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ANNEX

PROGRAMME ON FINANCING THE PARTICIPATION OF CROATIA IN THE ERDF EUROPEAN TERRITORIAL CO-OPERATION TRANSNATIONAL PROGRAMMES "SOUTH-EAST EUROPE" AND "MEDITERRANEAN" UNDER THE IPA CROSS- BORDER CO-OPERATION COMPONENT FOR THE YEAR 2009

1. IDENTIFICATION

Beneficiary	Croatia
CRIS number	IPA/2009/021/186
Year	2009
Cost	EUR 560 202
Operating structure	Ministry of Regional Development, Forestry and Water Management
Implementing Authority	Agency for Regional Development (ARD) ¹
Final date for concluding the Financing Agreement:	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	41010, 21010, 43030, 32182, 91010
Budget lines concerned	22.020401
Programming Task Manager	DG ELARG Unit B1
Implementation Task Manager	European Commission Delegation to Croatia, Operations Section 1

¹ The Agency for Regional Development (ARD) replaces the Central Finance and Contracting Agency (CFCA) as Implementing Agency.

2. THE PROGRAMME

2.1. Introduction

The purpose of this programme is to financially support – through the 2009 funds of the IPA Cross-border Co-operation component – the participation of Croatia in the ERDF transnational programmes "South-East Europe" and "Mediterranean" under the European Territorial Co-operation objective of the Structural Funds 2007–2013.

The establishment and development of transnational co-operation is one of the priorities of the European Territorial Co-operation objective of the Structural Funds 2007–2013. To this aim, the EU territory has been partitioned in several homogeneous spaces and the relevant Member States have been invited to submit a transnational co-operation operational programme – financed by the European Regional Development Fund (ERDF) – for the given space.

Considering their geographical inclusion in two of these homogeneous spaces – "South-East Europe" and "Mediterranean" – the candidate/potential candidate countries have been invited to participate in the relevant operational programmes. Hungary ("South-East Europe") and France (Mediterranean) are the Managing Authorities of those ERDF programmes.

The responsible authorities of Croatia have accepted the invitations and decided to take part in the "South-East Europe" and the "Mediterranean" programmes with the financial support of the IPA Cross-border Co-operation component for the year 2009.

The entire territory of Croatia is eligible for the "South-East Europe" and the "Mediterranean" programmes.

2.2. Objective of the programme

The objective of this programme is twofold:

- to support the participation of partners from candidate/potential candidate countries in joint transnational co-operation activities with partners from EU Member States;
- to familiarise candidate/potential candidate countries with territorial co-operation programmes under the EC Structural Funds in view of their implementation upon accession.

2.3. Priority axis

The ERDF "South-East Europe" and "Mediterranean" programmes aim at the establishment and development of transnational co-operation through the financing of networks and of actions conducive to integrated territorial development, concentrating primarily on the following areas:

- (a) innovation: the creation and development of scientific and technological networks, and the enhancement of regional R&TD and innovation capacities, where these make a direct contribution to the balanced economic development of transnational areas. Actions may include: the establishment of networks between appropriate tertiary education and research institutions and SMEs; links to improve access to scientific knowledge and technology transfer between R&TD facilities and international

centres of RTD excellence; twinning of technology transfer institutions; and development of joint financial engineering instruments directed at supporting R&TD in SMEs;

- (b) environment: water management, energy efficiency, risk prevention and environmental protection activities with a clear transnational dimension. Actions may include: protection and management of river basins, coastal zones, marine resources, water services and wetlands; fire, drought and flood prevention; the promotion of maritime security and protection against natural and technological risks; and protection and enhancement of the natural heritage in support of socio-economic development and sustainable tourism;
- (c) accessibility: activities to improve access to and quality of transport and telecommunications services where these have a clear transnational dimension. Actions may include: investments in cross-border sections of trans-European networks; improved local and regional access to national and transnational networks; enhanced interoperability of national and regional systems; and promotion of advanced information and communication technologies;
- (d) sustainable urban development: strengthening polycentric development at transnational, national and regional level, with a clear transnational impact. Actions may include: the creation and improvement of urban networks and urban-rural links; strategies to tackle common urban-rural issues; preservation and promotion of the cultural heritage; the strategic integration of development zones on a transnational basis; and improving the environmental situation through an integrated approach.

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

Each programme shall establish eligibility rules for the selection of operations which ensure the same eligibility conditions as for similar actions under other IPA components, as well as respect of Community standards, where relevant.

The priorities should be essentially implemented through single calls for proposals covering all the eligible territory, including that of the participating candidate/potential candidate countries.

The essential selection and award criteria to be used to select the proposal are laid down in the relevant ERDF transnational programme. The detailed selection and award criteria for the award of grants will be laid down in the call for proposals–application pack (Guidelines for applicants).

Up to 10% of IPA funds allocated to Croatia for its participation in the "South–East Europe" and "Mediterranean" programmes can be used to co–finance (up to 85% of the eligible expenditure) the operational and administrative costs incurred by the national authorities in the implementation of the programmes.

These may include, *inter alia*, the following costs:

- Support to the Operating Structure;

- Expenses for participation in different meetings related to the implementation of the programmes;
- Costs related to the participation of national staff in the Joint Technical Secretariat, with the exclusion of salaries of public officials, and to the establishment, as appropriate, of national antennae of JTS or info points;
- Administrative and operational costs, including the costs of preparation, monitoring and evaluation of the programmes, support to projects preparation, appraisal and selection of operations, the organisation of meetings related to the programmes, translation, information and publicity costs.

The main aim of the IPA contribution to this expenditure is to facilitate an effective and efficient administration and implementation of these programmes in Croatia.

The main beneficiaries of the TA funds would be the Operating Structure, the Joint Technical Secretariat (main and JTS antenna or info point), any other structures/bodies related to development and implementation of these programmes, and the programmes beneficiaries.

If any of the conditions for the award of a direct grant agreement without a call for proposal are met (Article 168, paragraph 1 of the Implementing Rules² to the Financial Regulation), Croatia's Implementing Agency may conclude a direct grant agreement with the Operating Structure for the execution of the Technical Assistance's funds specified in the financial table in Section 3.1. The direct grant agreement can be signed as soon as the Financing Agreement concerning these programmes has been concluded.

Activities covered by the direct grant agreement (e.g. TA, evaluation, publicity, etc.) can be procured further by the grantee under the conditions of Article 120 of the Financial Regulation³ and Article 184 of the Implementing Rules to the Financial Regulation.

2.4. Overview of past and on-going experience in transnational co-operation, including lessons learned

In 2004–06, CARDS funds financed the participation of Western Balkan countries in the Neighbourhood programme "Central, Adriatic, Danubian and South–Eastern European Space" (CADSES), one of the given 2000–2006 European transnational co-operation areas covered by the INTERREG IIIB initiative. The participation in the CADSES programme, the precursor of the 2007–13 South–East Europe programme, provided the first opportunity to Western Balkan countries to get involved in transnational co-operation with EU Member States and, by the same occasion, to get familiar with the procedures of INTERREG programmes.

As the CADSES programme was implemented through single joint calls for proposals, the lessons learned for the participating candidate/potential candidate countries are as follows:

- national authorities have to allocate enough human resources to take active part in the management structures of the programme (joint monitoring committee, joint steering/evaluation committee, joint technical secretariat) and to follow up the implementation of the programme/projects in the country concerned. A small fraction of Community funds allocated to each candidate/potential candidate country

² Regulation 2342/2002 (OJ L 357, 31.12.2002, p.1).

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

shall be available to cover the operational costs linked with the implementation of the programme;

- effective co-ordination between relevant European Commission Delegations of participating candidate/potential candidate countries (e.g. in performing ex-ante approval of the single calls for proposals prior to their publication) and between them and the Managing Authority, is key to ensure a smooth and timely implementation of the programme.

2.5. Benchmarks

	N	N+1 (cumulative)	N+2 (cumulative)
Number of calls for proposals launched	2	2	2
Contracting Rate (%)	0	100%	100%
Number of direct grant agreements (TA funds)	1	1	1

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

2.6. Roadmap for the decentralisation of the management of EC 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.

3. BUDGET FOR 2009

3.1. Indicative 2009 financial table (EUR)

	IPA Community contribution		National Contribution		Total (IPA plus National Contribution)	
	EUR (a)	% ⁽¹⁾	EUR (b)	(%) ⁽¹⁾	EUR (c)=(a)+(b)	(%) ⁽²⁾
Participation in the "South-East Europe" transnational programme	360 000	85%	63 529	15%	423 529	64%
Participation in the "Mediterranean" transnational programme	144 182	85%	25 444	15%	169 626	26%
TA funds	56 020	85%	9 886	15%	65 906	10%
TOTAL	560 202	85%	98 859	15%	659 061	100%

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

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

3.2. 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, in the case of this programme, is based on the public expenditure.

4. IMPLEMENTATION ARRANGEMENTS

4.1. Introduction

This programme provides Croatia with IPA component II funds to finance the participation of its national partners in joint transnational co-operation projects under the ERDF transnational programmes "South-East Europe" and "Mediterranean".

Main steps of the implementation will be as follows:

- (a) Responsible authorities of Croatia shall establish an Operating Structure to deal with the management and implementation of these programmes. The Operating Structure will co-operate with the Managing Authorities of the "South-East Europe" and "Mediterranean" programmes and will be represented in the Joint Monitoring Committees of the above transnational programmes as a full member.

- (b) The Joint Monitoring Committees of the above transnational programmes will prepare the Call for proposals–Application pack (Guidelines for applicants) for the implementation of the programmes.
- (c) Before being published, the Call for proposals notice and its Application pack shall be submitted to the relevant European Commission Delegations of the candidate/potential candidate countries participating in the transnational programmes, for ex–ante approval.
- (d) To be eligible for financing by IPA, joint operations shall include beneficiaries from both Member States and IPA countries. Applications for joint operations shall identify a financial lead partner located in a Member State for the part of the joint operation taking place on the EU side with ERDF funds, and a financial lead partner in each of the participating candidate/potential candidate country for the part of the joint operation taking place on the candidate/potential candidate side with IPA funds. Applications must clearly distinguish between activities – and their costs – taking place on the EU side with ERDF funds and those taking place on the candidate/potential candidate side with IPA funds.
- (e) The Joint Monitoring Committees of the above transnational programmes are responsible for selecting joint operations in accordance with Structural Funds rules.
- (f) The evaluation report and the list of joint operations selected for financing shall be submitted to the relevant European Commission Delegations for approval. This approval will concern only the participation of partners from Croatia in the relevant joint operations.
- (g) The Implementing Agency of Croatia will issue the IPA grants to its national lead partners participating in the selected joint operations (while the Managing Authority of the "South–East Europe" or the "Mediterranean" programmes will issue the ERDF grants to the lead partners responsible for the part of the joint operations taking place on the EU territory).

4.2. Method of Implementation

This programme shall be implemented in accordance with Article 53c of the Financial Regulation⁴ and the corresponding provisions of the Implementing Rules⁵. 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.

⁴ See footnote 3 *supra*.

⁵ See footnote 2 *supra*.

4.3. 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 Rules⁶ as well as the rules and procedures for service, supply and works contracts financed from the general budget of the European Communities for the purposes of cooperation with third countries adopted by the Commission on 24 May 2007 (C(2007)2034).

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

Where appropriate, the Contracting Authorities shall also use the standard templates and models facilitating the application of the above rules provided for in the "Practical Guide to contract procedures for EC external actions" ("Practical Guide") as published on the EuropeAid website⁷ at the date of the initiation of the procurement or grant award procedure.

4.4. 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-directive⁸ 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 in accordance with Article 6 of the Habitats Directive⁹.

5. MONITORING AND EVALUATION

5.1. Monitoring

In Croatia, the implementation of this programme will 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.

⁶ See footnotes 3 and 2 *supra*.

⁷ current address: http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm

⁸ 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).

⁹ 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).

5.2. Evaluation

The ERDF transnational programmes are subject to evaluation according to the Structural Funds Regulation (EC) No 1083/2006, under the responsibility of the Managing Authority located in one of the participating Member States. When such an evaluation is conducted, every effort should be made to evaluate also the elements concerning the participation of candidate/potential candidate countries in the transnational programme.

This programme shall be subject to evaluations in accordance with Articles 57 and 82 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 programme.

The Commission may also carry out strategic evaluations.

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 Commission 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) 2185/96¹⁰.

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.

¹⁰ Council Regulation (EC, Euratom) 2185/96 of 11 November 1996, OJ L 292; 15.11.1996; p. 2.

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 1828/2006¹¹. All suspected or actual cases of fraud and irregularity as well as all measures related thereto taken must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud or irregularity to report, the beneficiary country shall inform the Commission of this fact within two months following the end of each quarter.

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

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

¹¹ OJ L 371, 27.12.2006, p.1.

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 or, where the latter does not exist, in the Financing Agreement implementing this programme concluded with 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 nature¹², 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.

¹² 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.