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EUROPEAN COMMISSION

Brussels, 20.08.2010
C(2010)5828 final

COMMISSION DECISION

C(2010)5828 of 20/08/2010

adopting the revised "Cross-border programme Bosnia and Herzegovina – Montenegro" under the IPA-Cross-border Co-operation component, for the years 2010–2011

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 Montenegro³. On 1 July 2009 the Commission has adopted the Multi-annual Indicative Planning Document 2009–2011 for Bosnia and Herzegovina and on 16 June 2009 the Multi-annual Indicative Planning Document 2009–2011 for Montenegro, 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 – Montenegro"⁶.

¹ OJ L 210, 31.07.2006, p. 82.

² Council Decision 2008/211/EC of 18.02.2008 (OJ L 80, 18.03.2008, p. 18-31).

³ Council Decision 2007/49/EC of 22.01.2007 (OJ L 20, 27.01.2007, p. 16-31).

⁴ For Bosnia and Herzegovina: C(2009)5114; for Montenegro: C(2009)4506.

⁵ OJ L 170, 29.6.2007, p.1.

⁶ Decision C(2007)6350 of 18.12.2007.

- (5) In accordance with Article 93(1) of the IPA Implementing Regulation, at the initiative of the Commission, in agreement with the participating countries, the cross-border programme shall be amended in order to update the financing plan so as to add the appropriations for the years 2010- and 2011, according to the revision of the Multi-annual Indicative Financial Framework for 2010–2012⁷. The amendment of the programme also encompasses some minor adjustments revising outdated references as well as the introduction of a new adjacent area in the meaning of Article 97 of the IPA Implementing Regulation on the Montenegro territory. The revised "Cross-border programme Bosnia and Herzegovina – Montenegro" should therefore be adopted by the Commission in accordance with Article 93(2) of the IPA Implementing Regulation.
- (6) 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 1605/2002⁸ 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 Communities⁹.
- (7) The measures provided for by this Decision are in accordance with the opinion of the IPA Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The "Cross-border programme Bosnia and Herzegovina – Montenegro", as set out in Annex 2 to this Decision, is hereby adopted. It replaces the programme adopted on 18 December 2007 (Decision C(2007)6350).

The Financing proposal for the years 2010–2011 of the "Cross-Border programme Bosnia and Herzegovina – Montenegro", as set out in Annex 1 to this Decision, is hereby adopted.

This programme shall be implemented by centralised management.

The programme corresponding to budget years 2010 and 2011 shall be implemented by means of annual 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 15 November 2007 for Montenegro. Each such Financing Agreement shall cover the European Union contribution for the beneficiary country and the year concerned.

⁷ COM(2008)705 final of 5 November 2008.

⁸ OJ L 357, 31.12.2002, p.1.

⁹ OJ L 248, 16.09.2002, p.1.

Article 2

In the budget year 2010, the maximum amount of the European Union contribution shall be EUR 0.5 million for Bosnia and Herzegovina and EUR 0.6 million for Montenegro to be financed through Item 22.02.04.01 of the general budget of the European Union.

In the budget year 2011, the maximum amount of the European Union contribution shall be EUR 0.5 million for Bosnia and Herzegovina and EUR 0.6 million for Montenegro to be financed through Item 22.02.04.01 of the general budget of the European Union, subject to the approval of the Budget 2011 by the budgetary authority.

Done at Brussels,

For the Commission,
Olli REHN
Member of the Commission

ANNEX 1
FINANCING PROPOSAL FOR THE YEARS 2010 AND 2011
OF THE CROSS-BORDER PROGRAMME
BOSNIA AND HERZEGOVINA – MONTENEGRO

1. IDENTIFICATION

Beneficiaries	Bosnia and Herzegovina, Montenegro
CRIS number	Bosnia and Herzegovina: 2010/022-438, 2011/022-439 Montenegro: 2010/022-440, 2011/022-441
Years	2010 and 2011
Cost	2010: Bosnia and Herzegovina: EUR 0.5 million Montenegro: EUR 0.6 million Total value of the IPA contribution: EUR 1.1 million 2011: Bosnia and Herzegovina: EUR 0.5 million Montenegro: EUR 0.6 million Total value of the IPA contribution: EUR 1.1 million
Operating structures	Bosnia and Herzegovina: Directorate for European Integration Montenegro: Ministry for European Integration
Contracting Authority / Implementing Agency	For Bosnia and Herzegovina / Montenegro: European Commission
Final date for concluding the Financing Agreements	For the 2010 funds: at the latest by 31 December 2011 For the 2011 funds: at the latest by 31 December 2012
Final date for contracting	2 years following the date of conclusion of each Financing Agreement.

	No deadline for audit and evaluation projects covered by this Financing Agreement, as referred to in Article 166(2) of the Financial Regulation These dates apply also to the national co-financing.
Final date for execution	2 years following the end date for contracting for each Financing Agreement. These dates apply also to the national co-financing.
Sector Code	33210, 43040, 41010, 14010, 16061, 11120, 91010
Budget lines concerned	22.02.04.01
Programming Task Managers	ELARG Unit C1
Implementation Task Managers	For Bosnia and Herzegovina: EU Delegation to Bosnia and Herzegovina, Operation Section For Montenegro: EU Delegation to Montenegro, Operation Section

2. SUMMARY

2.1. Introduction

2.1.1. *Link with the MIPD*

The respective Multi-annual Indicative Planning Documents for Bosnia and Herzegovina and Montenegro for the period 2009-2011 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.

2.1.2. *Programming process*

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

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.

In November 2009, the Joint Monitoring Committee adopted a revised version of the cross-border programme which adds the 2010-2011 appropriations to the financial table.

2.1.3. List of eligible areas and adjacent areas

In Bosnia and Herzegovina, the eligible area consists of the Sarajevo region and the Herzegovina region. All municipalities included in these two regions are thus considered eligible. The eligible area in Bosnia and Herzegovina covers 20,909 km² and has 1,214,745 inhabitants in 56 municipalities. This represents 38.51 % of the territory of Bosnia and Herzegovina and 46.57 % of the population.

In Montenegro, the programme area consists of eligible and adjacent areas. The eligible area covers 12 municipalities: Pljevlja, Plužine, Zabljak, Savnik, Nikšić, Herceg Novi, Kotor, Tivat, Bijelo Polje, Mojkovac, Berane, and Kolašin. The revised programme includes the municipality of Podgorica as adjacent area. The eligible and adjacent areas represent 74.03% of Montenegro territory and 75.86 % of the population.

2.2. Global objective of the programme

To foster the joint sustainable development of the cross-border area, its economic, cultural, natural and human resources and potentials by strengthening the capacities of human resources and joint institutional networks among local communities and local private and public actors.

2.3. Priority axis, the related measures and their specific aspects concerning the implementation of the 2010–2011 budget

2.3.1. Priority I: To support the creation of a common socio-economic environment for people, communities and economies of the eligible area

Measure I.1: Cross-border economic development initiatives with an emphasis on tourism and rural development

An increase in the economic development of the eligible area requires, as demonstrated in the SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis, the setting up of coordinated activities fostering human resources collaboration in all sectors and the creation of basic mechanisms and facilities promoting investments and fostering economic development. Most of the interventions enhancing economic cooperation will be related to the tourism, agricultural, and environmental sector and will be aimed at exploiting local cross-border opportunities. In addition, overall interventions will also have an effect by increasing employment potential in the private sector and the mobility of labour force. This has to be sustained by an increased capacity of both private and public entities that will be involved in the analysis of the local situation during the elaboration of new strategies and also in the decision making process. Finally, economic development must be sustained by small-scale investments improving the existing infrastructure that would in turn have a concrete impact on services, tourism, business, trade and transport in the eligible area.

A non-exhaustive list of eligible actions is the following:

- Creation of business networks and know-how transfer mechanisms mainly in the tourism and agricultural sector;

- Development of new tourist products/services with clear cross-border identity;
- Development of business information strategies, services and supporting activities (such as data bases, internet sites) addressed to entrepreneurs active in the eligible area;
- Development of consultancy services in business start up, business planning, technology transfer, patents, certifications, legal affairs, finances and marketing strategies (e.g. new products, labelling and quality);
- Development of appropriate and sustainable forms of tourism and environment-friendly agriculture;
- Identification and development of alternative economic activities (ecological production, traditional crafts);
- Establishment and maintenance of mutual traineeship programmes through training sessions, conferences and seminars and development of joint curricula and training standards;
- Improvement of regional labour skills and vocational qualification services relevant to the economic development of the border region;
- Development of small-scale infrastructure for modernising and outfitting marketplaces, premises and facilities for setting up small businesses;
- Networking of SMEs and establishment of cross-border clusters;
- Development of small scale infrastructure improving the accessibility of the area;
- Improvement of public utilities supporting the tourism sector;
- Transfer of know-how and integration of institutional/ capacity building, mainly on social and economic issues;
- Development of joint strategies, cross-border transport plans, studies and concepts serving as the basis for large investments.

Measure I.2: Environmental development initiatives, mainly for protection, promotion and management of natural resources.

The aim of this measure is to sustain joint interventions for the protection of natural resources and the improvement of the environment, with a view to ensuring sustainable development of the entire eligible area. These activities will be closely linked with the development of tourism as an alternative economic activity.

A non-exhaustive list of eligible actions is the following:

- Joint research projects, studies, concepts and awareness raising/ training activities related to the protection, promotion and management of natural resources;
- Education and transfer of know-how in environment protection;

- Conservation and enhancement of natural and cultural heritage;
- Improvement of joint management and supporting facilities in water and waste management;
- Development of pollution prevention plans for the border area and effective monitoring systems for air, water and soil quality;
- Develop and increase capacities for the prevention of potential natural disasters (including fires and floods);
- Design and implementation of a policy for the utilization of renewable energy sources.

Measure 1.3: Social cohesion and cultural exchange through institutional and people-to-people interventions.

The goal of this measure is to get communities closer through long term partnerships and networking between civil society organizations, professional associations, local authorities and institutions like schools, faculties and research centres. The measure will contribute to the creation of contacts at different levels and sectors of activities, encouraging cross-border cooperation in the fields of economy, culture, education and sports.

The following list is just a summary indicating the main eligible activities:

- actions supporting the social and cultural flow of information and communication between the communities in the eligible area;
- cultural exchanges among young people, artists, sports activities, folk events and similar actions;
- education and training initiatives, including a wide range of actions, such as promoting the mobility of citizens, academic networks innovative education projects, promoting life-long learning for all citizens as well;
- promotional events in social and economic fields like fairs and exhibitions;
- other actions promoting social inclusion, including exchange of information, joint studies, and researches.

Potential beneficiaries of the three measures could be national authorities/institutions with operations in the eligible area; local governments and their institutions; development agencies; tourism and cultural organisations/associations; local business support organisations; SMEs; organisations (including NGOs) working on nature protection; cultural associations; non-governmental organisations; public and private entities supporting the work force; public bodies responsible for water management; schools, colleges, universities, including vocational and technical training institutions.

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

Measure II.1: Programme administration, monitoring and evaluation

Technical assistance will be used to support the work of the national Operating Structures (OSs) and of the Joint Monitoring Committee (JMC), ensuring the efficient implementation, monitoring and evaluation of the programme, as well as an optimal use of resources. This will be achieved through the operation of a Joint Technical Secretariat (JTS) in Bosnia and Herzegovina and a JTS antenna in Montenegro. The JTS will be in charge of the day-to-day management of the programme and will be responsible to the OSs and the JMC.

Measure II.2: Programme Information and Publicity

The specific objective of this measure is to ensure programme awareness amongst national, regional and local communities and, in general, among the population in the programming area. It also supports awareness-raising activities at country level in order to inform citizens in both countries about the programme.

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

For Priority I, it is tentatively foreseen to launch two joint calls for proposals: one concerning the total amount of funds for the year 2010, to be tentatively launched in the second half of 2010; the second covering the total amount of funds for the year 2011, to be tentatively launched in the second half of 2011.

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

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

For Priority II, considering that the relevant national authorities (Operating Structures in Bosnia and Herzegovina and Montenegro) enjoy a *de facto* monopoly situation (in the sense of Art. 168, paragraph 1, sub-paragraph c of the Implementing Rules¹⁰ to the Financial Regulation¹¹) for the implementation of the cross-border programme, the relevant contracting authorities in both countries should establish individual direct grant agreements without call for proposals with the Operating Structures for amounts up to those provided under the TA Priority II in each country. Subcontracting by the Operating Structures of the activities covered by the direct grant agreements (e.g. TA, evaluation, publicity etc.) is allowed in accordance with Article 120 of the Financial Regulation and Article 184 of the Implementing Rules to the Financial Regulation. The direct grant agreements can be signed as soon as the respective Financing Agreements have been concluded. For the purpose of an efficient use of

¹⁰ Regulation (EC, Euratom) No 2342/2002 (OJ L 357, 31.12.2002, p.1)

¹¹ Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.09.2002, p.1)

TA funds, a close co-ordination between national authorities (Operating Structures, CBC coordinators) of the participating countries is required.

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

Having been a part of the State Union of Serbia and Montenegro, Montenegro had limited experience with cross-border cooperation. Bosnia had also limited experience having participated only in the Adriatic neighborhood programme with Italy and in the INTERREG IIIB CADSES programme.

Experience with border region cooperation so far indicates that a solid preparatory phase is of utmost importance prior to the launching of specific activities. For the 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.

In line with Article 20 of the IPA Regulation and Article 6 (3) of the IPA Implementing Regulation, the European Commission has asked the representatives of EU Member States and International Financial Institutions present in Bosnia and Herzegovina and Montenegro to provide their comments during the programming process in 2007.

2.5. Horizontal issues

The joint applications must fulfil the following criteria:

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

2.6. Conditions

The successful implementation of the programme depends on adequate staffing and functioning of the Operating Structures, Joint Monitoring Committees, and Joint Technical Secretariat and its antenna.

2.7. Benchmarks

2010	N	N+1 (cumulative)	N+2 (cumulative)
Number of direct grant agreement in Bosnia and Herzegovina	0	1	1
Number of direct grant agreement in Montenegro	0	1	1

Number of joint calls for proposals launched in Bosnia and Herzegovina and Montenegro	1	1	1
Contracting Rate (%) in Bosnia and Herzegovina	0	10	100
Contracting Rate (%) in Montenegro	0	10	100

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

2011	N	N+1 (cumulative)	N+2 (cumulative)
Number of direct grant agreement in Bosnia and Herzegovina	0	1	1
Number of direct grant agreement in Montenegro	0	1	1
Number of joint calls for proposals launched in Bosnia and Herzegovina and Montenegro	1	1	1
Contracting Rate (%) in Bosnia and Herzegovina	0	10	100
Contracting Rate (%) in Montenegro	0	10	100

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

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

In **Bosnia and Herzegovina**, the Decentralised Implementation System (DIS) Strategy was adopted in July 2008. In April 2010, the Council of Ministers of Bosnia and Herzegovina adopted decisions to nominate the Competent Accrediting Officer (CAO), the National Authorising Officer (NAO), and the National IPA Coordinator (NIPAC). The CFCU (Central Finance and Contracts Unit) and National Fund (NF) are established within the Ministry of Finance and Treasury and are functional although not yet fully staffed. The authorities of Bosnia and Herzegovina are supported in their decentralisation efforts by the Commission through a number of technical assistance projects for preparation of structures for all IPA components.

In **Montenegro** the preparations towards decentralised management for IPA are ongoing. Following elections and formation of a new government in spring 2009, a new National Authorising Officer (NAO) was nominated, the other key positions, like Competent Accrediting Officer (CAO) and Programme Authorising Officer (PAO) remained unchanged. The government updated in October 2009 the "Action Plan for the conferral of management of IPA funds for the Component I and II", which envisages the submission of application for conferral of management powers for components I and II by end 2010/beginning of 2011. An implementing agreement (between newly appointed NAO and PAO) has been signed in October 2009. Out of the 16 Senior Programme Officers (SPOs) 15 have been designated and Operational agreements with the PAO were signed. A formal gap assessment (stage 1 of the roadmap to decentralised management for IPA) for components I and II has been completed in March 2010.

A Strategic Coordinator (Deputy Minister for European Integration) has been designated for IPA components III and IV and an "Overall Action Plan of the Government of Montenegro for IPA components III and IV" established, which outlines the main steps for elaborating the Strategic Coherence Framework (SCF), the Operational Programmes (OPs) and for the conferral of management. Assistance in the process of preparing for conferral of EU funds management for IPA components I and II has been provided under a CARDS project which is to be followed-up by three IPA projects that will support the introduction of decentralised management of EU funds for all five IPA components.

3. BUDGET FOR 2010 AND 2011

3.1. Indicative 2010 financial table for Bosnia and Herzegovina

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾
Priority axis 1	450 000	85	79 411	15	529 411	90
Priority axis 2	50 000	85	8 824	15	58 824	10
TOTAL	500 000	85	88 235	15	588 235	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 2010 financial table for Montenegro

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾
Priority axis 1	540 000	85	95 294	15	635 294	90
Priority axis 2	60 000	85	10 588	15	70 588	10
TOTAL	600 000	85	105 882	15	705 882	100

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

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

3.3. Indicative 2011 financial table for Bosnia and Herzegovina

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾

Priority axis 1	450 000	85	79 411	15	529 411	90
Priority axis 2	50 000	85	8 824	15	58 824	10
TOTAL	500 000	85	88 235	15	588 235	100

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

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

3.4. Indicative 2011 financial table for Montenegro

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾
Priority axis 1	540 000	85	95 294	15	635 294	90
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TOTAL	600 000	85	105 882	15	705 882	100

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

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

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

The Community contribution has been calculated in relation to the eligible expenditure, which for the "Cross-border programme Bosnia and Herzegovina – Montenegro" 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.

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

4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of Implementation

This programme shall be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation¹² and the corresponding provisions of the Implementing Rules¹³.

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

4.2. General rules for Procurement and grant award procedures

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

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

Where appropriate, the Contracting Authorities should also use the standard templates and models facilitating the application of the above rules provided for in the "Practical Guide to contract procedures for EC external actions" ("Practical Guide") as published on the EuropeAid website¹⁴ 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-directive¹⁵ 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.

¹² Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.09.2002, p.1)

¹³ Regulation (EC, Euratom) No 2342/2002 (OJ L 357, 31.12.2002, p.1)

¹⁴ current address:

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

¹⁵ 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).

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 Directive¹⁶.

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

5.2. Evaluation

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

An interim evaluation of each of the 8 CBC programmes between candidate-potential candidate countries is being (2010) conducted by independent evaluators under the responsibility of the Commission (DG Enlargement). The final evaluation reports should be available end 2010, early 2011.

6. AUDIT, FINANCIAL CONTROL, 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 European Union, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96¹⁷."

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

¹⁶ 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).

¹⁷ Council Regulation (EC, Euratom) No 2185/96 (OJ L 292; 15.11.1996, p. 2)

7. NON SUBSTANTIAL REALLOCATION OF FUNDS

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

8. LIMITED ADJUSTMENTS IN THE IMPLEMENTATION OF THE PROGRAMME

Limited changes in the implementation of this programme affecting essential elements listed under Article 90 of the Implementing Rules to the Financial Regulation, which are of an indicative nature¹⁸, may be undertaken by the Commission's authorising officer by delegation (AOD), or by the Commission's authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

¹⁸ 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.

ANNEX 2

Cross-border programme

Bosnia and Herzegovina – Montenegro