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## COMMISSION DECISION

**C(2009)6368 of 18/08/2009**

**adopting a Programme on financing the participation of Bosnia and Herzegovina 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**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)<sup>1</sup>, and in particular Article 14(2)(a) thereof,

Whereas:

- (1) Regulation (EC) No 1085/2006 lays down the objectives and main principles for pre-accession assistance to candidate and potential candidate countries.
- (2) In accordance with Article 7 of Regulation (EC) No 1085/2006, the assistance should be provided through multi-annual or annual programmes, which can be established by country, by group of countries or by component. These programmes should be drawn up in accordance with the general policy framework referred to in Article 4 of Regulation (EC) No 1085/2006 and the relevant multi-annual indicative planning documents referred to in Article 6 of that Regulation.
- (3) The Council has established a European Partnership for Bosnia and Herzegovina<sup>2</sup>. The Commission has adopted on 23 September 2008 the Multi-annual Indicative Planning Document 2008–2010 for Bosnia and Herzegovina which presents the main priorities for pre-accession assistance to that country<sup>3</sup>.
- (4) In accordance with Article 9 of Regulation (EC) No 1085/2006 and as provided in Article 86 (4) of the Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA)<sup>4</sup> (hereinafter referred to as the IPA Implementing Regulation), the IPA Cross-border Co-operation component may also support, where appropriate, the participation of the eligible regions of the beneficiary countries in transnational programmes under the European Territorial Co-operation objective of the Structural Funds.

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<sup>1</sup> OJ L 210, 31.7.2006, p.82.

<sup>2</sup> Council Decision 2008/211/EC of 18 February 2008 (OJ L 80, 19.3.2008, p. 18-31).

<sup>3</sup> C(2008)5144.

<sup>4</sup> OJ L 170, 29.6.2007, p.1.

- (5) Having regard to the intention expressed by the responsible national authorities, for the year 2009 the IPA Cross-border Co-operation component should finance the participation of Bosnia and Herzegovina in the ERDF European Territorial Co-operation transnational programmes "South-East Europe" and "Mediterranean". These programmes aim at supporting 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 priority areas: innovation, environment, accessibility, sustainable urban development.
- (6) This decision meets the requirements of Article 90 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation No 1605/2002<sup>5</sup> and constitutes thus a financing decision within the meaning of Article 75 (2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>6</sup>.
- (7) The measures provided for by this Decision are in accordance with the opinion of the IPA Committee,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Programme on financing the participation of Bosnia and Herzegovina 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, as set out in the Annex, is hereby adopted.

This programme shall be implemented by centralised management.

It shall be implemented by means of a Financing Agreement to be concluded between the Commission and Bosnia and Herzegovina in conformity with the Framework Agreement concluded between the same parties on 20 February 2008.

*Article 2*

The maximum amount of Community contribution shall be EUR 560,202 to be financed through Item 22.020401 of the general budget of the European Communities for the year 2009.

Done at Brussels,

*For the Commission*

*Member of the Commission*

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<sup>5</sup> OJ L 357, 31.12.2002, p.1.

<sup>6</sup> OJ L 248, 16.9.2002, p.1.

**ANNEX**  
**Programme on financing the participation of Bosnia and Herzegovina 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	Bosnia and Herzegovina
CRIS number	2009/21-156
Year	2009
Cost	EUR 560,202
Operating structure	Directorate for European Integration
Implementing Authority	European Commission
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, 99810, 32182
Budget lines concerned	22.020401
Programming Task Manager	DG ELARG Unit C1
Implementation Task Manager	EC Delegation to Bosnia and Herzegovina, Operations Section

## **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 Bosnia and Herzegovina 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 home of the Managing Authorities of the ERDF programmes.

The responsible authorities of Bosnia and Herzegovina have accepted the invitation 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 Bosnia and Herzegovina is eligible to 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 EU 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, and the strategic integration of development zones on a transnational basis; improving the environmental situation through an integrated approach.

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 Bosnia and Herzegovina 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 programme.

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

- support for the Operating Structure;
- expenses for participation in different meetings related to the implementation of the programme;
- 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 programme, support to projects preparation, appraisal and

selection of operations, the organisation of meetings related to the programme, 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 this programme in Bosnia and Herzegovina.

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 this programme, and the programme beneficiaries.

Considering that the relevant national authorities (Operating structures or CBC Coordinator – within the meaning of Art. 22(2)(b) of the IPA Implementing Regulation) enjoy a *de facto* monopoly situation (within the meaning of Article 168, paragraph 1, sub-paragraph c of the Implementing Rules to the Financial Regulation) for managing the Bosnia and Herzegovina's participation in the "South-East Europe" and "Mediterranean" programmes, a direct grant agreement without a call for proposals for the Technical Assistance's amount specified in the financial table in Section 3.1, shall be concluded between the Commission (European Commission Delegation) and the relevant national authorities. This direct grant agreement can be signed as soon as the Financing Agreement concerning this programme has been concluded.

Activities covered by the direct grant agreement (e.g. TA, evaluation, publicity, etc.) can be procured further by the grantee, in accordance with Article 120 of the Financial Regulation<sup>7</sup> and Article 184 of the Implementing Rules<sup>8</sup> 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 also, to become 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 shall be available to cover the operational costs linked with the implementation of the programme;

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<sup>7</sup> Regulation 1605/2002 (OJ L 248, 16.9.2002, p.1).

<sup>8</sup> Regulation 2342/2002 (OJ L 357, 31.12.2002, p.1).

- effective co-ordination between relevant European Commission Delegations in 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 EU funds without ex ante controls by the Commission

According to Article 8, paragraph 4, point 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

In **Bosnia and Herzegovina**, preparations for decentralised management of EU funds are ongoing. In June 2008, the Council of Ministers adopted a Strategy for the Implementation of the Decentralised Implementation System (DIS). Main DIS structures and functions are in place. Technical assistance foreseen under CARDS and IPA supports the preparation process. Bosnia and Herzegovina aims at accreditation within the next two years.

## 3. BUDGET FOR 2009

### 3.1. Indicative 2009 financial table

	IPA Community contribution		National Contribution		Total (IPA plus National Contribution)	
	EUR (a)	% <sup>(1)</sup>	EUR (b)	% <sup>(1)</sup>	EUR (c)=(a)+(b)	% <sup>(2)</sup>
Participation in the "South-East Europe" transnational programme	414,182	85	73,091	15	487,273	73.93
Participation in the "Mediterranean" programme	90,000	85	15,882	15	105,882	16.07



<b>TA funds</b>	56,020	85	9,886	15	65,906	10
<b>TOTAL</b>	560,202	85	98,859	15	659,061	<b>100%</b>

(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 total expenditure.

## **4. IMPLEMENTATION ARRANGEMENTS**

### **4.1. Introduction**

This programme provides Bosnia and Herzegovina 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 Bosnia and Herzegovina shall establish an Operating Structure to deal with the management and implementation of these programmes. The Operating Structure will co-operate with the Managing Authority of the "South-East Europe" and "Mediterranean" programmes and will be represented in the Joint Monitoring Committee of the above transnational programmes as a full member.
- (b) The Joint Monitoring Committee 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 in 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 Committee of the above transnational programmes is 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 Bosnia and Herzegovina in the relevant joint operations.
- (g) The European Commission Delegation in Bosnia and Herzegovina will issue the IPA grants to the national lead partners participating in the selected joint operations (while the Managing Authority of the "South–East Europe" or the "Mediterranean" programme 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 on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation<sup>9</sup> and the corresponding provisions of the Implementing Rules<sup>10</sup>.

In the event of centralised management, the Commission shall:

- approve the Calls for proposals and their Application packs (Guidelines for applicants) drawn by the joint management structures of the "South–East Europe" and "Mediterranean" ERDF transnational programmes prior to their publication;
- formally confirm the operations selected by the joint management structures of the "South–East Europe" and "Mediterranean" ERDF transnational programmes as far as the participation of a beneficiary from Bosnia and Herzegovina is concerned;
- retain, in all cases, the right to issue a grant to the lead beneficiary of Bosnia and Herzegovina participating in a joint operation.

#### **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 Rules<sup>11</sup> 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>12</sup> at the date of the initiation of the procurement or grant award procedure.

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<sup>9</sup> See footnote 1 *supra*.

<sup>10</sup> See footnote 2 *supra*.

<sup>11</sup> See footnotes 1 and 2 *supra*.

<sup>12</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)

#### **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-directive<sup>13</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, a nature conservation assessment shall be made through a procedure equivalent to that provided for in Article 6 of the Habitats Directive<sup>14</sup>.

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

#### **5.1. Monitoring**

In Bosnia and Herzegovina, the Commission may undertake any actions it deems necessary to monitor the programmes concerned.

#### **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 AND ANTIFRAUD 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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<sup>13</sup> Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40).

<sup>14</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L206, 22.7.1992).

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>15</sup>.

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

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

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

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

Limited adjustments in the implementation of this programme affecting elements listed under Article 90 of the Implementing Rules to the Financial Regulation, which are of an indicative nature<sup>16</sup>, may be undertaken by the authorising officer by delegation (AOD), or by the authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

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<sup>15</sup> Council Regulation (EC, Euratom) 2185/96 of 11. November 1996, OJ L 292, 15.11.1996, p. 2.

<sup>16</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.