

FINANCING AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF CROATIA

AND

THE COMMISSION OF THE EUROPEAN COMMUNITIES

Concerning the Cross-border programme between the Republic of Croatia and Montenegro under the IPA-Cross-border Co-operation component, for the year 2007

Dated 17 November 2008

(Decentralised Management)

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FINANCING AGREEMENT

THE GOVERNMENT OF THE REPUBLIC OF CROATIA

and

THE COMMISSION OF THE EUROPEAN COMMUNITIES

hereafter jointly referred to as "the Parties" or individually as "the beneficiary country", in the case of the Government of Croatia, or the Commission, in the case of the Commission of the European Communities.

Whereas

- (a) On 1 August 2006, the Council of the European Union adopted Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (hereafter: the "IPA Framework Regulation"). With effect from 1 January 2007, this instrument constitutes the single legal basis for the provision of financial assistance to candidate countries (currently Croatia, the former Yugoslav Republic of Macedonia and Turkey) and potential candidate countries (Albania, Bosnia and Herzegovina, Montenegro, and Serbia, including Kosovo according to United Nation Security Council Resolution 1244) in their efforts to enhance political, economic and institutional reforms with a view to their eventually becoming members the European Union;
- (b) On 12 June 2007, the Commission adopted Regulation (EC) No 718/2007 implementing the IPA Framework Regulation, detailing applicable management and control provisions (hereafter: the "IPA Implementing Regulation").
- (c) Community assistance under the instrument for pre-accession assistance should continue to support the beneficiary countries in their efforts to strengthen democratic institutions and the rule of law, reform public administration, carry out economic reforms, respect human as well as minority rights, promote gender equality, support the development of a civil society and advance regional cooperation as well as reconciliation and reconstruction, and contribute to sustainable development and poverty reduction;

Community assistance for candidate countries should additionally focus on the adoption and implementation of the full *acquis communautaire*, and in particular prepare them for the implementation of the Community's agricultural and cohesion policy;

- (d) The Parties have concluded on 27 August 2007 a Framework Agreement setting out the general rules for cooperation and implementation of the Community assistance under the instrument for Pre-Accession Assistance;
- (e) The Commission adopted on 12 December 2007 the Cross-border programme between the Republic of Croatia and Montenegro under the IPA-Cross-border Co-operation component, for the year 2007 (hereafter: "the programme"). The part of this programme concerning Croatia is to be implemented by means of decentralised management
- (f) It is necessary for the implementation of this programme that the Parties conclude a Financing Agreement to lay down the conditions for the delivery of Community assistance, the rules and procedures concerning disbursement related to such assistance and the terms on which the assistance will be managed.

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HAVE AGREED ON THE FOLLOWING:

1 THE PROGRAMME

The Commission will contribute, by way of grant, to the financing of the following programme, which is set out in Annex A (appendixes 1 and 2) to this Agreement.

Programme number: 2007/019-424

Title: Cross-border programme between the Republic of Croatia and Montenegro under the IPA-Cross-border Co-operation component, for the year 2007.

2 IMPLEMENTATION OF THE PROGRAMME

- (1) The part of this programme concerning the Republic of Croatia shall be implemented by decentralised management, in the meaning of Article 53c of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, as last modified by Regulation (EC, Euratom) No 1995/2007 of 13 December 2006 (hereafter: "the Financial Regulation").
- (2) The Programme shall be implemented in accordance with the provisions of the Framework Agreement on the rules for co-operation concerning EC Financial Assistance to Croatia and the implementation of the Assistance under the Instrument for Pre-Accession Assistance (IPA), concluded between the Parties on 27 August 2007 (hereafter : "the Framework Agreement"), which is set out in Annex B to this Agreement.

3 NATIONAL STRUCTURES AND AUTHORITIES

- (1) The structures and authorities with functions and responsibilities for the implementation of this Agreement are described in Annex B to this Agreement.
- (2) Further responsibilities of the national authorizing officer and the national fund are set out in Annex C to this Agreement.
- (3) The beneficiary country shall establish an operating structure for the part of the programme concerning its territory. Such operating structure shall co-operate closely in the implementation of this programme with the operating structures of the other participating country (Montenegro).
- (4) The operating structures of the participating countries shall set up a joint technical secretariat to assist the operating structure and the joint monitoring committee referred to in Article 142 of the IPA Implementing Regulation in carrying out their respective duties.

The joint technical secretariat may have antennae established in each participating country.

- (5) The functions and responsibilities of the operating structures shall be, *mutatis mutandis*, those listed in Section 6, Annex A, of the Framework Agreement enclosed to the Agreement as Annex B.

4 FUNDING

The funding for the implementation of this Agreement shall be as follows:

- (a) The Community contribution for the year 2007 is fixed at a maximum of € 0.4 million for the part of the programme concerning Croatia, as detailed in Appendix A1 of Annex A to this Agreement. However, payments of the Community contribution by the Commission will not be made if the minimum requirements referred to in Article 41 of Regulation (EC) No 718/2007 (hereafter: the "IPA Implementing Regulation") are not met.
- (b) The cost of the national structures and authorities indicated in Annex B shall be borne by the beneficiary country, with the exception of the cost referred to in Article 94(1)(f) of the IPA Implementing Regulation.

5 CONTRACTING DEADLINE

- (1) The individual contracts and agreements which implement this Agreement shall be concluded no later than two years from the date of conclusion of this Agreement.
- (2) In duly justified cases, this contracting deadline may be extended with the agreement of the Commission before its end date to a maximum of three years from the date of conclusion of this Agreement.
- (3) Any funds for which no contract has been concluded before the contracting deadline shall be cancelled.

6 DEADLINE FOR THE EXECUTION OF CONTRACTS

- (1) The contracts must be executed within a maximum of 2 years from the end date of contracting.
- (2) The Commission may agree, upon request by the beneficiary country, to an appropriate extension of the deadline for the execution of contracts. Such request must be addressed to the Commission before the end of the deadline for the execution of contracts, and be duly justified by the beneficiary country.

7 DISBURSEMENT DEADLINE

- (1) Disbursement of funds must be made no later than one year after the final date for the execution of contracts.
- (2) The deadline for disbursement of funds may be extended with the agreement of the Commission before its end date in duly justified cases.

8 INTERPRETATION

- (1) Subject to any express provision to the contrary in this Agreement, the terms used in this Agreement shall bear the same meaning as attributed to them in the IPA Framework Regulation and the IPA Implementing Regulation.
- (2) Subject to any express provision to the contrary in this Agreement, references to this Agreement are references to such Agreement as amended, supplemented or replaced from time to time.
- (3) Any references to Council or Commission Regulations are made to the version of those regulations as indicated. If required, modifications of these regulations shall be transposed into this Agreement by means of amendments.
- (4) Headings in this Agreement have no legal significance and do not affect its interpretation.

9 PARTIAL INVALIDITY AND UNINTENTIONAL GAPS

- (1) If a provision of this Agreement is or becomes invalid or if this Agreement contains unintentional gaps, this will not affect the validity of the other provisions of this Agreement. The Parties will replace any invalid provision by a valid provision which comes as close as possible to the purpose of and intent of the invalid provision.
- (2) The Parties will fill any unintentional gap by a provision which best suits the purpose and intent of this Agreement, in compliance with the IPA Framework Regulation and the IPA Implementing Regulation.

10 REVIEW AND AMENDMENT

- (1) The implementation of this Agreement will be subject to periodic reviews at times arranged between the Parties.
- (2) Any amendment agreed to by the Parties will be in writing and will form part of this Agreement. Such amendment shall come into effect on the date determined by the Parties.

11 TERMINATION

- (1) Without prejudice to paragraph 2, this Agreement shall terminate eight years after its signature. The termination of this Agreement shall not preclude the possibility for the Commission to make financial corrections in accordance with Articles 49 to 54 of the IPA Implementing Regulation.
- (2) This Agreement may be terminated by either Party by giving written notice to the other Party. Such termination shall take effect six calendar months from the date of the written notice.

12 SETTLEMENT OF DIFFERENCES

- (1) Differences arising out of the interpretation, operation and implementation of this Agreement, at any and all levels of participation, will be settled amicably through consultation between the Parties.

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- (2) In default of amicable settlement, either Party may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of this Agreement.
- (3) The language to be used in the arbitration proceedings shall be English. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either Party. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

13 NOTICES

- (1) Any communication in connection with this Agreement shall be made in writing and in the English language. Each communication must be signed and must be supplied as an original document or by fax.
- (2) Any communication in connection with this Agreement must be sent to the following addresses:

For the Community:

Delegation of the European Commission
to the Republic of Croatia
Trg žrtava fašizma 6
10000 Zagreb
CROATIA

Tel: +385 (1) 4896 500
Fax: +385 (1) 4896 555

For the Beneficiary Country

State Secretary and
National IPA Co-ordinator
Central Office for Development Strategy and Co-ordination of EU Funds
Radnička 80/V
10000 Zagreb
CROATIA

14 ANNEXES

The Annexes A, B and C shall form an integral part of this Agreement.



15 ENTRY INTO FORCE

This Agreement shall enter into force on the date on which the Recipient notifies the Commission that all internal procedures in the Republic of Croatia necessary for the entry into force of this Agreement have been fulfilled.

Signed, for and on behalf of the
Government of the Republic of Croatia,

at Zagreb, 17 November 2008

by

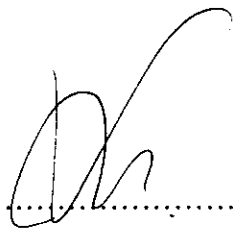
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Hrvoje Dolenc
State Secretary and National IPA Co-ordinator
Central Office for Development Strategy and Co-ordination of EU Funds

Signed, for and on behalf of the
Commission,

at Zagreb 17 November 08

by

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Vincent Degert
Head of Delegation
Delegation of the European Commission to the Republic
of Croatia



