

## **IPA 2008 CROATIA PROJECT FICHE**

**HR2008-03-27-07**

### **1. Basic information**

- 1.1 CRIS Number: 2008/020-329
- 1.2 Title: **Enforcement of the new Environmental Protection Act harmonized with EU legislation in cases of criminal offences against the environment**
- 1.3 ELARG Statistical code: 03.27 - Environment
- 1.4 Location: CROATIA

#### **Implementing arrangements:**

1.5 Implementing Agency:  
Central Finance and Contracting Agency  
Ms Marija Tufekčić, Programme Authorising Officer  
Vukovarska 284  
10000 Zagreb, Croatia

1.6 Beneficiary (including details of SPO):  
Ministry of Environmental Protection, Physical Planning and Construction  
Mrs. Josipa Blažević – Perušić, State Secretary (SPO)  
Vinogradska 25  
10000 Zagreb, Croatia

#### **Financing:**

- 1.7 Overall cost (VAT excluded)<sup>1</sup>: 1.100.000 EUR
- 1.8 EU contribution: 1.045.000 EUR
- 1.9 Final date for contracting: 2 years following the date of conclusion of the  
Financing Agreement
- 1.10 Final date for execution of contracts: 2 years after the end date for contracting
- 1.11 Final date for disbursements: 3 years after the end date for contracting

### **2. Overall Objective and Project Purpose**

2.1 Overall Objective:  
Support to environmental protection in Croatia through the enforcement of provisions of the new Environmental Protection Act

2.2 Project purpose:  
To build up capacity for enforcement of the provisions of the new Environmental Protection Act (EPA) in cases of criminal offences against the environment

2.3 Link with AP/NPAA / EP/ SAA:

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<sup>1</sup> The total cost of the project should be net of VAT and/or other taxes. Should this not be the case, the amount of VAT and the reasons why it should be considered eligible should be clearly indicated (see Section 7.6)

1. Stabilization and Association Agreement, COM (2001) - 371 final, Article 103: Environment

„The Parties shall develop and strengthen their co-operation in the vital task of combating environmental degradation, with the view to promoting environmental sustainability”

2. European Partnership (Council Decision, COM (2004) 275, Brussels 20 April 2004)

One of the chapters' 3.1 short term priorities was to strengthen the capacity of national and regional inspection services and enable them to effectively enforce environmental legislation.

In Chapter 3.2 Medium term priorities such as to ensure the integration of environmental protection requirements into the definition and implementation of other sectoral policies with a view to promoting sustainable development and to implement horizontal legislation refer to this project purpose which is the enforcement of provisions of the new Environmental Protection Act with the view of supporting environmental protection in Croatia.

3. National Programme for the Integration of the Republic of Croatia into the European Union 2008.

Chapter 3.27.1: Environment Horizontal legislation, B) Key Priorities

The environmental inspection will work intensively on bringing its working methods into line with new legislation, continuing to upgrade its working methods and co-ordination during inspectional supervision.

Pursuant to the Act on Environmental Protection (OG 110/2007) the adoption of subordinate legislation regarding environmental liability is foreseen in 2008, with the purpose of further alignment with Directive 2004/35/EC.

Cooperation with Interpol and ECENA and INECE network will be furthermore enhanced through the activities foreseen in ECENA's Cluster 3 „Protection of Environment through Enforcement of the Criminal Law” as well as the close cooperation and trainings of inspectors for environmental protection, police officers, custom officers and public prosecutors in Interpol headquarters. Inspectors for environmental protection will be trained in cooperation with Interpol for reporting and for collection of evidences in case of criminal offences against the environment.

4. Council Decision on the principles priorities and conditions contained in the Accession partnership with Croatia and repealing Council Decision 2006/145/EC Brussels, 05.02.2008., 5122/2008; Chapter 27: Environment

– Continue work on transposition and implementation of the EU acquis, with particular emphasis on waste management, water quality, air quality, nature protection and integrated pollution prevention and control.

– Ensure integration of environmental protection requirements into the definition and implementation of other sectoral policies and promote sustainable development.

2.4 Link with MIPD 2008-2010

Under Component I, 3<sup>rd</sup> area of intervention - Ability to assume the obligations of membership, assistance will focus for chapter 27 – Environment, where the proposed Accession Partnership identifies some priorities notably to support the Croatian authorities by measures aimed at adopting or completing the transposition of the *acquis*. Therefore this project will directly contribute towards achieving the “Ability to assume the obligation of membership” as one of the major area of intervention will

contribute to the following goal: that the Croatian legal framework is aligned on the *acquis* in the areas most important for the negotiations as it is the case for Chapter 27 to reinforce environmental protection requirements.

2.5 Link with National Development Plan (where applicable)  
N/A

2.6 Link with national/ sectoral investment plans(where applicable)  
N/A

### **3. Description of project**

#### 3.1 Background and justification:

The implementation of the EU environmental *acquis* is a demanding but necessary requirement for each country that is seeking membership of the EU. Alignment with the environmental *acquis* is a necessary but not the only requirement to meet the obligations of EU membership. The Republic of Croatia must also take all measures to establish efficient implementation structures, to bring administrative as well as judicial capacities up to the required level and to ensure effective enforcement of the environmental law.

Area of the protection of the environment and all its components within the environmental protection regulations and acts related to the criminal offences against environment is recognized within EU as the very important but also as the one that needs to be improved. In order to strengthen environmental protection through criminal law, ensuring that the significant differences which currently exist between the Member States in the respective issue cant be exploited and with abolishing "safe havens"<sup>2</sup> of environmental crime, the European Commission proposed a Directive on the protection of the environment through criminal law<sup>3</sup> that obliges Member States to treat serious offences against the environment as criminal offences and to ensure that they are effectively sanctioned. Since the definition of environmental crimes varies greatly from one Member State to another and in many Member States, the proposed Directive, that is now going through the formal process of approval by the relevant EU institutions, will once ensure a minimum level of protection of the environment under criminal law throughout the European Union.

At this moment, in the Republic of Croatia the issue of criminal offences against environment is tackled by the new Environmental Protection Act (Official Gazette, No. 110/2007) which is in line with the EU legislation in force. EPA defines the main principle regarding the role of environmental protection inspectors and their duties and responsibilities in the procedures in case of misdemeanour or criminal charges. The Article 213 of the Environmental Protection Act states:

“If during inspectional supervision, it is established that this Act and/or regulations passed on the basis thereof have been violated, the inspector has the right and obligation to immediately:

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<sup>2</sup> “Commission strengthens environmental protection through criminal law, abolishing "safe havens" of environmental crime” (Environment Commissioner Stavros Dimas, Press Releases, Brussels, 9th February 2007).

<sup>3</sup> Commission of the European Communities, Proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law, Brussels, 9th February 2007, COM(2007) 51 final, 20070022 (COD)

- issue a misdemeanour order in accordance with a special act,
- file criminal charges for a criminal act to the competent body,
- undertake other measures and perform other actions for which he is authorised pursuant to this Act and special regulation.”

The same rights and obligations are in force also according the provisions of, Waste Act (Official Gazette, No 178/04,111/06) or Air Protection Act (Official Gazette, No 178/04) and/or regulations passed on the basis of these acts. If during inspectional supervision, it is established that these acts are violated the inspector has the right and the obligation to immediately file criminal charges to the competent body. In case that there is a suspicion of violation of the provisions of the Environmental Protection Act the principles and articles of Criminal Procedures Act must be in place.

Croatian Criminal Act (Amended text) (OG 110/97, 27/98, 129/00, 51/01, 111/03) in chapter XIX in articles 250, 251, 252, 253, 254 prescribes criminal offences against the environment as well as Serious Criminal Offences Against the Environment in the article 262.:

*“(1) If, by the criminal offence referred to in Article 250, paragraphs 1 and 2, Article 251, paragraph 1, Article 252, paragraphs 1 and 2, Article 253, paragraphs 1 and 2 and Article 254, paragraph 1 of this Code, serious bodily injury or severe impairment to the health of a number of persons is caused, or the death of one or more persons is caused, or if the changes caused by the pollution cannot be eliminated for a considerable period of time, or if an ecological catastrophe is caused, the perpetrator shall be punished by imprisonment for one to ten years.*

*(2) If, by the criminal offence referred to in Article 250, paragraph 3, Article 251, paragraph 2, Article 252, paragraph 3 and Article 254, paragraph 2 of this Code, the death of one or more persons is caused, or serious bodily injury or severe impairment to the health of a number of persons is caused, or if the changes caused by the pollution cannot be eliminated for a considerable period of time, or if the quality of the environment is substantially diminished, the perpetrator shall be punished by imprisonment for one to five years.*

*(3) If, by the criminal offence referred to in Article 255, paragraph 1, Article 256, paragraph 1 and Article 257, paragraph 1, Article 258, paragraph 1 and Article 259, paragraph 1 of this Code, extensive material damage is caused, the perpetrator shall be punished by imprisonment for one to five years.*

*(4) If, by the criminal offence referred to in Article 255, paragraph 2 and Article 257, Section 2 of this Code, extensive material damage is caused, the perpetrator shall be punished by imprisonment for one to three years. “*

The New Environmental Protection Act also deals in section X with the environmental liability regarding environmentally dangerous activities and environmental liability, liabilities in general, exemptions, obligation to determine which company caused environmental damage and/or damage to protected species, obligation to assess the significance of the damage and the imminent threat of damage, compensation for expenses and damages, claim for compensation of costs and damages, compensation for other damages which occurred during environmental damage and obligation of undertaking measures and notification.

Having in mind the obligation for openness and free access to environmental information, in December 2006 the Croatian Parliament has ratified The Convention on Access to Information, Public Participation in Decision making and Access to Justice in Environmental Matters (so called “Aarhus Convention”). Provisions of the convention have been integrated in new EPA.

Therefore existing “Right to Access Information Act” (Official Gazette No. 172/2003) and the new Environmental Protection Act create coherent legal framework for providing the access of public to environmental information, which is fully in line with the principles of Aarhus Convention. The provisions must also be respected through inspection procedures including also the criminal offences procedures.

Regarding institutional set up the Ministry of Environmental Protection, Physical Planning and Construction (MEPPPC) in Republic of Croatia has overall responsibility for environmental protection and implementation of sustainable development principles throughout the Republic of Croatia. This overall responsibility includes protection of all aspects of the environment and protection against environmental burdening, implementation of the environmental protection regulatory framework, environmental monitoring, environmental information systems, ensuring access to environmental information, public participation in environmental matters, access to justice, liability for damage, financing and instruments of general environmental policy, administrative and inspection supervision.

The environmental inspection of the MEPPPC undertakes inspection control in the area of environmental protection, waste management, air protection, emergency plans, quality of fuels, ozone depleting substances, EIA prescribed measures. It also participates in procedures for the removal of consequences of accidents/incidents as well as matters related to liability for damage (for detailed description of the Institutional framework, please see Annex III).

Republic of Croatia till now can't report about large number of successfully finished cases in relation with criminal offences against the environment as well as serious criminal offences against the environment. It indicates that we have to bring and enhance capacities of all inspector's services in the field of the environmental sector (environmental protection inspectors, water protection inspectors, sanitary inspectors, nature protection inspectors...) up to the required level and to ensure effective enforcement of the environmental law. Improvement of the knowledge and skills in order to establish the effective measures for the protection of the environment in Republic of Croatia is necessary to ensure the efficient implementation of Croatian environmental protection policy. All line ministries inspection's services need to improve the knowledge and skills together with police officers, custom officers and public prosecutor officers in order to recognize criminal offences against the environment as well as serious criminal offences against the environment, and how to react immediately and how to coordinate all relevant staff in order to protect the evidences on the ground.

Therefore the main reason for proposing this project is to improve protection of environment through enforcement of the new Environmental Protection Act harmonised with EU legislation and it's provision regarding filling criminal charges for a criminal offences to the competent body.

That will be achieved through education and exercises for environmental protection inspectors as well as for all inspector's services in the field of the environmental sector, and for all other stakeholders (customs services in the Ministry of Finance, police officers in the Ministry of Interior, Public Prosecutors Offices, and also representatives of public opinion, neighbourhood groups - non organised citizens in vicinity of installations and NGOs for coordinating activities in Croatia) for be able to recognise criminal offences against environment.

Through education and trainings all abovementioned parties are expected to be able to file criminal charges in case that there is a suspicion of violation of the provisions of the Environmental Protection Act and Croatian Criminal Act to the competent body. Although Criminal Procedures Act prescribes all legislative provisions regarding procedures and must be followed by all involved parties, the clear procedures/SOP s (Standard Operational Procedures) which will be established/developed in this project will clearly define steps to ensure avoidance of possible overlapping or misunderstandings in procedures with numerous stakeholders.

Therefore this project will contribute to the improvement of capacity of environmental inspectors in combating environmental crime (prevention, safety measures, investigation, providing evidence to ensure that environmental offences will be subject to effective, dissuasive and proportionate criminal sanctions, combat against organized environmental crime,..); to improvement/increase of closer cooperation and promotion of dialogue between enforcement authorities; to establish cooperation with neighbouring countries (with MS as well as with potential candidate countries in region) in combating illegal trans boundary shipments of waste, smuggling banned substances e.g. ozone depleting substances; to strengthen the administrative and judicial framework related to environmental law; to respecting reporting obligation regarding environmental crime to international environmental crime committees and to enhancement of communication among environmental law enforcement CA in the EU and within other countries.

The project results will be applicable in recognitions of the violations against environment and in the process of collecting the evidences for the purpose of the prosecution in front of the Criminal Court. We expect that the results will be measurable and visible on the long term period and will help Republic of Croatian in required level to ensure effective enforcement of the environmental law as a future member of EU Community.

The project is envisaged to build on PHARE 2005 Project "*Enhanced environmental inspection for enforcement of the new environmental legislation*", more specifically in relation to the pilot team that is to be established and guided under PHARE project. According to the project fiche (extract given below) following representatives will be included in the pilot team:

*"3.1. A pilot team*

*The need for the establishment of a pilot team has been identified, since the inspection often needs prompt and efficient cooperation with the police, customs department, public prosecutors, judiciary, court experts and expert witnesses as well as the Eco headquarters. In this regard improvement of this cooperation will be a way to improve the efficiency in single cases and processes. The team will be given the opportunity of relevant education*

*through participation in Phase 2 of activity 2.2. of this project, and for this group also specially designed meetings will be set. In order to promote the indicated, common criteria for the work of this group will be elaborated and recommendations provided for the cooperation between all involved bodies.”*

Having in mind the existing institutional framework and projects objectives it is envisaged for the Directorate for Inspection within MEPPPC to be a main beneficiary (“owner” of the project). Other involved stakeholders will be inspection divisions within other ministries in the field of the environmental sector, customs, public prosecutors, police, courts experts, expert witnesses, NGOs and non organized citizens and neighbourhoods.

Other institutions / stakeholders will be included in the project implementation as indicated in this project proposal (improvement of cooperation / dialogue between enforcement authorities and strengthening of the administrative / judicial framework are, among others, envisaged as projects outputs).

On the basis of the assessment of the current situation regarding enforcement of the EPA (*Chapter 3.4. Activities*; Activity 1.1. of this project proposal) – precise list of bodies that should be covered by this project will be established; the assessment of the needs of each respective institutions will be conducted, and finally the level and means of cooperation/coordination between institutions will be established. Therefore it is not a question that Ministry of Justice, Ministry of Interior (and all other institutions) will take part in the project but rather the level and means of involvement that are due to be determined in the initial phase of the project. The results of the assessment will then be applied accordingly to all other envisaged activities i.e all project stakeholders will be adequately (as assessed) involved in the project implementation.

Also, Projects Steering Committee will include representatives of the Ministry of Justice; Ministry of Interior and all other interested / respective institutions.

Involvement and participation of the relevant stakeholders (inspections) is secured via Agreement on co-operation signed on August 02, 2007 between inspection services in the field of environment at operational level determines co-operation between the Ministry of Environmental Protection, Physical Planning and Construction; Ministry of Culture; Ministry of the Sea, Tourism, Transport and Development (from 2008 Ministry of the Sea, Transport and Infrastructure), Ministry of Agriculture, Forestry and Water Management (from 2008. Ministry of Regional Development, Forestry and Water Management and Ministry of Agriculture, Fisheries and Rural Development), Ministry of the Interior; Ministry of Health and Social Welfare, and the State Inspectorate, and it will help in implementing joint education as well.

The Parties to the Agreement agree to jointly perform co-ordinated inspection controls of installations for which mandatory environmental impact assessment and obtaining of integrated environmental requirements is stipulated by law; of installations involving hazardous substances which may cause major accidents; and other legal and natural persons, as necessary, whose activity may have an impact on the environment and human health.

### 3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact (where applicable)

Project Impact: The project is initiated to enforce the new Environmental Protection Act harmonized with EU legislation in case of criminal offences against the environment. The realization of the project purpose will largely contribute to support

environmental protection in Croatia by establishing clear procedures for coordinated enforcement of stipulations of Environmental Protection Act and by educating relevant environmental protection inspectors and other stakeholders (all related inspections, customs, public prosecutors, police, NGO and non organized citizens and neighbourhoods) for coordinating activities in Croatia as well as in transboundary movement and impact. However decrease of the rate of violations against environment will be measurable and visible on the long term period.

Catalytic effect: As this project is relevant for progress of Croatia negotiations in chapter 27 as regard to the reinforcement of environmental protection requirements, IPA-TAIB assistance will definitely facilitate that process by supporting capacity building in that field.

Sustainability of this project will be ensured through continuation of training, by forming of training programme with trained trainers within the stakeholders.

Cross border impact: Education and exercises of custom services for coordinating activities in Croatia in regard to environment protection will have an influence on reducing transboundary movement of damaging substances.

### 3.3 Results and measurable indicators:

Result 1 – Recommendations for procedures for coordinated enforcement of stipulations of the Environmental Protection Act in case of criminal offences against environment

Indicators:

- Proposal for standards for cooperation between environment protection inspectors and other stakeholders in cases of criminal offences against environment
- Manual for coordinated enforcement of EPA produced

Result 2 – Education and exercises for environmental protection inspectors and other stakeholders (all related inspections, customs, public prosecutors, courts experts, expert witnesses, police, NGO and non organized citizens and neighbourhoods, etc.) for coordinating activities in Croatia as well as in transboundary movement and impact.

Indicators:

- Number of training courses and number of participants from each stakeholder institution
- Number of manuals and training materials published and disseminated

### 3.4 Activities:

1. Capacity building – procedures set-up: this activity will be financed through **Contract 1- Twinning**

1.1. Activity - Assessment of current situation regarding enforcement of the Environmental Protection Act in the cases of criminal offences against environment. Implementation of Activity 1.1. should be carried out through definition of bodies to be included in assessment; reviewing them as well as the assessments already made, and analysing the level of cooperation and coordination in various situations regarding enforcement of criminal law in sector environment.



1.2. Activity – Making of proposal for SOPs (Standard Operating Procedures) for cooperation between inspectors and other relevant stakeholder’s staff in cases of criminal offences against environment taking into consideration provisions of the Criminal Procedures Act.

Implementation of Activity 1.2. should be carried out through comprehensive review of organisation structure and functioning among the relevant stakeholders including their views on the matter, as well as correlating structures and models within selected Member states.

1.3. Activity - Making of manual for coordinated enforcement of stipulations of the Environmental Protection Act in Croatia for all involved stakeholders. The manual will also deal with procedures in cases of illegal transboundary shipments of waste and hazardous waste with neighbouring countries and other countries .

Implementation of Activity 1.3. should be carried out through strengthening cooperation between institutions, with special emphasis on recognition of criminal offences by building up on results and outputs of Pilot team established within Phare 2005 project “Enhanced environmental inspection for enforcement of new environmental legislation at Republic of Croatia”.

## 2. Capacity building – training set-up: this activity will be financed through **Contract 1- Twinning**

2.1. Activity – Design training programmes and produce guidelines and handbooks for efficient cooperation between included target groups

Implementation of Activity 2.1. should be carried out through review of skills requirements of all relevant stakeholders and making of proposal for training programme.

2.2. Activity – Train corps of trainers to implement these programmes

Proper education of staff members employed in involved authorities is a basic condition for appropriate enforcement of the *acquis*, therefore relevant number of staff members will receive training.

Core trainers of a corps of trainers are environmental inspectors. Main partners are staff from stakeholders as listed below. Group counts approximately 95 persons (45 environmental inspectors + 50 representatives from public prosecution offices, court experts, expert witnesses, Ministry of Finance - customs, Ministry of Interior – the police, NGOs and non organized citizens and neighbourhoods). They will receive same basic training and than, divided into groups, specialized trainings. Trainings should be conducted through training courses, workshops, study tours and site visits. Special importance should be placed on study tours which should provide trainees with practical experience gained by Member States (MS) that posses desirable structure and level of efficiency in related matters, and also the knowledge of optimal procedures in continental and maritime locations.

Training materials are to be prepared. All documentation will be used to sustain knowledge gained in the framework of this project by means of implementing further trainings.

2.3. Activity – Implement training of different target groups with practical exercises

Trainings should be conducted by twinning partners together with trained trainers. Participants of target groups will be trained through courses, workshops with emphasis

on practical exercises and case studies, as well as study tours and site visits in Croatia where they could demonstrate previously gained experience from MS. Training materials are to be prepared in Croatian language. All documentation will be used to ease sustainability of this project i.e. forming of training programme.

### 3.5 Conditionality and sequencing:

Conditionality: Involved stakeholders should be ready to provide adequate and permanent staff to be trained in the framework of this project.

Sequencing: Activity 1 will be the first one for implementation since activity 2 will be depending on it, and thus start after activity 1.

### 3.6 Linked activities

#### 1) Phare 2005 project - Enhanced Environmental Inspection for Enforcement of the New Environmental Legislation.

Within service part, it is envisaged for this PHARE 2005 project to be implemented through 4 components among which Component 3 will be the most relevant for IPA 2008 project proposal. Table developed below is showing linkages between the two projects:

<b>Phare 2005 project - Enhanced Environmental Inspection for Enforcement of the New Environmental Legislation</b>	<b>Link to IPA 2008 -Enforcement of the new Environmental Protection Act harmonized with EU legislation in cases of criminal offences against the environment</b>
Component 1: Analysis of the environmental and other related inspections and Proposal for the structure of environmental inspection	IPA 2008 will be built upon Phare 2005 outputs, however will consist of the analysis of all the bodies engaged in cases of criminal actions against the environment and not only environmental inspections as well as proposing a Manual for coordinated enforcement of stipulations of the EPA in Croatia for all involved stakeholders.
Component 2: Definition of skills and qualifications, training and education	Training in the framework of IPA 2008 is conceived for all the stakeholders in order to establish efficient cooperation. As it plans to establish core trainers which are environmental inspectors it will profit from the knowledge they gained in the framework of Phare 2005. Also the involvement of all other stakeholders in IPA 2008 training will be facilitated thanks to ownership built in Phare 2005 project.
Component 3: Proposal for the structure of the pilot team and development of common criteria for the work of the team	This (IPA) project proposal is planned to be mainly a continuation of the Phare 2005 Component 3. Defined ways of cooperation and standards for proceeding in cases of environmental damage as well as criteria and recommendations for the future work of the team will be the starting point for developing procedures in cases of criminal offences against environment and making the Manual for coordinated enforcement of stipulations of the EPA in Croatia.
Component 4: Development and introduction of software application which will enable the improvement of the existing reporting system	Developed, tested and operational software application and functioning reporting system will be used as supporting tool for the proposed IPA

<p>trough electronic and other media, both in English and Croatian</p>	<p>project and <i>vice-versa</i>, since the application should have possibility of managing and demonstrating data, pictures and movies in a multimedia video room; be linked to other useful databases of relevant line institutions, projects and networks (ECENA, IMPEL, IMPEL TFS, INECE; REPIN, Interpol, ...). Each regular inspection, or on site visit in case of emergency should be stored in database together with photos, videos and other media, while it will also contain relevant legislation, procedures in urgent situations etc. One of the aims is to make certain data available for the exchange with relevant databases as well as to the public in order to improve reporting system.</p>
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As it stands now, Phare 2005 project will most probably end with its activities by the second quarter of 2009, while IPA contract signature is planned for the first quarter of 2010, what leaves enough time period in-between to enable the start of IPA project activities on the strong basis of the Phare 2005 outputs.

## 2) Horizontal Phare 2006- Developing capacity in implementation and enforcement of environmental law through ECENA and IMPEL

The Environmental Compliance and Enforcement Network for Accession is an informal network of environmental authorities from the pre-candidate countries, candidate countries and Bulgaria and Romania as new EU member states. Members of ECENA are the following countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, The Former Yugoslav Republic of Macedonia, Serbia, Montenegro, Kosovo as defined by the United Nations Security Council Resolution 1244 and Turkey.

The ECENA mission is to protect the environment in its member countries through effective transposition, implementation and enforcement of EU environmental legislation by increasing the effectiveness of inspectorate bodies and promoting compliance with environmental requirements.

The general objective of ECENA is to improve the ability of the pre-candidate, candidate and acceding countries to implement and enforce the environmental *acquis*. The network needs to closely cooperate with IMPEL and seek its involvement in the network's activities.

ECENA multi-annual work programme for the period 2007-2010 has divided its main activities into 3 Clusters, out of which the IPA project proposal will mostly build on results achieved within CLUSTER 3: *Protection of Environment through Enforcement of Criminal Law*. In response to the INECE and ITERPOL initiatives, Cluster 3 aims to improve capacity of environmental inspectors in combating environmental crime by capacity building and increasing the cooperation among different stakeholders such as police, customs and prosecutors. Within this Cluster trainings will be organised in co-operation with INTERPOL, in period from November 2008 till November 2009.

The main focus will be on: criminal penalties in pre-candidate, candidate and acceding countries; inspection investigations and preparing law suits; trans-border shipment of hazardous waste with emphasis on Basel Convention and Waste shipment regulations, especially in less developed countries, illegal dumping of oil in seas; illegal shipment of ozone-depleting substances; and illegal discharge of waste into rivers and lakes; reporting environmental crime to INTERPOL.

Information on the ECENA is available at the Regional Environmental Centre for Central and Eastern Europe and on its website:

<http://www.rec.org/REC/Programs/REREP/ECENA/Default.html>

In the framework of the PHARE 2006 multi-country programme on Environment and Enlargement, the Commission has signed a contract with Eptisa International (and their partner RPS Advies) for the Project "Developing capacity in implementation and enforcement of environmental law through ECENA and IMPEL".

All activities of the project "Developing capacity in implementation and enforcement of environmental law through ECENA and IMPEL" are carefully taken into account and will be as well during all phases of the IPA project, particularly cooperation regarding issues of protection of environment through enforcement of Criminal Law. IPA project will build on all related previous ECENA experience gained and is planned as an upgrade of it.

3) CARDS 2003 regional project „Establishment of an Independent, Reliable and Functioning Judiciary and the Enhancing of the Judicial Co-operation in the Western Balkans“, Module 4 „Introduction to EC Law and EU judicial system“, Chapter 6 „Introduction to other EU Policies (Public Procurement, Consumer Protection and Environment Law)“, Activity 4.6.6., Regional Roundtable Ohrid (The Former Yugoslav Republic of Macedonia), July 13 – 14, 2006.

The main issues which were addressed within this project module were ways of strengthening the regional cooperation between judges, prosecutors and inspectors in the implementation of EU Environmental Law and strengthening the judicial protection of the citizens according to the EU *acquis* and the European Convention for Human Rights.

In the course of the abovementioned Regional Roundtable the following critical issues related to environmental protection inspection procedures were identified:

- Need to inform environmental inspectors about the outcome, within the judicial phase, of their investigations and to clarify the discretion upon prosecutors related to the decision to proceed against environmental alleged violations.
- Difficulties for environmental inspectors in the collection of evidences and in reporting to public prosecutors often due to the lack of know-how and training of inspectors on procedural and substantive rules and mechanisms in this field. For instance sampling procedures often are left to third parties and inspectors do not have powers on sites; no guidelines available relating to the collection of samples (i.e. distance from pollution sources – how does it affect assessment of liability and quantification of damages).
- Lack of adequate involvement of citizens and non governmental organizations in judicial and administrative proceedings on environmental matters.

The recommendations reflecting on these issues and at the same time most relevant regarding this project proposal are the following:

- To promote the dialogue between inspectors, prosecutors and judges (seminars, workshops etc.) at national and regional level in view of sharing best practices and eventually adopting standards of cooperation (i.e. Investigation Protocols), developing strategies in non-compliance response and code of conduct, related to investigations conducted by inspectors and public prosecutors. Because of their regional programmes in this field, this should be done in coordination or in cooperation with the Regional Environmental

Centre, including the Secretariat of the Environmental Compliance and Enforcement Network for Accession (ECENA). This would help to improve structured compliance monitoring, consistent non compliance response, and enforcement procedures that would stand in Court.

- To develop means of cooperation between inspectors and public prosecutors and judges in the adoption of preventive and interim measures.
- To promote the assistance from inspectors to prosecutors and judges in identifying the most appropriate remedy measures (i.e. restoring as it was quo ante the contaminate site).
- To improve exchange of data and information between inspectors and public prosecutors regarding pending procedures and their outcome.
- To improve legal training of inspectors.

### 3.7 Lessons learned

The lessons learned from the previous EU projects (Phare 2005 national and Phare 2005 horizontal projects) were mainly related with the need for precise preparation of the necessary documentation, dead-lines respecting and necessity of establishment of close cooperation with relevant institutions. These problems are overcome by organizing Monthly meetings for whole sector Environment on which special attention is given to problems arising in tendering and implementation phase. They are considered not only with PIU representatives from other relevant institutions but also with representatives of DEC, CFCA and CODEF. Conclusions, recommendations and experience gained from on-going EU projects have been taken into account during the preparation phase and design of this project by identifying the managerial and other users' needs and from the methodological, organizational and technical aspect. For preparation of Activity 1 and 2 experience and methodology e.g. organisation and participation in training courses (workshops, in-country training, and study tours) from Phare 2005 horizontal has been applied.

#### 4. Indicative Budget (amounts in €)

			SOURCES OF FUNDING										
			TOTAL EXP.RE	TOTAL PUBLIC EXP.RE	IPA COMMUNITY CONTRIBUTION		NATIONAL PUBLIC CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB (1)	INV (1)	EUR (a)=(b)+(e)	EUR (b)=(c)+(d)	EUR (c)	% (2)	Total EUR (d)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/Local EUR (y)	IFIs EUR (z)	EUR (e)	% (3)
Activities 1 and 2	IB		1.100.000	1.100.000	1.045.000	95	55.000	5	55.000	-	-	-	-
Contract 1 Twinning	IB		1.100.000	1.100.000	1.045.000	95	55.000	5	55.000	-	-	-	-
TOTAL IB			1.100.000	1.100.000	1.045.000	95	55.000	5	55.000	-	-	-	-
TOTAL INV			-	-	-	-	-	-	-	-	-	-	-
<b>TOTAL PROJECT</b>			<b>1.100.000</b>	<b>1.100.000</b>	<b>1.045.000</b>	<b>95</b>	<b>55.000</b>	<b>5</b>	<b>55.000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

NOTE: DO NOT MIX IB AND INV IN THE SAME ACTIVITY ROW. USE SEPARATE ROW

Amounts net of VAT

(1) In the Activity row use "X" to identify whether IB or INV

(2) Expressed in % of the **Public** Expenditure (column (b))

(3) Expressed in % of the **Total** Expenditure (column (a))

## 5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1 - Twinning	2 <sup>nd</sup> quarter 2009	1 <sup>st</sup> quarter 2010	4 <sup>th</sup> quarter 2011

All projects should in principle be ready for tendering in the 1<sup>ST</sup> Quarter following the signature of the FA

## 6. Cross cutting issues (where applicable)

### 6.1 Equal Opportunity

“Based on the fundamental principles of promoting equality and combating discrimination, participation in the project will be guaranteed on the basis of equal access regardless of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Specifically in relation to the issue of equality between men and women, Croatia’s population (2001 census) constitutes 51.87% women and 48.13% men, with those in active employment (based on Labour Force Survey statistics, conducted in accordance with ILO methodology, for the second half of 2002) divided 45.31% women and 54.69% men.

All contractors shall be requested to provide monitoring data recording the participation of men and women in terms of expert inputs (in days) and of trainees benefiting under the project (in days) as an integral component of all project progress reports.”

Participation will be open to both: female and male personnel. Records on staff participating in training and other project activities (e.g. project progress reports) will reflect this statement.

### 6.2 Environment

The programme has no negative effect on environment. The project will implement a part of the European environmental policy. It will provide the basis for more efficient work of Croatian environmental inspection.

### 6.3 Minorities

Based on the fundamental principles of promoting equality and combating discrimination, participation in the project will be guaranteed on the basis of equal opportunity for minorities.

## ANNEXES

- 1- Log frame in Standard Format
- 2- Amounts contracted and Disbursed per Quarter over the full duration of Programme
- 3- Description of Institutional Framework
- 4 - Reference to laws, regulations and strategic documents:
  - Reference list of relevant laws and regulations
  - Reference to national / sector investment plans
- 5- Details per EU funded contract (\*) where applicable:
  - For *TA contracts*: account of tasks expected from the contractor
  - For *twinning covenants*: account of tasks expected from the team leader, resident twinning advisor and short term experts
  - For *grants schemes*: account of components of the schemes
  - For *investment contracts*: reference list of feasibility study as well as technical specifications and cost price schedule + section to be filled in on investment criteria (\*\*)
  - For *works contracts*: reference list of feasibility study for the *constructing works* part of the contract as well as a section on investment criteria (\*\*); account of services to be carried out for the *service part* of the contract

(\*) non standard aspects (in case of derogation to PRAG) also to be specified

(\*\*) section on investment criteria (applicable to all infrastructure contracts and constructing works):

- Rate of return
- Co financing
- compliance with state aids provisions
- Ownership of assets (current and after project completion)



## ANNEX 1: Logical framework matrix in standard format

<b>Enforcement of the new Environmental Protection Act harmonized with EU legislation in cases of criminal offences against the environment</b>		Programme name and number <b>IPA 2008</b>	
Ministry of Environmental Protection, Physical Planning and Construction		Contracting period expires: 2 years following the date of conclusion of the Financing Agreement	Disbursement period expires: 3 years after the end date for contracting
		<b>Total budget: €1.100.000</b>	<b>IPA budget: €1.045.000</b>
<b>Overall objective</b>	<b>Objectively Verifiable Indicators</b>	<b>Sources of Verification</b>	
Support to environmental protection in Croatia through the enforcement of provisions of the new Environmental Protection Act	<ul style="list-style-type: none"> <li>• Decrease of the rate of violations against environment, compared to baseline data of year 2008</li> </ul>	<ul style="list-style-type: none"> <li>• National report on the state of environment</li> <li>• Reports for various networks of environmental protection inspectors which Croatia is a member of</li> <li>• Other reports by relevant authorities</li> </ul>	
<b>Project purpose</b>	<b>Objectively Verifiable Indicators</b>	<b>Sources of Verification</b>	<b>Assumptions</b>
To build up capacity for enforcement of the provisions of the new Environmental Protection Act (EPA) in cases of criminal offences against the environment	<ul style="list-style-type: none"> <li>• Increase in number of cases subject to investigation, compared to baseline data of year 2008</li> <li>• Increase in number of cases brought before the courts, compared to baseline data of year 2008</li> <li>• Increase in number of prosecutions, compared to baseline data of year 2008</li> </ul>	<ul style="list-style-type: none"> <li>• Report by Directorate for Inspection</li> <li>• Joint annual reports on co-ordinated inspection controls undertaken</li> <li>• Reports of other relevant bodies and authorities</li> <li>• Guidelines for cooperation of all relevant bodies</li> </ul>	<ul style="list-style-type: none"> <li>• Harmonization of secondary national environmental legislation with EU legislation</li> <li>• Capacity of courts to deal with environmental cases</li> </ul>
<b>Results</b>	<b>Objectively Verifiable Indicators</b>	<b>Sources of Verification</b>	<b>Assumptions</b>
<p>1. Recommendations for procedures for coordinated enforcement of stipulations of criminal law in case of criminal offences against environment</p> <p>2. Education and exercises for environmental protection inspectors, relevant staff of all included stakeholders (all related inspections in the field of environment, customs, public prosecutors, police, NGOs and non organized citizens and neighbourhoods) for coordinating activities in Croatia as well as in transboundary</p>	<p>1.1 Proposal for standards for cooperation between environment protection inspectors and other stakeholders in cases of criminal offences against environment</p> <p>1.2 Manual for coordinated enforcement of EPA produced</p> <p>2.1 Number of training courses and number of participants from each stakeholder institution</p> <p>2.2 Number of manuals and training</p>	<ul style="list-style-type: none"> <li>• Proposal document for procedures in cases of criminal offences against environment</li> <li>• Project final and progress reports</li> <li>• Periodic and annual reports by the environmental protection inspection and other stakeholders</li> <li>• Training materials</li> </ul>	<ul style="list-style-type: none"> <li>• Permanent cooperation of Ministry of Environmental Protection, Physical Planning and Construction with all signatories of Agreement on cooperation between inspection services in the field of environment</li> <li>• Enhanced cooperation with custom service</li> </ul>

movement and impact	materials published and disseminated		
<b>Activities</b>	<b>Means</b>	<b>Specification of costs</b>	<b>Assumptions</b>
<p>1. Capacity building – procedures set-up</p> <p>1.1 Assessment of current situation regarding enforcement of the Environmental Protection Act in the cases of criminal offences against environment</p> <p>1.2 Making of proposal for SOPs (Standard Operating Procedures) for cooperation between inspectors and other relevant stakeholder’s staff in cases of criminal offences against environment taking into consideration provisions of the Criminal Procedures Act</p> <p>1.3 Making of manual for coordinated enforcement of stipulations of the Environmental Protection Act in Croatia for all involved stakeholders. The manual will also deal with procedures in cases of illegal transboundary shipments of waste and hazardous waste with neighbouring countries and other countries.</p> <p>2. Capacity building – training set-up</p> <p>2.1 Design training programmes and produce guidelines and handbooks for efficient cooperation between included target groups</p> <p>2.2. Train corps of trainers to implement these programmes</p> <p>2.3. Implement training of different target groups with practical exercises</p>	<p>(1) (2)</p> <p>Twinning Contract</p>	<p><b>€1.100.000</b></p>	<ul style="list-style-type: none"> <li>• Implementation of Phare 2005 project “Enhanced Environmental Inspection of New Environmental Legislation”</li> <li>• Staff made available for training</li> </ul>
			<b>Preconditions</b>
			None

**ANNEX II: amounts (in €) Contracted and disbursed by quarter for the project**

<b>Contracted</b>	<b>2009 Q4</b>	<b>2010 Q1</b>	<b>2010 Q2</b>	<b>2010 Q3</b>	<b>2010 Q4</b>	<b>2011 Q1</b>	<b>2011 Q2</b>	<b>2011 Q3</b>	<b>2011 Q4</b>
Contract 1		1.100.000							
<b>Cumulated</b>		<b>1.100.000</b>							
<b>Disbursed</b>									
Contract 1		300.000			300.000		200.000	100.000	200.000
<b>Cumulated</b>		<b>300.000</b>	<b>300.000</b>	<b>300.000</b>	<b>600.000</b>	<b>600.000</b>	<b>800.000</b>	<b>900.000</b>	<b>1.100.000</b>

### ANNEX III - Description of Institutional Framework

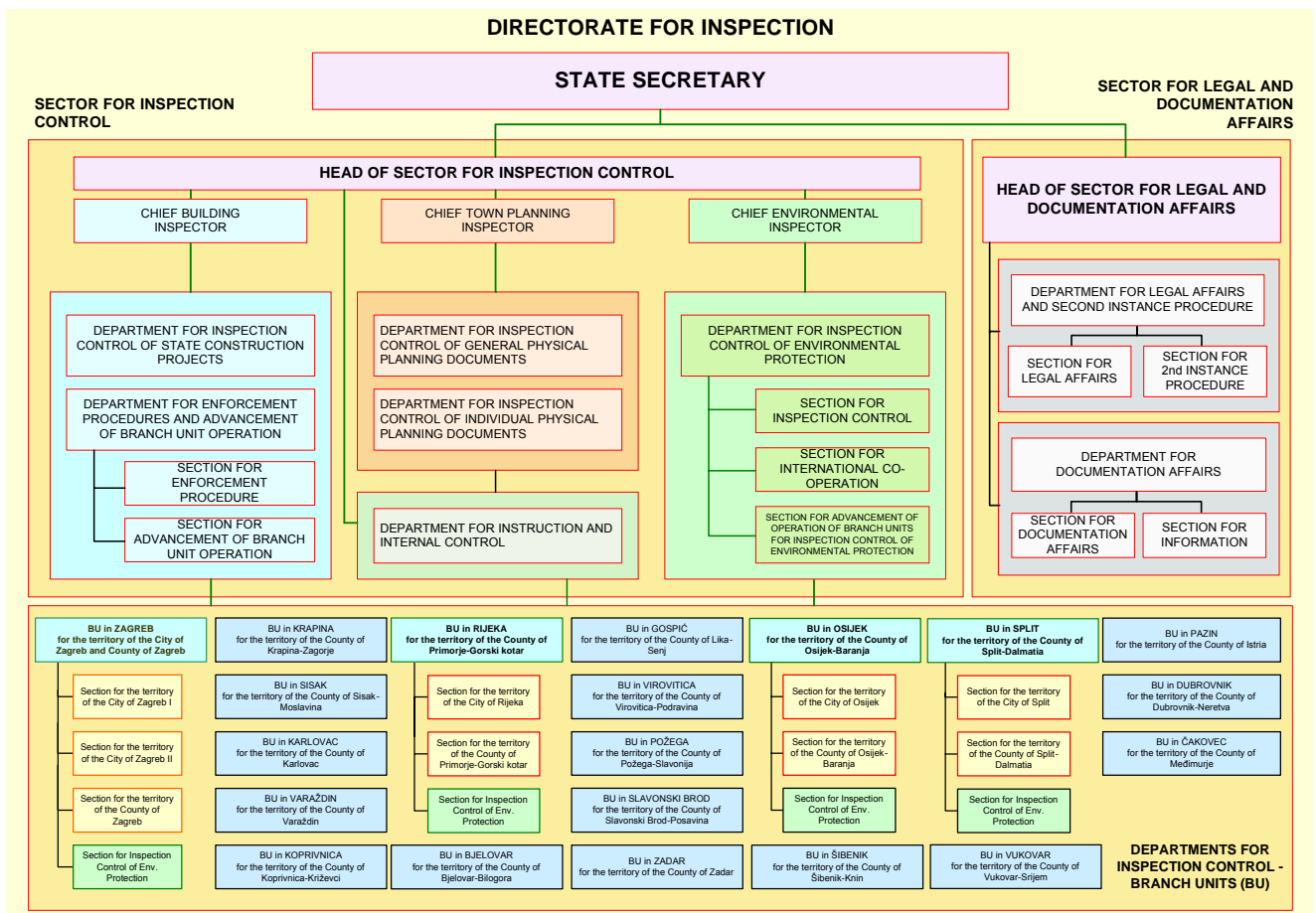
The environmental protection inspection is one of three inspections in the Directorate for Inspection within Ministry of Environmental Protection, Physical Planning and Construction and is responsible for inspection and enforcement. See organigram on next page for more detailed organisation scheme of the Directorate for Inspection.

The head office of the Directorate is responsible for this project with support from other departments within MEPPPC. Criminal acts against environment as a whole are defined with articles 250 – 262 of Croatian Criminal Act and particularly with articles 250, 252, and 262 for the scope of inspection of environmental inspectors in MEPPPC.

If environmental inspector during his inspection recognize, or determine, any of violations defined in mentioned articles, according to Article 213 of Environmental Protection Act, he/she has the right and obligation to immediately file criminal charges for a criminal act to the competent body and undertake other measures and perform other actions for which he is authorised pursuant to that Act and special regulations.

Environmental inspector passes Criminal charge to Public prosecutor who investigates the charge and decides is criminal charge real, or unreal. If Public prosecutor finds that criminal charges made by environmental inspector are not good enough explained he could ask for additional explanation or correction. After that Public prosecutor will bring an accusation against person who made that violation, or reject criminal charges made by environmental inspector. All procedure which comes after Public prosecutor brings an accusation against accused person is under his jurisdiction and environmental inspector could be invited only as a witness. Trial is being held at Municipal or County court.

Target groups for training are environmental protection inspection, inspections from other ministries, customs, police, court experts and witnesses, public prosecutors offices, NGOs and non organized citizens and neighbourhoods what means that the cooperation with many different institutions will be enhanced.



## **ANNEX IV – Reference to laws, regulations and strategic documents:**

### Reference list of relevant laws and regulations

- Environmental Protection Act (OG No. 110/07)
- Criminal procedure act (OG No. 62/03)
- Criminal Act (OG No. 110/07)
- Misdemeanour Act (OG No. 107/07)
- Instructions on the form, the tenor and the manner of keeping records of inspections performed by environmental inspectors (OG No. 79/95)
- Ordinance on environmental emission inventory (OG No.36/96)
- Regulation on conditions for issuing permits for performing professional environmental activities (OG No. 7/97)
- Contingency plan for accidental marine pollution in the Republic of Croatia (OG No. 8/97)
- Regulation on environmental information system (OG No.74/99, 79/99)
- Environmental protection emergency plan (OG No. 82/99, 86/99, 12/01)
- Ordinance on environmental impact assessment (OG No. 59/00, 136/04, 85/06)
- Ordinance on the official identity card of inspectors of the urban-planning inspection of the Ministry of Environmental Protection, Physical Planning and Construction (OG No. 1/05)
- Regulation on the quality of biofuels (OG No. 141/05)
- Regulation on unit charges, corrective coefficients and detailed criteria and benchmarks for determination of the charge for emission into the environment of carbon dioxide (OG No. 73/07)
- Regulation on the establishment of the Croatian Environment Agency (OG No. 75/02)
- Act on the Environmental Protection and Energy Efficiency Fund (OG No. 107/03)
- Regulation on unit charges, corrective coefficients and detailed criteria and benchmarks for determination of the charge for emission into the environment of sulphur oxides, in the form of sulphur dioxide, and nitric oxides, in the form of nitric dioxide (OG No. 71/04)
- Regulation on unit charges, corrective coefficients and detailed criteria and benchmarks for determination of charges for burdening the environment with waste (OG No. 71/04)
- Air Protection Act (OG No. 178/04)
- Regulation on siting of national network stations for continuous air quality monitoring (OG No. 4/02)
- Regulation on substances that deplete the ozone layer (OG No. 120/05)
- Regulation on limit values of pollutants in air (OG No. 133/05)
- Regulation on alert thresholds for pollutants in air (OG No. 133/05)
- Regulation on the quality of petroleum-derived liquid fuels (OG No. 53/06)
- Ordinance on issuing of licence or approval for performing the activities of monitoring air quality and emissions into the air from stationary sources (OG No. 79/06)
- Ordinance on information exchange of data from the network for continuous air quality monitoring (OG No. 135/06)
- Regulation on technical standards of environmental protection from volatile organic compound emissions by storage of petrol and its distribution (OG No. 135/06)
- Regulation on the monitoring of greenhouse gas emissions in the Republic of Croatia (OG No. 01/07)
- Regulation on limit values for pollutant emissions from stationary sources into the air (OG No. 21/07)
- Regulation on limit values of the content of volatile organic compounds in certain paints and varnishes and vehicle refinishing products (OG No. 94/07)
  - Waste Act (OG No. 178/04, 111/06)

- Ordinance on waste types (OG No. 27/96)
- Ordinance on requirements for handling waste (OG No. 123/97, 112/01)
- Regulation on requirements for handling hazardous waste (OG No. 32/98)
- Regulation on categories, types and classification of waste with a waste catalogue and list of hazardous waste (OG No. 50/05)
- Ordinance on packaging and packaging waste (OG No. 97/05, 115/05)
- Ordinance on waste tyre management (OG No. 40/06)
- Regulation on supervision of transboundary movement of waste (OG No. 69/06, 17/07)
- Ordinance on waste oil management (OG No. 124/06)
- Ordinance on waste batteries and accumulators management (OG No. 133/06)
- Ordinance on the management of end-of-life vehicles (OG No. 136/06)
- Ordinance on waste management (OG No. 23/07, 111/07)
- Ordinance on the method and procedures for managing waste containing asbestos (OG No. 42/07)
- Ordinance on methods and requirements for thermal treatment of waste (OG No. 45/07)
- Ordinance on medical waste management (OG No. 72/07)
- Ordinance on the management of waste electrical and electronic appliances and equipment (OG No. 74/07)
- Ordinance on the methods and conditions for the landfill of waste, categories and operational requirements for waste landfills (OG No. 117/07)

#### Reference to national / sector investment plans

- National Environmental Strategy (OG No. 46/02)
- National Environmental Action Plan (NEAP) (OG No. 46/02)
- Waste Management Strategy of the Republic of Croatia (OG No. 130/05)
- Waste Management Plan of the Republic of Croatia for 2007-2015 (OG No. 85/07)

#### Reference to *acquis*

- Recommendation 2001/331/EC providing for minimum criteria for environmental inspections (RMCEI)

#### Reference to international strategic documents

- Aarhus Convention, Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, adopted on June 25, 1998

**ANNEX V** - Details per EU funded contract (\*) where applicable:

For *twinning covenants*: account of tasks expected from the team leader, resident twinning advisor and short term experts.

**Project Leader:**

- Overall conception and direction of the thrust of MS inputs
- Introducing EU wide best practices in connection with *acquis*
- Supervising and coordinating implementation of the project
- Ensuring organization of production and issue of all deliverables as defined through activities of the project
- One of the tasks will be participation in Project Steering Committees
- Must have a broad knowledge of all processes in the area of the project (capacity building, environment, justice)
- Must have good managerial and leadership skills
- Must be a high-ranking official commensurate with the requirement for an operational dialogue and backing at political level
- Must be a senior officer in order to ensure calling on short term experts and full support at senior levels within the Croatian institutions
- University level of education in technical/natural sciences (technology, engineering, etc.) or in law
- Strong organizational, interpersonal and analytical capabilities to steer project development

**Resident Twinning Advisers (RTA):**

- Working on a daily basis with Croatian staff to implement the project
- Support and coordinate activities in Croatia
- Ensures continuity of implementation
- Provide technical advice and assist Croatian administration in the context of project working plan
- Expected to be civil servant or equivalent staff from MS' administrations and mandated bodies
- Must have at least three years experience in the organisation of the practical application of the *acquis* or the twinning project fields
- Must have a rank equivalent to university level
- Must have good knowledge of the project's fields (environment, justice)
- Comparative knowledge of other MS systems is an asset
- Experience in legal and institutional issues
- Good communication and language skills are an advantage

**Short Term Experts:**

- Support the RTA in the transfer of technical know-how
- Working on project Activities 1 and 2
- Must have a rank equivalent to university level
- Fluency both in written and spoken English