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COMMISSION DECISION

C(2007)5980 of 10/12/2007

adopting the Cross-border programme between Serbia and Montenegro under the IPA-Cross-border Co-operation component, for the year 2007

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)¹, 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 candidates 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 Serbia², and a European Partnership for Montenegro³. The Commission has adopted on 18/06/2007 the Multi-annual Indicative Planning Document (2007-2009) for Serbia and on 01/06/2007 the Multi-annual Indicative Planning Document (2007-2009) for Montenegro which present the main priorities for pre-accession assistance to those countries⁴;
- (4) The responsible authorities of Serbia and Montenegro submitted to the Commission on 31 May 2007 a proposal for a multi-annual cross-border programme between the two countries. This draft programme contains all the elements referred to in Article 94 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)⁵ (hereinafter referred to as the IPA Implementing Regulation) and is consistent with the goals and priorities of the Multi-annual Indicative Planning Documents of the countries concerned. The draft programme contains, in particular, a description of priorities and the measures chosen for assistance and an indicative

¹ OJ L 210, 31.7.2006, p. 82.

² Council Decision 2006/56EC of 30 January 2006 on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 (OJ L 35, 7.2.2006, p.32).

³ Council Decision 2007/49/EC of 22 January 2007 on the principles, priorities and conditions contained in the European Partnership with Montenegro (OJ L 20,27.01.2007 p.16)

⁴ For Serbia C(2007)2497; for Montenegro: C (2007)2269

⁵ OJ L 170, 29.6.2007, p.1

financing plan based on the multi-annual indicative financial framework comprising a table for each participating country specifying for each year covered by the multi-annual indicative financial framework and for each priority axis, the indicative amount of the Community contribution and its rate, as well as the amount financed by the national counterparts. The draft programme should therefore be adopted by the Commission, in accordance with Article 91 (6) of the IPA Implementing Regulation;

- (5) The multi-annual cross-border programme between Serbia and Montenegro aims at providing assistance to bring together the people, communities and economies of the border area to jointly participate in the development of a cooperative area, using its human, natural and economic resources and advantages. The programme will be implemented on one Priority axis: "social and economic cohesion through joint actions to improve physical, business, social and institutional infrastructure and capacity".
- (6) For the year 2007, 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 1605/2002⁶ 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 Communities⁷;
- (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 "Cross-border programme Serbia-Montenegro", as set out in Annex 2 to this Decision, is hereby adopted.

The Financing proposal for the year 2007 of the "Cross-Border programme Serbia – Montenegro", as set out in Annex 1 to this Decision, is hereby adopted.

The part of this programme concerning Serbia shall be implemented by centralised management. The part of this programme concerning Montenegro shall be implemented by centralised management.

The programme corresponding to budget year 2007 shall be implemented by means of Financing Agreements to be concluded between the Commission and the Government of each of the participating Countries. Each such Financing Agreement shall cover the Community contribution for the beneficiary country and the year concerned.

⁶ OJ L 357, 31.12.2002, p. 1 Regulation as last amended by Regulation (EC, Euratom) No 478/2007, (OJ L111, 28.04.2007 p1).

⁷ 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).

Article 2

The maximum amount of Community contribution shall be EUR 0,5 million for the Serbia and EUR 0,6 million for the Montenegro to be financed through Item 22.02.04.01 of the general budget of the European Communities for the year 2007.

Done at Brussels, [...]

For the Commission
Olli Rehn
Member of the Commission

ANNEX 1

FINANCING PROPOSAL FOR THE YEAR 2007 OF THE CROSS-BORDER PROGRAMME Serbia - Montenegro

1. IDENTIFICATION

Beneficiaries	Serbia and Montenegro
CRIS number	Serbia-Montenegro 2007/19354
Year	2007
Cost	Serbia: €0.5 million Montenegro: €0.6 million Total value of IPA contribution: €1.1 million
Operating structures	Serbia: NIPAC : Ministry of Finance; department in charge of Programming and Management of EU funds and Development assistance - Kneza Milosa 20 - 11000 Belgrade Montenegro: NIPAC : Secretariat for European Integration; Stanka Dragojevic 2 - 81000 Podgorica
Implementing Authorities	For Serbia: European Commission For Montenegro: European Commission
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	11330, 14010, 16350, 32130, 33210, 43040, (08.81 IPA Code)
Budget lines concerned	22.02.04.01
Programming Task Manager	ELARG Unit C2 Serbia, Montenegro
Implementation Task Manager	For Serbia: EC Delegation. For Montenegro: EC Delegation

2. SUMMARY

2.1 Introduction

- *Link with MIPD*

The cross-border programme between Serbia and Montenegro will contribute to the implementation of IPA Component II "Cross-border cooperation" of the Multi-annual Indicative Planning Documents (MIPDs) for both countries. This programme will address the "development of cross-border economic, social and environmental activities of border areas", and "common challenges in particular in the field of environment and public health and development" and to "Promote local "people to people" type actions including among NGOs and local authorities" identified in the MIPD for Montenegro.

The IPA 2007 areas of intervention have been selected after analysis by the European Commission and consultation with the authorities of both countries, on the basis of the SWOT (Strength, Weakness, Opportunity, Threat) analysis presented in the annex II of this Financing Decision and after due consideration of implementing capacities.

- *Programming process*

Following the introductory meeting between Serbia and Montenegro in Belgrade on February 1st, 2007 and through a number of bilateral meetings the following process was followed:

- Formation of a Joint Programming Committee/Drafting Team by both countries, representing the competent authorities and beneficiaries (Ministry of Finance, in case of Serbia, and Secretariat of European Integration in case of Montenegro);
- Submission of the proposals for eligible areas of both countries for approval by the EC;
- First draft of the SWOT analysis and description of each side of the eligible area on the basis of regional strategic documents and data collection through questionnaires and interviews (98 interviews conducted in total; 58 in Serbia eligible area and 40 in Montenegro eligible area); two SWOTs combined into one joint document;
- Presentation of the combined SWOT analysis and discussion by Drafting Teams at a meeting in Podgorica on April 5th, together with feedback for improvements;
- Ministry of Finance (Serbia) and Secretariat of European Integration (Montenegro) agree on financial allocation from IPA for cross-border programme;
- Final draft of the cross-border programme prepared and agreed on by both sides at the final meeting of the Joint Programming Committee;
- Joint submission of the cross-border programme to the European Commission by May 31st 2007.

- *List of eligible areas*

The eligible area in Serbia are two counties, Raski and Zlatiborski, together comprised of 15 municipalities. In Montenegro, the eligible area consists of 12 municipalities: Pljevlja, Bijelo

Polje, Berane, Rozaje, Plav, Andrijevisa, Kolasin, Mojkovac, Zabljak, Pluzine, Savnik, Niksic.

- *Adjacent areas*

In Montenegro adjacent areas, according to art 97 of the IPA Implementing Regulation are : Podgorica, Danilovgrad, Cetinje.

2.2 Global objective(s) of the programme

The global objective is to bring together the people, communities and economies of the border area to jointly participate in the development of a cooperative area, using its human, natural and economic resources and advantages. This programme will have catalytic effects as it will build the capacities of local stakeholders, municipal, regional institutions and the civil society, and therefore their ability to participate in cross-border initiatives

2.3 Priority axis, the related measures and their specific aspects concerning the implementation of the 2007 budget

Priority I: Socio - economic cohesion through joint actions to improve physical, business, social and institutional infrastructure and capacity.

Measure I.1: Improving the productivity and competitiveness of the areas' economic, rural and environmental resources.

This measure is specifically worded to promote joint efforts to achieve more effective use of the eligible area's resources. Beneficiaries will include (this list is not exhaustive):

- Local governments and their institutions, including public utilities, hospitals, medical and emergency services;
- Schools, libraries, Institutes of culture, community centres, cultural, historic or sporting associations, etc;
- Non governmental, non profit organisations;
- Business support organisations such as chambers of commerce, business centres, SME associations, sectoral associations, local trade associations, etc
- Regional Development and Local Development agencies;
- Authorities responsible for nature protection or nature parks management and public administrations;
- Euroregions.

Measure I.2: Cross-border initiatives targeting the exchange of people and of ideas, in order to enhance the professional and civic society cooperation.

This measure is designed to bring about a more intense cooperation between communities at municipality level in order to develop a common identity between both the inhabitants and professional groups. It will support smaller projects and people-to-people actions. This measure will benefit economic activities in the eligible area and also provide opportunities to celebrate their cultural, historic, ethnic, educational and sporting links. Beneficiaries will be the same as above.

The Measures of Priority I will be implemented through grants schemes. 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) expected to be launched in the third quarter 2008.

Priority II: Technical assistance for an efficient programme management and information flow

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.

Technical assistance will be provided through two measures.

Measure II.1 Programme administration, monitoring and evaluation

Technical assistance will be used to support the work of the national Operating Structures (OSs) and of the Joint Monitoring Committee (JMC), ensuring the efficient implementation, monitoring and evaluation of the programme, as well as an optimal use of resources. This will be achieved through the establishment and operation of a Joint Technical Secretariat (JTS) in Serbia and a JTS antenna in Montenegro. The JTS will be in charge of the day-to-day management of the programme and will be responsible to the OSs and the JMC. It will also ensure the provision of advice and support to final beneficiaries in project development and implementation.

Measure II.2 Programme Information and Publicity

The specific objective of this measure is to ensure programme awareness amongst national, regional and local communities and in general among the population in the programming area. It also supports awareness-raising activities at the country level in order to inform citizens in both countries about the programme. It might also cover, *inter alia*, the preparation, translation and dissemination of programme related information and publicity material, including a website

Considering that the relevant national authorities (Operating Structures in Serbia and in Montenegro) enjoy a *de facto* monopoly situation (in the sense of Art. 168, paragraph 1, subparagraph c of the Implementing rules to the Financial Regulation) for the implementation of the cross-border programme, the relevant contracting authorities in both countries (EC

Delegations) 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.

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.

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

- **Past experience**

Both Serbia and Montenegro have experience with cross-border cooperation on their external borders: Serbia with Bulgaria, Romania and Hungary, and Montenegro with Italy. These programmes are consistently coherent with both EU and national programmes.

- **Lessons Learned**

Experience with border region cooperation so far indicates that a solid preparatory phase is the most important prior to the launching of specific activities. In order for border region cooperation to be effective, it is crucial that there is good understanding of the rules and procedures, adequate capacity and functioning management bodies.

In addition, the results of the independent evaluation on the Phare Cross-Border Cooperation Programmes 1999-2003 have been taken into account. 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.
- **Donor coordination**

In line with Article 20 of the IPA Regulation and Article 6(3) of the IPA Implementing Regulation, the EC has asked the representatives of member States and local IFI's in Serbia and in Montenegro to provide their comments regarding the draft cross-border co-operation programme submitted to the Commission.

2.5 *Horizontal issues*

The joint applications will have to fulfil the following criteria:

- be beneficial to 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 the disadvantaged, disabled or ethnic minorities;
- protect the natural and built environment in order to support sustainable development;
- be owned jointly.

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

2.6 *Benchmarks*

N*(2008)	N*(2008)	N+1 (2009) (cumulative)	N+2 (2010) (cumulative)
Number of direct grant agreement in Serbia	1		
Number of direct grant agreement in Montenegro	1		
Number of joint calls for proposals launched in Serbia and in Montenegro	2		
Contracting Rate (%) in Serbia	10	100	
Contracting Rate (%) in Montenegro	10	100	

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

For Montenegro, 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. However, work eventually leading to granting decentralisation with ex-ante controls is at a very preliminary phase. A detailed specific plan and timetable for decentralisation with ex-ante controls shall be established by the beneficiary country, in accordance with the Commission's guidance "Roadmap for DIS".

For the time being, under non-EU multilateral assistance, a checklist was prepared on expected qualifications/results in the preparation and implementation of DIS. It's intended to serve as an indicator for all the future training of the public administration bodies designated to deal with IPA (NIPAC, NF, NAO, NIPAC, CFCU, SPOs, PIUs in line Ministries, audit authority, IPA joint monitoring committee and sector coordinators for the future regional development and human resources components).

Furthermore, a SIGMA mission took place in late June 2007 in order to cover the DIS gap assessment. Following that mission, the National Authorities are expected to make decisions on the organisation and location of all the above mentioned public bodies.

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 Serbia

	EU – IPA assistance		National Contribution		Total (IPA plus National Contribution)	
	EUR	%	EUR	(%)	EUR	(%)
Priority axis 1	450,000	85%	79.411	15%	529.411	100%
Priority axis 2	50,000	85%	8.824	15%	58.824	100%
TOTAL	500,000	85%	88.235	15%	588.235	100%

3.2 Indicative 2007 financial table for Montenegro

	EU – IPA assistance		National Contribution		Total (IPA plus National Contribution)	
	EUR	%	EUR	(%)	EUR	(%)
Priority axis 1	540,000	85%	95.294	15%	635.294	100%
Priority axis 2	60,000	85%	10.588	15%	70.588	100%
TOTAL	600,000	85%	105.882	15%	705.882	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 Serbia – Montenegro is based on the total expenditure, as agreed by the participating countries and laid down in the cross-border programme.

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

The co-financing under priority axis I will be provided by the final grant beneficiaries and it can be from public and private funds. Final grant beneficiaries should contribute with a minimum of 15% of the total eligible cost of the project, both for investment and institution building projects. The co-financing under priority axis II will be provided by the national authorities.

The provisions of Article 90 of Regulation (EC) No 718/2007 (OJ L170 29.06.2007) (IPA Implementing Regulation) apply.

4. IMPLEMENTATION ARRANGEMENTS

4.1 Method of Implementation

This programme shall be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation⁸ and the corresponding provisions of the Implementing Rules⁹.

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 Rules¹⁰ 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 website¹¹ 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 Community Acquis.

⁸ See footnote 7 supra in the Commission Decision .

⁹ See footnote 6 supra in the Commission Decision.

¹⁰ See footnote 6 and 7 supra in the Commission Decision.

¹¹ 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-directive¹² fully apply to all investment projects under IPA and, as both Serbia and Montenegro have transposed the EIA directive, the EIA procedures have to be applied.

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 documented¹³.

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 Serbia and 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 Community funds and the strategy and implementation of the cross-border programmes.

6. AUDIT, FINANCIAL CONTROL, 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.

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) 2185/96¹⁴

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

¹² 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.

¹³ 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)

¹⁴ Council Regulation (EC,Euratom) 2185/96 of 11. November 1996, OJ L 292; 15.11.1996; p. 2.

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 nature¹⁵, 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.

¹⁵ 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

ANNEX 2

**Cross-border programme
Serbia - Montenegro**