

ANNEX 1

**FINANCING PROPOSAL FOR THE YEAR 2007  
OF THE CROSS-BORDER PROGRAMME CROATIA – SERBIA**

**1. IDENTIFICATION**

Beneficiaries	The Republic of Croatia and the Republic of Serbia
CRIS number	Croatia 2007/19355 Serbia 2007/19358
Year	2007
Cost	Croatia: € 800,000 Serbia: € 1,000.000 Total value of IPA contribution: € 1,800,000
Operating structures	Croatia: Ministry of the Sea, Tourism, Transport and Development Serbia: Ministry of Finance
Implementing Authorities	For Serbia: European Commission For Croatia: Implementing Agency: Central Finance and Contracting Unit of the Ministry of Finance
Final date for concluding the Financing Agreements:	at the latest by 31 December 2008;
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	According to <a href="#">DAC-list</a> : 32130,11330,16350 (08.81 IPA Code)
Budget lines concerned	22.02.04.01
Programming Task Manager	For Croatia: DG ELARG. B.1 For Serbia: DG ELARG. C.2
Implementation Task Manager	For Croatia: EC Delegation to Croatia, Operations Section 1 For Serbia: EC Delegation in Belgrade

## 2. SUMMARY

### 2.1. Introduction

- Programming process

This document describes the cross-border programme between Croatia and Serbia. This strategic document is based on a joint planning effort by the Croatian and Serbian parties.

The process of elaborating the IPA Cross-border Programme between Croatia and Serbia started on 16/1/07 with the first bilateral meeting between the representatives of the national institutions responsible for the IPA component II. At that meeting the process of programme elaboration was discussed and agreed between the two sides.

The first meeting of the Joint Programming Committee (JPC) was held on 14/2/07. This meeting approved the JPC membership, adopted rules of procedure, and approved the mandate and membership of the Joint Drafting Team (JDT).

In addition to the representatives from local, regional and national government included in the memberships of the JPC and JDT, arrangements were made to consult with a wider partnership drawn from the public, civil and private sector by means of regional workshops and questionnaire surveys. The consultation process was carried out in 2 ways: written procedure (comments sent to JDT); (ii) meetings/workshops (comments made directly to JDT) implemented both at national levels (national consultation processes) and cross-border level.

- List of eligible and adjacent areas

The **eligible areas** according to Article 88 of IPA Implementing Regulation consist of:

In Croatia: Osijek-Baranja County, Vukovar-Srijem County (equivalent to NUTS III classification).

In Serbia: Srem district, South Bačka district, West Bačka district, North Bačka district (equivalent to the NUTS III classification).

The **Adjacent areas** according to Article 97 of the IPA Implementing Regulation are:

In Croatia: Požega-Slavonija County, Brod-Posavina County (equivalent to NUTS III classification).

In Serbia: Mačvanska district (equivalent to NUTS III classification).

### 2.2 Global objective of the programme

To stimulate cross-border cooperation in order to diversify and improve the regional economy in a socially and environmentally sustainable way, whilst at the same time, improving good neighbourly relations across the border.

To build the capacity of local, regional and national institutions to manage EU programmes and to prepare them to manage future cross-border programmes under the territorial cooperation objective of the EU Structural Funds.

The above objectives will be achieved by means of 2 priorities:

- Priority 1: Sustainable Socio-Economic Development

- Priority 2: Technical Assistance

These priorities will be implemented by 5 separate measures; the programme strategy is shown below in Table 1

**Table 1**

<b>Priority 1 Sustainable Development</b>	<b>Socio-Economic</b>	<b>Priority 2 Technical Assistance</b>
<b>Measure 1.1:</b> Economic Development		<b>Measure 2.1:</b> Programme Administration and Implementation
<b>Measure 1.2:</b> Environmental Protection		<b>Measure 2.2:</b> Programme Information, Publicity and Evaluation
<b>Measure 1.3:</b> People-to-People		
<b>Horizontal Theme:</b> Cross-Border Capacity Building		

Cross-border capacity building will be an important horizontal theme underpinning the whole programme and, as much as is possible, will be integrated into all programme measures.

The Multi-annual Indicative Planning Document for Croatia for the period 2007 – 2009 indicates that Cross-Border Cooperation, managed through Component II, will support Croatia in cross-border, and trans-national and interregional cooperation with EU and non-EU Member States. 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 Serbia for the same period provides for activities aimed at promoting and enhancing cross-border co-operation and the socio-economic integration of border regions. This will be done through the strengthening of economical, social, environmental and cultural ties between respective participating countries, including people to people type actions.

The programme is in line and complementary with mainstream national programmes and strategies and reinforces rather than duplicates them since its focus is on strengthening, first and foremost, those activities that are recognized as important for both partner countries.

### ***2.3 Priority axis, the related measures and their specific aspects concerning the implementation of the 2007 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. Two priorities have been identified for the cross-border cooperation interventions: Sustainable Socio-Economic Development and Technical Assistance, the latter ensuring the effective management and implementation of the programme. A horizontal theme is focused on cross-border capacity building.

Care will be taken to ensure that there is no operational or financial overlap 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).

#### **Priority 1: Sustainable Socio-Economic Development**

Overall Priority Objective: To promote the sustainable development of the cross-border region through effective use of the region's economic potential, in synergy with friendly and appropriate use of natural resources ensuring the preservation of regional biodiversity.

Specific Priority Objectives:

- To promote business cooperation, increase cross-border trade, develop labour market mobility, cross-border RDI and joint economic planning
- To stimulate tourism development based on the cross-border regional identity and the natural and cultural assets of the cross-border region
- To protect and safeguard the natural assets of the cross-border region by taking joint actions and by increasing public awareness
- To promote good neighbourly relations across the border between local communities
- The measures under this priority will essentially be implemented through call for proposals.

## **Measures Priority 1**

### **Measure 1.1 Economic Development**

The measure will stimulate regular interaction between businesses located across the cross-border region via: business-to-business networks; development of SME support services and joint access to these; joint marketing & promotion on domestic & EU markets; enhancement of innovativeness by cooperation of SMEs with educational and R&D organisations; exchange of know-how; selected investments in business infrastructure.

The measure is expected to diversify economic development by the supporting the development & improvement of tourism products & services; integration of cultural heritage & environment into tourism products; and the joint marketing of these products.

Improve knowledge of people working in tourism and culture & agriculture. Use of ICT tools for developing and marketing products and training people.

Potential beneficiaries might be, inter alia, Regional /local public authorities, chambers of commerce, clusters registered as non-profit legal entities, public /non-profit organisations, non-governmental organisations ...

### **Measure 1.2: Environmental Protection**

This measure will support awareness raising activities on environmental issues and joint actions to ensure that sites of high environmental and landscape value are managed so that they can sustain the pressures of tourism development without losing their value. In addition, the measure will support the development of more effective systems and approaches to emergency preparedness in relation to flood prevention and control; cross-border pollution, food safety and health issues. The measure will also support the development of joint waste management and minimisation strategies. A selected number of actions will be supported which result in the clean-up and restoration of polluted /damaged sites.

Potential beneficiaries might be *inter alia*, regional /local public authorities, public /non-profit organisations, research institutes, Non-Government Organisations dealing with environmental and nature protection.

### Measure 1.3: People to People

This measure will encourage contacts, communication and cooperation between local communities and local community organisations /agencies within the cross-border region, particularly in support of women and marginalised groups (unemployed youth and disabled), local democracy and the development of civil society.

Potential beneficiaries might include, *inter alia*, local organisations, associations and foundations, inter-communal cooperation organisations, professional organisations, organisations responsible for providing social and health services, trade unions, public /non-profit organisations, cultural organisations, local government bodies, NGOs, regional and local development agencies

The measures will be implemented through grants schemes and/ or procurement contracts – service, works and supply. The detailed selection and award criteria for the award of grants will be laid down in Call for proposals–Application Pack (Guidelines for applicants).

#### *Tentative Timetable and indicative amount of the call for proposals for Priority 1: Sustainable Socio-Economic Development*

For the budget 2007, the proposition is to launch one call for proposals. All three measures will be included into the first call, covering both: “big” (value of €50-200,000) and small (value of €30-50,000) grants.

Country	Call for proposal (priority 1)	Launch date	Signature of contracts	Project completion	Indicative amount IPA	Indicative amount National	Indicative amount TOTAL
Croatia	CfP 1: (all three measures; value of grants €50-200,000 and small grants €30-50,000)	September 2008	May 2009	August 2010	720,000	127,059	847,059
Serbia					900,000	158,824	1,058,824
	<b>TOTAL</b>				<b>1,620,000</b>	<b>285,883</b>	<b>1,905,883</b>

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.

## **Priority 2 Technical Assistance**

Overall Priority Objective: To improve the capacity of national and joint structures to effectively and efficiently manage and implement cross-border programmes.

Specific Priority Objectives:

TA funds will be used to support the activities of the Operating Structures and the Joint Monitoring Committee. The TA funds can be used to cover the costs of management and implementation of the programme in each participating country. These may include, *inter alia*, the following costs:

- Support to the Operating Structures and the Joint Monitoring Committee;
- Establishment and functioning of the Joint Technical Secretariat and its antennae, including cost of staff with the exclusion of salaries of public officials;
- Expenses for participation in different meetings related to the implementation of the programme;
- Administrative and operational costs, including the costs of preparation, monitoring and evaluation of programmes, appraisal and selection of operations, the organisation of meetings related to the programme, translation, information and publicity costs.
- To improve the capacity of potential beneficiaries, particularly within the programming area, to prepare and subsequently implement high quality programme operations

Considering that the relevant national authorities (Operating Structures in Croatia and Serbia) enjoy a *de facto* monopoly situation (in the sense of Art. 168, paragraph 1, sub-paragraph 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 Structures for the amount provided under the TA Priority 2 in each country. Subcontracting by the Operating Structures of the activities covered by the direct agreement (e.g. TA, evaluation, publicity etc.) is allowed. The direct grant agreement can be signed as soon as the Financing Agreement has been concluded.

For the purpose of an efficient use of TA funds, a close coordination between national authorities (Operating Structures, CBC coordinators) of the participating countries is required. In accordance to the scope of this priority, it will be implemented through two measures.

### **Measures Priority 2**

#### **Measure 2.1: Programme Administration and Implementation**

This measure will provide support for the work of national Operating Structures and the JMC in programme management. It will also ensure the provision of advice and support to final beneficiaries in project development and implementation.

#### **Measure 2.2: Programme Information, Publicity and Evaluation**

This measure will ensure programme awareness amongst local, regional and national decision-makers; funding authorities; the inhabitants of the programming area and the general public in Croatia and Serbia. The measure will support the provision of expertise to the JMC for the planning and carrying out of external programme evaluations. It might also cover, *inter alia*, the preparation, translation and dissemination of programme related information and publicity material, including programme website.

The same time-table is envisaged for both countries in order to ensure compatibility of advice provided and sound coordination vis-à-vis project implementation.

*Tentative Timetable and indicative amount of the assistance under Priority 2: Technical Assistance*

Country	Request for grant award	Signature of contract	Subcontracting	Project completion	Indicative amount IPA	Indicative amount National	Indicative amount TOTAL
Croatia	March 2008	April 2008	July 2008	September 2010	80,000	35,000	115,000
Serbia	March 2008	April 2008	July 2008	September 2010	100,000	17,647	117,647
<b>TOTAL</b>					<b>180,000</b>	<b>52,647</b>	<b>232,647</b>

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

Previous experience of Croatia with cross-border and transnational projects and programmes:  
*Projects carried out:*

- CARDS 2001 'Strategy and Capacity Building for Border Region Co-operation' (Identification of future projects on borders with Serbia, Montenegro, Bosnia & 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)

*Projects currently under implementation:*

- CARDS 2004 'Institution and Capacity Building for CBC' (Support for MSTTD<sup>1</sup>)
- CARDS 2004 'Border Region Co-operation' (Grant scheme with Bosnia & Herzegovina, Serbia and Montenegro)
- Neighbourhood Programme between Croatia, Slovenia and Hungary 2004–2006

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<sup>1</sup> MSTTD: Ministry of Sea, Tourism, Transport and Development

- Phare CBC / INTERREG III A - Adriatic New Neighbourhood Programme 2004–06
- Transnational Programme CADSES 2004-06

Previous experience of Serbia with cross-border and transnational projects and programmes:

*Projects currently under implementation:*

- CARDS 2004 ‘Strengthening MIER Capacities for Implementation of EU Neighbourhood Programs’ (Capacity building for MIER<sup>2</sup>)
- CARDS 2004 ‘Support to Inter-Regional Cooperation’ (Grant scheme)
- Neighbourhood programme (CARDS–INTERREG) Serbia-Hungary 2004–06
- Neighbourhood programme (CARDS–Phare CBC) Serbia-Romania 2004–06
- Neighbourhood programme (CARDS–Phare CBC) Serbia-Bulgaria 2004–06
- CARDS / INTERREG III A - Adriatic New Neighbourhood Programme 2004–06
- Transnational Programme CADSES 2004-06.

Whilst both countries have experience of EU funded cross-border cooperation (CBC) programmes with other countries, they have limited experience of such cooperation with each other. Over the period 2004-6 only the grant scheme '*Cross-Border Regions Co-operation with Serbia, Montenegro, Bosnia & Herzegovina*' (funded from the Croatian CARDS 2004 allocation) has Croatian and Serbian partners. This grant scheme is still under evaluation and the exact number of grants to be awarded is still unknown. In addition, Interreg IIIA Adriatic CBC has funded 3 projects (out of 36 with Croatian beneficiaries) involving Croatian-Serbian partnerships, however only one of these has partners inside the programming area. An additional 23 projects with Croatian and Serbian partners are in the process of being contracted; of these one has partners within the programming area.

### ***Lessons learned***

The following points can be highlighted from cross-border experience in the Western Balkans countries:

- The projects focusing on environment protection reflect the priorities defined by the national and regional institutions, providing for a sound embedding in local and national development priorities. However, it is important to strongly associate civil society and the private sector in programme development.
- The small calls for proposals for cross-border actions launched in previous cross-border programmes showed a low capacity in project preparation of most of the final beneficiaries. This could impede the implementation of the programme. Specific training of potential applicants will be essential throughout the programme.
- A few municipalities have had a leading role in the past and current cross-border initiatives. These municipalities should have a key role when implementing the programme (transfer of know-how, etc.).

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.

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<sup>2</sup> MIER: Ministry of International Economic Relations. This ministry ceased to exist on 16/5/07 and the CBC unit was transferred to the Ministry of Finance



Therefore it is important that the partners have established agreed co-ordination plans and mechanisms before the Financing Agreements are signed. In addition, Experience has shown that the preconditions for effective implementation include, besides close co-ordination *between* participating countries at political and operational levels:

- **cross-border cooperation between line ministries and effective working relationships between related organisations;**
- **functioning regional development authorities and local authorities, with appropriate staff in a stable environment;**
- **close working relationships between regional institutions and the respective Commission Delegations;**
- **functioning cross-border cooperation between respective organisations of the private sector,** such as chambers of commerce, company associations and NGOs.

### ***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 European Union.

The joint applications will have to cover both parts of the project and fulfil the following criteria:

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

Project partners should establish agreed co-ordination mechanisms to synchronise the joint projects throughout their implementation.

### **2.6 Donor coordination**

In line with Article 20 of the IPA Regulation and Article 6 (3) of the IPA Implementing Regulations, the EC has asked the representatives of Member States and local IFIs in Croatia and Serbia to provide their comments regarding the draft cross-border co-operation programmes submitted to the Commission.

## 2.7 Benchmarks

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

	N(2008)	N+1 (2009) (cumulative)	N+3 (2010) (cumulative)
Number of direct grant agreements in Croatia (TA priority)	one		
Number of direct grant agreements in Serbia (TA priority)	one		
Number of joint calls for proposals launched in Croatia and Serbia	one		
Contracting Rate (%) in Croatia	nil	75%	100%
Contracting Rate (%) in Serbia	nil	75%	100%

## 2.8 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.

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 Commission Decision. Based on the final assessment of the audit report, a roadmap for the gradual lifting of the ex-ante control requirement may be envisaged.

At the same time, Croatia has presented an action plan for the accreditation of the implementation bodies under the IPA programme for decentralised management of EU funds with ex-ante control.

In Serbia the Government has established DIS working group which will produce by the beginning of 2008 Strategy and Action Plan for implementation of Decentralized Implementation System. In addition, working group will prepare capacity building plan for DIS institutions and make preparatory activities for signing MoU for introduction of DIS.

### 3 BUDGET FOR 2007

#### 3.1 Indicative 2007 financial table for Croatia

	EU – IPA assistance		National Contribution		Total (IPA plus National Contribution)	
	EUR	%	EUR	(%)	EUR	(%)
<b>Priority axis 1</b>	720,000	85%	127,059	15%	847,059	100%
<b>Priority axis 2</b>	80,000	69%	35,000	31%	115,000	100%
<b>TOTAL</b>	800,000	64%	162,059	16%	962,059	100%

#### 3.2 Indicative 2007 financial table for Serbia

	EU – IPA assistance		National Contribution		Total (IPA plus National Contribution)	
	EUR	%	EUR	(%)	EUR	(%)
<b>Priority axis 1</b>	900,000	85%	158,824	15%	1,058,824	100%
<b>Priority axis 2</b>	100,000	85%	17,647	15%	117,647	100%
<b>TOTAL</b>	1,000,000	85%	176,471	15%	1,176,471	100%

#### 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 – Serbia is based on the total expenditure, as agreed by the participating countries and laid down in the cross-border programme.

In Croatia and Serbia the IPA grant will be co-financed by a minimum of 15 % from state national budget and final beneficiaries co-financing.

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 Commission Regulation (EC) No 718/2007 (OJ L170 29.06.2007) (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>3</sup> and the corresponding provisions of the Implementing Rules<sup>4</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 Serbia shall be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation and the corresponding provisions of the Implementing Rules.

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 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>5</sup> at the date of the initiation of the procurement or grant award procedure.

### **4.3 Environmental Impact Assessment and Nature Conservation (where appropriate)**

All investments shall be carried out in compliance with the relevant Community environmental legislation.

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<sup>3</sup> OJ L 248, 16.9.2002, p.1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p.1).

<sup>4</sup> OJ L 357, 31.12.2002, p. 1 Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.04.2007, p. 1).

<sup>5</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)

The procedures for environmental impact assessment as set down in the EIA-directive<sup>6</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>7</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 Serbia, 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.

## **6. Audit, Financial Control, antifraud measures**

### **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.

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6 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. Directive as last amended by Directive 2003/35/EC, OJ L 156, 25.6.2003, p. 17.

7 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). Directive as last amended by Regulation (EC) No 1882/2003 (OJ L284, 31.10.2003, p. 1)

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>8</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>9</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 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.

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<sup>8</sup>Council Regulation (EC, Euratom) 2185/96 of 11. November 1996, OJ L 292; 15.11.1996; p. 2.

<sup>9</sup>OJ L 371, 27.12.2006, p.1.

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 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. LIMITED CHANGES**

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 nature<sup>10</sup>, 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.

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<sup>10</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.