in the Annex to this Decision is hereby adopted. This programme 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 20 February 2008 for Bosnia and Herzegovina and on 29 November 2007 for Serbia. Each such Financing Agreement shall cover the Community contribution for the beneficiary country and the year concerned.

Article 2

The maximum amount of Community contribution shall be EUR 700,000 for Bosnia and Herzegovina and EUR 1,100,000 for Serbia 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

⁶ OJ L 357, 31.12.2002, p. 1.

⁷ OJ L 248, 16.9.2002, p.1.

ANNEX
FINANCING PROPOSAL FOR THE YEAR 2009 OF THE CROSS-BORDER
PROGRAMME BOSNIA AND HERZEGOVINA – SERBIA

1. IDENTIFICATION

Beneficiaries	Bosnia and Herzegovina, Serbia
CRIS number	Bosnia and Herzegovina: 2009/21-151 Serbia: 2009/21-619
Year	2009
Cost	Bosnia and Herzegovina: EUR 700,000 Serbia: EUR 1,100,000 Total value of the IPA contribution: EUR 1,800,000
Operating structures	Bosnia and Herzegovina: Directorate for European Integration Serbia: Ministry of Finance
Implementing Authorities	For Bosnia and Herzegovina / Serbia: European Commission
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	33210, 43040, 41010, 32130, 16061, 11120, 91010
Budget lines concerned	22.020401
Programming Task Managers	For Bosnia and Herzegovina: DG ELARG C1 For Serbia: DG ELARG C2
Implementation Task Managers	For Bosnia and Herzegovina and Serbia: EC Delegations, Operations section

2. SUMMARY

2.1. Introduction

2.1.1. Programming process

The cross-border programme between Bosnia and Herzegovina and Serbia is implemented during the 2007-2013 period. This strategic document is based on a joint strategic planning effort between the two countries and is also the result of a large consultation process with local stakeholders and potential beneficiaries.

The programme is implemented in both countries under centralised management. The national authorities in the two countries are building capacities and working on the accreditation of the implementing structures, in order to shift to decentralized management as soon as possible.

The programming process took place from December 2006 to May 2007. The national authorities and operational structures were assisted in the programming by the Cross Border Institution Building project (CBIB), a regional project funded by the European Union.

2.1.2. List of eligible areas

In Bosnia and Herzegovina the eligible area has been determined in terms of the economic regions, as defined nationally. The eligible economic areas are: the Sarajevo Economic Region and the North-East Economic Region. All municipalities included in these two regions are thus considered eligible.

The eligible counties in Serbia are: Sremski, Macvanski, Zlatiborski, and Kolubarski. All municipalities included in these counties are considered eligible.

2.1.3. Link with the Multi-annual Indicative Planning Documents

The respective Multi-annual Indicative Planning Documents for Bosnia and Herzegovina and Serbia for the period 2008-2010 indicate that support activities will aim 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.

2.2. Global objective of the programme

To bring together the people, communities and economies of the eligible area to jointly participate in the development of a cooperative area, using its human, natural, cultural and economic resources and advantages with the overall objective to stimulate the economies, to foster sustainable development and reduce the relative isolation of the eligible area by strengthening joint institutional networks and the capacities of human resources.

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 manner so as to respect and provide for the implementation of the specific objectives. In particular, one priority has been identified for the cross-border cooperation interventions. The other priority concerns technical assistance, ensuring the effective management and implementation of the programme.

2.3.1. *Priority I: To support the social and economic cohesion through actions to improve physical, business, social and institutional infrastructure and capacity.*

2.3.1.1. Measure 1: Improving the productivity and competitiveness of the areas' economic, rural and environmental resources.

This measure is designed to promote joint efforts to achieve a more effective use of the eligible area's resources. Although at national level each country has its own priorities and is pursuing different policies to achieve this objective, there are a number of cooperation opportunities between neighbouring communities that will complement national actions. Examples are: cooperation between local authorities to coordinate actions such as spatial planning, environmental activities in border areas, emergency services and educational and adult training services. Cross-border cooperation between business support groups, in relation to environmental protection and with a view to matching educational programmes to the needs of industry, agriculture and the business environment of the area (e.g. tourism development).

Beneficiaries will include (this list is not exhaustive):

- Local governments and their institutions, including public utilities, hospitals, medical and emergency services;
- Schools, libraries, Institutes of culture, community centres, cultural, historic or sporting associations, etc;
- Non governmental, non profit organisations;
- Business support organisations such as chambers of commerce, business centres, SME associations, sectoral associations, local trade associations, etc
- Regional Development and Local Development agencies;
- Authorities responsible for nature protection or nature parks management and public administrations;
- Public - and private - entities supporting the work force (job creation centres, job exchange services etc)
- Schools, colleges and universities in the areas, including vocational and technical training establishments;
- Euroregions;
- SMEs.

2.3.1.2. Measure 2: Cross-border initiatives targeting the exchange of people and ideas to enhance professional and civic society cooperation

This measure is designed to bring about more intense cooperation between communities at municipality level, to develop common interests between both the inhabitants and professional groups. It will support smaller projects and people-to-people actions. This measure will benefit economic activities in border areas and also provide opportunities to celebrate their cultural, historic, ethnic, educational and sporting links.

Beneficiaries will include (this list is not exhaustive):

- Local governments and their institutions, including public utilities, hospitals, medical and emergency services;
- Schools, libraries, Institutes of culture, community centres, cultural, historic or sporting associations, etc;

- Non governmental, non profit organisations;
- Business support organisations such as chambers of commerce, business centres, SME associations, sectoral associations, local trade associations, etc
- Regional Development and Local Development agencies;
- Authorities responsible for nature protection or nature parks management and public administrations;
- Public - and private - entities supporting the work force (job creation centres, job exchange services etc)
- Schools, colleges and universities in the areas, including vocational and technical training establishments;
- Euroregions;
- SMEs.

2.3.2. *Priority II: Technical assistance to increase administrative capacity in the management and implementation of the CBC programme.*

The technical assistance priority axis will cover the preparatory, management, monitoring, evaluation, information and control activities related to the implementation of the programme, together with activities to reinforce the administrative capacity for implementing the programme up to a maximum of 10% of the Community contribution allocated to the programme. The technical assistance priority, as any priority of the CBC programmes, requires 15% co-financing from national funds (Art. 90(2) IPA IR).

Considering that the relevant national authorities (Operating Structures or CBC Coordinator – in the meaning of Art. 22(2)(b) of the IPA Implementing Regulation) enjoy a de facto monopoly situation (in the sense of Art. 168, (1) (c) of the Implementing rules to the Financial Regulation) for the implementation of the cross-border programme, individual direct grant agreements without call for proposals for the amount provided under the technical assistance priority shall be established between the Commission (European Commission Delegations) and the respective national authorities. The direct grant agreements can be signed as soon as the Financing Agreements are concluded.

Subcontracting of the activities covered by the direct grant agreement (e.g. TA, evaluation, publicity, etc.) is allowed under the conditions provided by Article 120 of the Financial Regulation⁸ and Article 184 of the Implementing Rules⁹ to the Financial Regulation.

Technical assistance funds will be used to support the activities of the Operating Structures and the Joint Monitoring Committee. The technical assistance funds can be used to cover the costs of management and implementation of the programme in each participating country. These may include, inter alia, the following costs:

- Support to the Operating Structures and the joint Monitoring Committee;
- Functioning of the Joint Technical Secretariat and its antennae;
- Expenses for participating in different meetings related to the implementation of the programme;

⁸ Regulation 1605/2002 (OJ L 248, 16.9.2002, p.1).

⁹ Regulation 2342/2002 (OJ L 357, 31.12.2002, p.1).

- Administrative and operational costs, including the costs of preparation, monitoring and evaluation of programmes, appraisal and selection of operations, the organisation of meetings related to the programme, translation, information and publicity costs.

Tentative Timetable and indicative amount for the implementation of the measures:

Measures under priority I will be implemented through grant schemes. The essential selection and award criteria for the award of grants as laid down in the practical guide (PRAG) to contract procedures for EC external aid should apply. The detailed selection and award criteria for the award of grants will be laid down in Call for proposals–Application Pack (Guidelines for applicants). It is foreseen that the calls for proposals, for a total amount of IPA and national co-financing of around EUR 1.93 million, will be launched in the second quarter of 2010.

The allocation for direct grant agreements under priority II foresees a total amount of EUR 211,765. The direct grant agreements can be signed as soon as the Financing Agreements are concluded.

The following catalytic effects are foreseen under the two priorities of the programme: improvement 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.

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

Both Serbia and Bosnia and Herzegovina have experience with cross-border cooperation on their external borders. Serbia has experience with four programmes, with Bulgaria, Romania, Hungary and Italy, as well as with transnational programming – CADSES. Bosnia and Herzegovina has more limited experience, having participated only in the Adriatic neighborhood programme with Italy and the INTERREG IIIB CADSES programme.

Experience with border region cooperation so far indicates that a solid preparatory phase is the most important prior to the launching of specific activities. In order for cross-border cooperation to be effective, it is crucial that there is good understanding of the rules and procedures, adequate capacity and functioning management bodies. The results of the thematic evaluation of the Phare Cross-Border Cooperation Programmes 1999-2003 will be duly taken into account.

The embassies of EU Member States in both countries and the International Financial Institutions have been consulted on the programme. The comments provided have been taken into account.

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 European Union.

The joint applications will have to cover both parts of the project and fulfil the following criteria:

- benefit partners from both sides of the border

- support links between relevant institutions and organisations from both sides of the border
- encourage equal participation of women and marginalized groups
- meet particular needs of ethnic minorities
- be environmentally sustainable

Project partners should establish agreed co-ordination mechanisms to synchronise the joint projects throughout their implementation.

2.6. Benchmarks

	N	N+1 (cumulative)	N+2 (cumulative)
Direct grant agreement in Serbia	0	1	1
Direct grant agreement in Bosnia and Herzegovina	0	1	1
Number of joint calls for proposals launched	0	1	1
Contracting Rate (%) in Bosnia and Herzegovina	0	100	100
Contracting Rate (%) in Serbia	0	100	100

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

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

According to Article 8, paragraph 4, point 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.

In **Bosnia and Herzegovina**, preparations for decentralised management of EU funds are ongoing. In June 2008, the Council of Ministers adopted a Strategy for the Implementation of the Decentralised Implementation System (DIS). The 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.

In **Serbia**, the Government established a DIS roadmap in January 2008 (up-dated in November 2008) while a respective Strategy for the preparation of DIS accreditation has been prepared in April 2008. All key stakeholders on the side of the Serbian administration regarding DIS have been appointed as well as some progress has been made in establishing the basis for the "DIS Operating Structures". Support in this area is provided by SIGMA and other donors. IPA will also support the preparation process through projects under the 2007 and 2008 programmes. It is foreseen that DIS can be granted within three years.

3. BUDGET FOR 2009

3.1. Indicative 2009 financial table for Bosnia and Herzegovina

	IPA Community contribution		National contribution		Total (IPA plus National contributions)	
	EUR (a)	% ⁽¹⁾	EUR (b)	(%) ⁽¹⁾	EUR (c)=(a)+(b)	(%) ⁽²⁾
Priority axis 1	630,000	83.6	123,500	16.4	753,500	90.15
Priority axis 2	70,000	85	12,353	15	82,353	9.85
TOTAL	700,000	83.7	135,853	16.3	835,853	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 Serbia

	IPA Community contribution		National contribution		Total (IPA plus National contributions)	
	EUR (a)	% ⁽¹⁾	EUR (b)	(%) ⁽¹⁾	EUR (c)=(a)+(b)	(%) ⁽²⁾
Priority axis 1	990,000	83.6	194,100	16.4	1,184,100	90.15
Priority axis 2	110,000	85	19,412	15	129,412	9.85
TOTAL	1,100,000	83.7	213,512	16.3	1,313,512	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 Bosnia and Herzegovina – Serbia is based on the total expenditure, as agreed by the participating countries and laid down in the cross-border programme.

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

4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of Implementation

This programme shall be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation¹⁰ and the corresponding provisions of the Implementing Rules¹¹.

¹⁰ See footnote 1 above.

¹¹ See footnote 2 above.

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 website¹² 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.

The procedures for environmental impact assessment as set down in the EIA-directive¹³ 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 documented¹⁴.

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 Bosnia and Herzegovina and in Serbia, 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

¹² current address:

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

¹³ 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).

¹⁴ 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).

of the assistance from Community funds and the strategy and implementation of the cross-border programmes.

6. AUDIT, FINANCIAL CONTROL AND ANTIFRAUD MEASURES

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

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) 2185/96¹⁵.

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

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 nature¹⁶, 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.

¹⁵ Council Regulation (EC, Euratom) No 2185/96 of 11. November 1996, OJ L 292; 15.11.1996; p. 2.

¹⁶ 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.