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ANNEX 1
FINANCING PROPOSAL FOR THE YEARS 2010 and 2011
OF THE CROSS-BORDER PROGRAMME
CROATIA - MONTENEGRO

1. IDENTIFICATION

Beneficiaries	Croatia and Montenegro
CRIS number	Croatia: IPA/2010/022-368 for the year 2010 and IPA/2010/022-429 for the year 2011 Montenegro: IPA/2010/022-382 for the year 2010 and IPA/2010/022-432 for the year 2011
Years	2010 and 2011
Cost	2010: Croatia: 400 000 EUR Montenegro: 500 000 EUR Total value of the IPA contribution: 900 000 EUR 2011: Croatia: 400 000 EUR Montenegro: 500 000 EUR Total value of the IPA contribution: 900 000 EUR
Operating structures	For Croatia: Ministry of Regional Development, Forestry and Water Management For Montenegro: European Commission
Contracting Authority / Implementing Agency	For Croatia: Agency for Regional Development For Montenegro: European Commission
Final date for concluding the Financing Agreements:	For the 2010 funds: at the latest by 31 December 2011 For the 2011 funds: at the latest by 31 December 2012

Final date for contracting	2 years following the date of conclusion of each Financing Agreement. No deadline for audit and evaluation projects covered by this Financing Agreement, as referred to in Article 166(2) of the Financial Regulation These dates apply also to the national co-financing.
Final date for execution	2 years following the end date for contracting for each Financing Agreement These dates apply also to the national co-financing.
Sector Code	11120, 16061, 32130, 33130, 41010, 43040, 91010
Budget lines concerned	22.02.04.01
Programming Task Managers	For Montenegro: DG ELARG.C4 For Croatia: DG ELARG.B1
Implementation Task Managers	For Croatia: EU Delegation to Croatia, Operations Sections 1 For Montenegro: EU Delegation to Montenegro

2. SUMMARY

2.1. Introduction

2.1.1. *Link with the MIPD*

The Multi-annual Indicative Planning Document for Croatia for the period 2009-2011 indicates that Cross-Border Cooperation, managed through Component II, will support Croatia in cross-border, 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 Planning Document for Montenegro for the same period will support activities aimed at promoting and enhancing cross-border co-operation and the socio-economic integration of border regions. This will be done through the development of cross-border economic, social and environmental activities for border areas, addressing common challenges in particular in the field of environment and public health and development; as well as promoting 'people to people' type actions, including NGOs and local authorities.

2.1.2. Programming process

The programming process started on 19 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 1 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.

In accordance with Article 93(1) of the IPA Implementing Regulation, at the initiative of the Commission, in agreement with the participating countries, the cross-border programme was amended in order to update the financing plan so as to add the appropriations for the years 2010 and 2011, according to the revision of the Multi-annual indicative financial framework for 2010-2012. A limited revision of the programme was undertaken by the Operating Structures with the support of CBIB, in order to update financial allocations, indicators and factual changes as necessary. The revised programme was adopted by the Joint Monitoring Committee (JMC) on 19 November 2009.

2.1.3. List of eligible areas and adjacent 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.

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 2009 – 2011 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 same period 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 2010–2011 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. A 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 programme 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 grants schemes and/or procurement contracts – service, works and supply.

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 grant schemes and/or 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 grant schemes.

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: 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: 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.

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

For Priority 1 it is tentatively foreseen to launch two joint calls for proposals: one concerning the total amount of funds for the year 2010, to be tentatively launched in the second half of 2010; the second covering the total amount of funds for the year 2011, to be tentatively launched in the second half of 2011.

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

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

For Priority 2 considering that the relevant national authorities (Operating Structures in Croatia and Montenegro) enjoy a *de facto* monopoly situation (in the sense of Art. 168, paragraph 1, sub-paragraph c of the Implementing Rules¹ to the Financial Regulation²) for the implementation of the cross-border programme, the relevant contracting authorities in both countries may establish individual direct grant agreements without call for proposals with the Operating Structures for amounts up to those provided under the TA Priority 2 in each country. Subcontracting by the Operating Structures of the activities covered by the direct grant agreements (e.g. TA, evaluation, publicity etc.) is allowed in accordance with Article 120 of the Financial Regulation and Article 184 of the Implementing Rules to the Financial Regulation. The direct grant agreements can be signed as soon as the respective Financing Agreements have been concluded. For the purpose of an efficient use of TA funds, a close co-ordination between national authorities (Operating Structures, CBC coordinators) of the participating countries is required.

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

² Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.09.2002, p.1)

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:

- 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 projects 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, IPA 2008 and IPA 2009 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 which are currently under implementation:

- 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, IPA 2008 and IPA 2009 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 Plan Coast – Spatial Planning in Coastal zones)
- IPA 2007, IPA 2008, IPA 2009 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.

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

2010	N	N+1 (cumulative)	N+2 (cumulative)
Number of direct grant agreement in Croatia	0	1	1
Number of direct grant agreement in Montenegro	0	1	1
Number of joint calls for proposals launched (in Croatia and Montenegro)	1	1	1
Contracting Rate (%) in Croatia	0	100	100
Contracting Rate (%) in Montenegro	0	100	100

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

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

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

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

According to Article 8(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.

Croatia was conferred management powers for the decentralised management of IPA Component II assistance with *ex ante* controls by a Commission Decision of 14 November 2008 which established conditions that Croatia must fulfill within specified deadlines. These conditions will need to be addressed before Croatia is able to reach the next stage, that is to say full decentralisation with only *ex post* controls by the Commission. In particular, the Croatian authorities have established a new Agency for Regional Development. Conferral of management powers by the Commission to the Agency for Regional Development is expected in the course of 2010.

Taking into account these requirements, the Croatian authorities are preparing a roadmap for the decentralisation of the management of IPA funds without *ex ante* controls by the Commission. The authorities envisage moving to full decentralisation in 2011.

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

A Strategic Coordinator (Deputy Minister for European Integration) has been designated for IPA components III and IV and an "Overall Action Plan of the Government of Montenegro for IPA components III and IV" established, which outlines the main steps for elaborating the Strategic Coherence Framework (SCF), the Operational Programmes (OPs) and for the conferral of management.

Assistance in the process of preparing for conferral of EU funds management for IPA components I and II has been provided under a CARDS project which is to be followed-up by three IPA projects that will support the introduction of decentralised management of EU funds for all five IPA components.

3. BUDGET FOR 2010 AND 2011

3.1. Indicative 2010 financial table for Croatia

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

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

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

3.2. Indicative 2010 financial table for Montenegro

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾
Priority axis 1	450 000	85	79 412	15	529 412	88
Priority axis 2	50 000	71	20 000	29	70 000	12
TOTAL	500 000	83	99 412	17	599 412	100

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

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

3.3. Indicative 2011 financial table for Croatia

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

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

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

3.4. Indicative 2011 financial table for Montenegro

	IPA EU contribution		National contribution		Total	
	EUR (a)	% ⁽¹⁾	EUR (b)	% ⁽¹⁾	EUR (c)=(a)+(b)	% ⁽²⁾
Priority axis 1	450 000	85	79 412	15	529 412	88
Priority axis 2	50 000	71	20 000	29	70 000	12
TOTAL	500 000	83	99 412	17	599 412	100

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

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

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

The EU 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 EU contribution at the level of priority axis shall not exceed the ceiling of 85% of the eligible expenditure.

The EU contribution for each priority axis shall not be less than 20% of the eligible expenditures.

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

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

4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of Implementation

The part of this programme concerning Croatia shall be implemented in accordance with Article 53c of the Financial Regulation³ and the corresponding provisions of the Implementing Rules⁴. 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 in accordance to the Commission Decision on the Conferral of management powers in accordance to Article 14 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 Regulation⁵ and the corresponding provisions of the Implementing Rules⁶".

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

4.2. General rules for Procurement and grant award procedures

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

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

Where appropriate, the Contracting Authorities should also use the standard templates and models facilitating the application of the above rules provided for in the "Practical Guide to contract procedures for EU external actions" ("Practical Guide") as published on the EuropeAid website⁷ 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 EU environmental legislation.

³ Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.09.2002, p.1)

⁴ Regulation (EC, Euratom) No 2342/2002 (OJ L 357, 31.12.2002, p.1)

⁵ Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.09.2002, p.1)

⁶ Regulation (EC, Euratom) No 2342/2002 (OJ L 357, 31.12.2002, p.1)

⁷ current address:

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

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, equivalent to that provided for in Article 6 of the Habitats Directive⁹.

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 EU funds and the strategy and implementation of the cross-border programmes.

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

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).

includes measures such as ex-ante verification of tendering and contracting carried out by the Delegations in the Beneficiary Countries."

In order to ensure the efficient protection of the financial interests of the European Union, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96¹⁰."

The controls and audits described above are applicable to all contractors, subcontractors and grant beneficiaries who have received EU 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 EU assistance. The national authorising officer shall take into account the nature and gravity of the irregularities and the financial loss to the EU assistance.

In case of an irregularity, including negligence and fraud, the national authorising officer shall recover the EU 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 1828/2006¹¹. 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

¹⁰ Council Regulation (EC, Euratom) No 2185/96 (OJ L 292; 15.11.1996, p. 2)

¹¹ OJ L 371, 27.12.2006, p.1.

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 Union's 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 Union's 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:

- identification of a specific irregularity, including fraud; or
- 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 EU 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 changes in the implementation of this programme affecting essential elements listed under Article 90 of the Implementing Rules to the Financial Regulation, which are of an indicative nature¹², may be undertaken by the Commission's authorising officer by delegation (AOD), or by the Commission's authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

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.