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## ANNEX

# FINANCING PROPOSAL FOR THE YEAR 2009 OF THE CROSS– BORDER PROGRAMME CROATIA – MONTENEGRO

### 1. IDENTIFICATION

Beneficiaries	Croatia and Montenegro
CRIS number	Croatia IPA/2009/021/172 Montenegro IPA/2009/021/167
Year	2009
Cost	Croatia: EUR 0.4 million Montenegro: EUR 0.5 million Total value of IPA contribution: EUR 0.9 million
Operating structures	Croatia: Ministry of Regional Development, Forestry and Water Management <sup>1</sup> Montenegro: Secretariat for European Integration
Implementing Authorities	For Montenegro: European Commission For Croatia: Agency for Regional Development (ARD) <sup>2</sup>
Final date for concluding the Financing Agreements:	at the latest by 31 December 2010
Final date for contracting	2 years following the date of conclusion of the Financing Agreement. No deadline for audit and evaluation projects covered by this Financing Agreement, as referred to in Article 166(2) of the Financial Regulation These dates apply also to the national co-financing.
Final date for execution	2 years following the end date for contracting. These dates apply also to the national co-financing.
Sector Code	11120, 16061, 32130, 33210, 41010, , 43040, 91010
Budget lines concerned	22.020401
Programming Task Managers	For Croatia: DG ELARG. B.1 For Montenegro: DG ELARG. C.4
Implementation Task Managers	For Croatia: European Commission Delegation to Croatia, Operations Section 1 For Montenegro: European Commission Delegation to Montenegro

<sup>1</sup> Former Ministry of the Sea, Tourism, Transport and Development (MSTTD). The name of the Ministry was changed at the end of 2007.

<sup>2</sup> The Agency for Regional Development (ARD) replaces the Central Finance and Contracting Agency (CFCA) as Implementing Agency.

## **2. SUMMARY**

### **2.1. Introduction**

#### **2.1.1. Programming process**

The programming process started on 19th of February 2007 with the first preparatory meeting of the national institutions responsible for the IPA component II, during which the process of programme elaboration was discussed and agreed between the two sides. The process was led by two bodies established for that purpose and with specific responsibilities: the Joint Programming Committee (JPC) and the Joint Drafting Team (JDT).

The first meeting of the Joint Programming Committee (JPC) was held on 1st of March 2007 in Zagreb when the Committee and Joint Drafting Team were officially established and during which their rules of procedure, mandate and membership were adopted.

During the months of March/April 2007, the content of the SWOT (strengths, weaknesses, opportunities and threats) analysis was discussed and presented to the potential beneficiaries during workshops in Dubrovnik, Croatia and Kotor, Montenegro, and the approval of the analysis was made via written procedure on 16 April 2007. During the month of May the programme beneficiaries discussed the programme's strategic part (priorities, measures and activities) as well as the implementing provisions, and on 28 May 2007 the Joint Programming Committee adopted the final draft programming document.

#### **2.1.2. List of eligible areas**

In Croatia, the eligible area according to Article 88 of IPA Implementing Regulation consists of 1 county: Dubrovnik-Neretva County (statistical regions equivalent to NUTS level 3 classification)

In Montenegro, the eligible areas according to Article 88 of IPA Implementing Regulation consist of 7 municipalities: Herceg Novi, Kotor, Tivat, Budva, Bar, Ulcinj, Cetinje.

#### **2.1.3. Adjacent areas**

In Croatia, the adjacent area according to Article 97 of IPA Implementing Regulation is: Split-Dalmatia County (statistical region equivalent to NUTS level 3 classification).

In Montenegro, the adjacent areas according to Article 97 of IPA Implementing Regulation are the municipalities of: Nikšić, Podgorica, Danilovgrad.

### **2.2. Global objective(s) of the programme**

The global objective of the programme is to improve the quality of life in the cross border area between Croatia and Montenegro.

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

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

The Multi-annual Indicative Programming Document for Montenegro for the period 2008-2010 will support cross-border co-operation programmes with neighbouring candidate and potential candidate countries and Member States.

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

Given the limited resources available under IPA 2007-2013, it has been decided not to address problems such as underdeveloped infrastructure, discrepancies between urban and rural areas, low employability of the work force etc., but to focus on soft activities that can boost local development in general and enhance the level of co-operation.

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

The priorities and measures defined in this cross-border programme are structured in such a way as to respect and provide for the implementation of the specific objectives. One priority has been identified for the cross-border cooperation interventions. An horizontal priority is focused on technical assistance, ensuring the effective management and implementation of the programme.

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

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

#### ***Priority 1: Creation of favourable environmental and socio-economic conditions in the programming area by improvement of the co-operation in the jointly selected sectors and good neighbourly relations in the eligible areas.***

This priority is a response to problems which are similar and in some cases common to both sides of the border. The protection and management of natural resources, such as the national parks, and the cultural heritage are considered as one of the key potentials for cross-border co-operation. The tourism sector which is one of the main economic activities in the programming area is another sector with an important potential. To release this potential, the environmental problems, particularly waste management and pollution control, need to be tackled.

Priority 1 will be implemented by 3 measures.

#### **Measure 1: joint actions for environment, nature and cultural heritage protection**

The measure supports the establishment of cross-border networks for joint environmental, nature and cultural heritage protection and thereby finding solutions to common environmental problems. Such network activities could be the managing of waste (both solid waste and waste water) and an efficient use of water, including the adoption of water efficient technologies, with a view to reducing pressures on water resources, or finding ways to reduce land and sea pollution. It also supports joint interventions in connection with ecological threats or natural disasters such as fire which is a recurrent phenomenon in the area. The support will give preference to actions that seek to bring innovative solutions and strategies for environmental, nature and cultural heritage protection.

The measure will essentially be implemented through calls for proposals.

#### Measure 2: joint actions in the area of tourism and cultural space

The second measure supports actions related to tourism and the cultural space. It is aimed at giving an impetus to the economic development of the programming area by supporting actions and initiatives related to the provision of services related to tourism. These services could be e.g.: education schemes for employees in the tourism sector, support to the development of new tourism products, quality certification of local products and services, joint marketing initiatives etc.

The measure will essentially be implemented through calls for proposals.

#### Measure 3: Small cross-border community development projects

The third measure, small cross-border community development projects, aims at improving cooperation between people, education institutions and civil society organisations on both sides of the border to boost community development and to improve neighbourhood relations. It will support people-to-people actions in areas such as culture, tourism and education, and pay particular attention to the inclusion of marginalised groups, the civil society and local democracy. Examples of activities: common cross-border educational programmes, co-operation between national minorities, actions supporting local democracy, creation of cross-border culture networks etc.

The measure will essentially be implemented through calls for proposals.

#### Tentative Timetable and indicative amount of the call for proposals for Priority 1

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

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

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

#### ***Priority 2: Technical assistance (TA) to increase administrative capacity in the management and implementation of the CBC programme.***

Priority 2 will be implemented by 2 measures.

#### Measure 1: Support the programme administration and implementation

This measure will provide support for the work of the national Operating Structures and the Joint Monitoring Committee in programme management. It will finance the establishment and functioning of the Joint Technical Secretariat and its antenna–, including cost of staff with the exclusion of salaries of public officials. It will also ensure the provision of advice and support to the final beneficiaries in project development and implementation.

## Measure 2: Support to programme information, publicity and evaluation

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

Considering that the relevant national authorities (Operating Structure in Croatia and in Montenegro) enjoy a *de facto* monopoly situation (in the sense of Art. 168, paragraph 1, subparagraph c of the Implementing rules to the Financial Regulation) for the implementation of the cross-border programme, the relevant contracting authorities in both countries will establish an individual direct grant agreement without call for proposals with the Operating Structure for up to the amount provided under the Priority 2 in each country. Subcontracting by the Operating Structure of the activities covered by the direct agreement (e.g. TA, evaluation, publicity etc.) is allowed in accordance with Article 120 of the Financial Regulation<sup>3</sup> and Article 184 of the Implementing Rules<sup>4</sup> to the Financial Regulation.

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

#### *Croatia*

– Projects which have been implemented

- CARDS 2001 'Strategy and Capacity Building for Border Region Co-operation' (Identification of future projects on borders with Serbia, Montenegro, Bosnia and Herzegovina)
- CARDS 2002 'Strategy and Capacity Building for Regional Development' (Institutional arrangements for management of CBC)
- CARDS 2003 'Local Border Regional Development' (Grant scheme with Slovenia)
- CARDS 2003 'Technical Assistance for Management of Neighbourhood Programmes' (Support to JTS for trilateral programme Croatia-Slovenia-Hungary)
- PHARE 2005 'Cross-Border Cooperation between Croatia, Slovenia and Hungary' (Trilateral grant scheme), Neighbourhood Programme between Croatia, Slovenia and Hungary 2004–2006; 25 projects implemented
- PHARE 2005 'Adriatic Cross-Border Cooperation between Croatia and Italy, Phare CBC / INTERREG III A - Adriatic New Neighbourhood Programme 2004–2006; 35 projects implemented
- PHARE 2006 'Cross-Border Cooperation between Croatia, Slovenia and Hungary' (Trilateral grant scheme), Neighbourhood Programme between Croatia, Slovenia and Hungary 2004–2006; 21 projects implemented

– Projects/programmes currently under implementation

Projects

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<sup>3</sup> Regulation 1605/2002 (OJ L 248, 16.9.2002, p.1).

<sup>4</sup> Regulation 2342/2002 (OJ L 357, 31.12.2002, p.1).

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

#### Programmes

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

### ***Montenegro***

#### Programmes

- CARDS 2006/INTERREG IIIA Adriatic New Neighbourhood Programme 2004-2006(on the last Call for proposal 12 projects were selected in which Montenegrin partners took part)
- Trans-national Programme CADSES 2004-2006 (Montenegrin partners were included in 2 projects)
- IPA 2007 and IPA 2008 CBC Programmes Montenegro/Croatia, Montenegro/Bosnia and Herzegovina, Montenegro/Serbia, Montenegro/Albania, CBC IPA Adriatic, ERDF European Territorial Co-operation transnational programmes "South-East Europe" and "Mediterranean"

### ***Joint Montenegro - Croatian projects***

- CARDS 2006/ INTERREG IIIA Adriatic New Neighbourhood Programme

(Montenegro took part in 9 projects with Croatian partners within this multilateral Programme on the last Call for proposal)

- Trans-national Programme CADSES 2004-2006

(Under the 4th Call for project proposals the project partners from Croatia and Montenegro participated and cooperated in the project PlanCoast – Spatial Planning in Coastal zones)

- IPA 2007 and IPA 2008 CBC Programme Croatia/Montenegro

#### Lessons learned

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

There was a general lack of knowledge on how to prepare and manage projects, and local stakeholders found it difficult to find partners on the other side of the borders.

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

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

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

#### Donor co-ordination

In line with Article 20 of the IPA Regulation and Article 6 (3) of the IPA Implementing Regulations, in 2007 the European Commission asked the representatives of Member States and local IFIs in Croatia and Montenegro to provide their comments regarding the draft multi-annual cross-border co-operation programme submitted to the Commission. There were no comments to the cross-border programme between Croatia and Montenegro.

### **2.5. Horizontal issues**

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

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

### **2.6. Benchmarks**

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

	N	N+1 (cumulative)	N+2 (cumulative)
Number of direct grant agreements in Croatia	1	1	1
Number of direct grant agreements in Montenegro	1	1	1
Number of calls for proposals launched in Croatia and Montenegro	1	1	1
Contracting Rate (%) in Croatia	12%	100%	100%
Contracting Rate (%) in Montenegro	12%	100%	100%



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

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

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

In **Montenegro**, preparatory work leading to DIS with ex-ante controls is progressing. The government adopted in February 2008 the "Information on establishing the decentralised implementation system (DIS) in Montenegro", which includes an indicative schedule for different activities on the way to DIS. The government has also set up the first DIS institutions and nominated the heads of DIS functions and structures. The Secretariat for European Integration (SEI) receives CARDS assistance for the implementation of the DIS roadmap, and for training of staff of the DIS structures.

## 3. BUDGET FOR 2009

### 3.1. Indicative 2009 financial table for Croatia (EUR)

	IPA Community contribution		National contribution		Total (IPA plus National contributions)	
	EUR (a)	% <sup>(1)</sup>	EUR (b)	(%) <sup>(1)</sup>	EUR (c)=(a)+(b)	(%) <sup>(2)</sup>
Priority axis 1	360 000	85%	63 529	15%	423 529	88%
Priority axis 2	40 000	67%	20 000	33%	60 000	12%
<b>TOTAL</b>	<b>400 000</b>	<b>83%</b>	<b>83 529</b>	<b>17%</b>	<b>483 529</b>	<b>100%</b>

<sup>(1)</sup> Expressed in % of the Total (IPA plus National contributions) (column (c))

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

### 3.2. Indicative 2009 financial table for Montenegro (EUR)

	IPA Community contribution		National contribution		Total (IPA plus National contributions)	
	EUR (a)	% <sup>(1)</sup>	EUR (b)	(%) <sup>(1)</sup>	EUR (c)=(a)+(b)	(%) <sup>(2)</sup>

<b>Priority axis 1</b>	450 000	85%	79 412	15%	529 412	88%
<b>Priority axis 2</b>	50 000	71%	20 000	29%	70 000	12%
<b>TOTAL</b>	500 000	83%	99 412	17%	599 412	<b>100%</b>

<sup>(1)</sup> Expressed in % of the Total (IPA plus National contributions) (column (c))

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

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

The Community contribution has been calculated in relation to the eligible expenditure, which for the Cross-border programme Croatia – 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.

## **4. IMPLEMENTATION ARRANGEMENTS**

### **4.1. Method of Implementation**

The part of this programme concerning Croatia shall be implemented in accordance with Article 53c of the Financial Regulation<sup>5</sup> and the corresponding provisions of the Implementing Rules<sup>6</sup>. The Beneficiary Country will continue to ensure that the conditions laid down in Article 56 of the Financial Regulation are respected at all times.

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

The part of this programme concerning Montenegro shall be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation<sup>7</sup> and the corresponding provisions of the Implementing Rules<sup>8</sup>.

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

<sup>5</sup> See footnote 3 *supra*.

<sup>6</sup> See footnote 4 *supra*.

<sup>7</sup> See footnote 3 *supra*.

<sup>8</sup> See footnote 4 *supra*.

Communities for the purposes of cooperation with third countries adopted by the Commission on 24 May 2007 (C(2007)2034).

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

Where appropriate, the Contracting Authorities shall also use the standard templates and models facilitating the application of the above rules provided for in the “Practical Guide to contract procedures for EC external actions” (“Practical Guide”) as published on the EuropeAid website<sup>9</sup> 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-directive<sup>10</sup> fully apply to all investment projects under IPA. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive.

If a project is likely to affect sites of nature conservation importance, an appropriate nature conservation assessment shall be made, equivalent to that provided for in Article 6 of the Habitats Directive must be documented<sup>11</sup>.

### **5. MONITORING AND EVALUATION**

#### **5.1. Monitoring**

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

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

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

In 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.

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<sup>9</sup> current address:  
[http://ec.europa.eu/europeaid/work/procedures/implementation/practical\\_guide/index\\_en.htm](http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm)

<sup>10</sup> 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).

<sup>11</sup> 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).

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

### **6.1. Audit, Financial Control and Anti-fraud measures**

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

In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96<sup>12</sup>.

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

### **6.2. Financial adjustments**

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

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

### **6.3. Audit trail**

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

### **6.4. Preventive Measures**

Croatia shall ensure investigation and effective treatment of suspected cases of fraud and irregularities and shall ensure the functioning of a control and reporting mechanism equivalent to that provided for in Commission Regulation 1828/2006<sup>13</sup>. All suspected or actual cases of fraud and irregularity as well as all measures related thereto taken must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud or irregularity to report, the Beneficiary Country shall inform the Commission of this fact within two months following the end of each quarter.

Irregularity shall mean any infringement of a provision of applicable rules and contracts, resulting from an act or omission by an economic operator, which has, or would have, the

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<sup>12</sup> Council Regulation (EC, Euratom) No 2185/96 of 11. November 1996, OJ L 292; 15.11.1996; p. 2.

<sup>13</sup> OJ L 371, 27.12.2006, p.1.

effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget.

Fraud shall mean any intentional act or omission relating to: the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Union or budgets managed by, or on behalf of, the European Union; non disclosure of information in violation of a specific obligation with the same effect; the misapplication of such funds for purposes other than those for which they are originally granted.

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

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

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

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

#### **6.5. Financial corrections**

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

A financial correction may arise following:

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

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

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

## **7. NON SUBSTANTIAL REALLOCATION OF FUNDS**

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

## **8. LIMITED ADJUSTMENTS IN THE IMPLEMENTATION OF THE PROGRAMME**

Limited adjustments in the implementation of this programme affecting elements listed under Article 90 of the Implementing Rules to the Financial Regulation, which are of an indicative nature<sup>14</sup>, may be undertaken by the authorising officer by delegation (AOD), or by the authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

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<sup>14</sup> 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.