

EN

EN

EN



EUROPEAN COMMISSION

Brussels, 16.11.2010
C(2010)7976

COMMISSION DECISION

C(2010)7976 of 16 November 2010

**adopting a horizontal programme on Nuclear Safety and Radiation Protection under the
IPA -Transition Assistance and Institution Building Component for the year 2010**

COMMISSION DECISION

C(2010)7976 of 16 November 2010

adopting a horizontal programme on Nuclear Safety and Radiation Protection under the IPA -Transition Assistance and Institution Building Component for the year 2010

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 candidate countries and potential candidates.
- (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 and by component, or, as appropriate, by groups of countries or by theme. 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 document referred to in Article 6 of that Regulation.
- (3) The Council has established an Accession Partnership or a European Partnership for all candidate countries and potential candidates. The Commission has adopted on 16 June 2009 a Multi-Beneficiary Multi-annual Indicative Planning Document 2009-2011² which presents indicative allocations for the main priorities for multi-beneficiary pre-accession assistance to all countries concerned.
- (4) Therefore, the horizontal programme on Nuclear Safety and Radiation Protection under the IPA Transition Assistance and Institution Building Component for the year 2010 ultimately aims at providing assistance for solving radiological issues at Vinča, Serbia, including the management of sealed radioactive sources, stabilisation of the spent fuel storage facility, establishment of a national registry for nuclear materials, radioactive waste and radiation sources, as well as addressing other issues, i.e. enhancement of the technical capacity of the Albanian regulatory body and improvement of the storage facility for radioactive waste in Croatia. The actions are covered under Priority axis 3: Ability to assume the obligations of Membership and approximation to European Standards.
- (5) 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

¹ OJ L 210, 31.7.2006, p. 82.

² C(2009)4518, 16.6.2009.

implementation of Council Regulation No 1605/2002³ (hereafter: “Implementing Rules”) 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 Communities⁴ (hereafter: “Financial Regulation”).

- (6) The administrative capacity of Croatia is sufficiently developed to allow for implementation of this programme by decentralised management, as provided for in Article 53c of Regulation (EC, Euratom) No 1605/2002.
- (7) The Commission concluded on 27 August 2007 a Framework Agreement with the Government of the Republic of Croatia on the rules for co-operation and implementation of pre-accession assistance.
- (8) It is appropriate to implement parts of this programme by joint management with the International Atomic Energy Authority since the projects to be implemented are extending and developing activities already funded by this Agency.
- (9) The measures provided for by this Decision are in accordance with the opinion of the IPA Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The horizontal programme on Nuclear Safety and Radiation Protection under the IPA Transition Assistance and Institution Building Component for the year 2010, as set out in the Annex, is hereby adopted.

The programme shall be implemented partly by centralised management, partly by decentralised management and partly by joint management with the International Atomic Energy Agency.

The programme shall be implemented by means of financing agreements to be concluded between the Commission and the Governments of the Beneficiaries.

Article 2

The maximum amount of European Union contribution shall be **EUR 7 075 000**, to be financed through Item 22.020701 of the general budget of the European Union for 2010.

Done at Brussels,

For the Commission
Štefan Füle
Member of the Commission

³ OJ L 357, 31.12.2002, p. 1.

⁴ OJ L 248, 16.9.2002, p.1.

**ANNEX: Horizontal Programme on Nuclear Safety and Radiation Protection under the
IPA-Transition Assistance and Institution Building Component for the year 2010**

1. IDENTIFICATION

Beneficiaries	Albania, Croatia, Serbia
CRIS number (decentralised management)	2010/022-489
CRIS number (centralised management/joint management)	2010/022-503
Year	2010
Cost	EUR 7 075 000
Implementing Authority	The European Commission on behalf of the Beneficiaries, the International Atomic Energy Agency (IAEA) under Joint Management with the European Commission, and the Central Finance and Contracting Agency of Croatia.
Final date for concluding the financing agreements	At the latest by 31 December 2011
Final dates for contracting	2 years following the date of conclusion of the financing agreements. These dates apply also to the national co-financing.
Final dates for execution	2 years following the end date for contracting. These dates apply also to the national co-financing.
Sector Code	23064
Budget lines	22.020701 – Regional and horizontal programmes
Programming Task Manager	Unit D3 - Regional Programmes DG Enlargement
Implementation Task Manager	Unit D3 - Regional Programmes DG Enlargement Project (2) will be implemented by decentralised management by the CFCA in Croatia. Projects (3), (4), (5) and (6) will be implemented by joint management with the IAEA.

2. PRIORITY AXES/ (MEASURES) / PROJECTS

2.a Priority axes

The IPA horizontal programme on nuclear safety and radiation protection is implemented in the context of the priority axe entitled "Ability to assume the obligations of Membership and approximation to European Standards".

The IPA Multi-Beneficiary Multi-annual Indicative Planning Document (MIPD) 2009-2011⁵, under section 2.3.3.11 clearly mentions that:

- (1) The Western Balkans are confronted with a number of radiological issues that are connected with the use of radionuclides for a number of industrial and medical applications;
- (2) In most Beneficiaries in the Western Balkans management of sealed radioactive sources, for example, dismantling of radioactive lightning rods and operation of centralised storage facilities remains a key issue;
- (3) In Serbia the operation, refurbishment and dismantling of the nuclear research reactor constitute additional sources of radiation risks that would require investment, in particular for the management of spent nuclear fuel and radioactive waste;
- (4) The national safety authorities with responsibility for regulating nuclear safety and radiation protection are in most cases lacking personnel and expertise. Alignment of the national legislations and regulations of the Western Balkans with the *acquis* would require significant EU support;
- (5) The most appropriate means to address the aforementioned issues in the areas of nuclear safety and radiation protection is through a combination of Multi-beneficiary and National projects.

This Financing proposal focuses on a set of six national projects that are covering some of the Multi-Beneficiary MIPD priorities.

2. b Description of projects grouped per priority axis

General context

Over the years 2007 - 2009, the IPA horizontal programme on nuclear safety and radiation protection started to address all these important nuclear safety and radiological issues through the implementation of regional assessment studies and direct support notably in the fields of radiation protection, radioactive waste and spent fuel management. In this context, 32 IPA-funded projects have been programmed for a total amount of about EUR 24 million.

These projects and notably those dealing with regional assessment studies enabled the European Commission's Directorate-General for Enlargement (DG Enlargement) to gain an insight into the nuclear situation of each of the Western Balkans. Taking into account the large amount of information thus collected, it was considered worthy to make a pause in the programming activities and to devote a significant part of the 2010 activities to the analysis of the results of the past IPA nuclear projects with the view to drawing up national plans of action. These plans should define in detail together with a timetable which actions should be performed by the IPA-beneficiaries - either alone or with external support - in order to align their legislation and regulations with the *EU acquis* until their accession to the European

⁵ C(2009)4518, 16.06.2009

Union. As a result, DG Enlargement decided to limit the programming activities of IPA nuclear projects in 2010 to three Beneficiaries, namely Albania, Croatia and Serbia. This choice relies on the following reasons:

- (1) Albania needs to receive continuous support on nuclear regulatory assistance;
- (2) the most critical nuclear safety issue in Croatia concerns the refurbishment and licensing of the national storage facility for radioactive waste at the Ruder Boskovic Institute;
- (3) in Serbia, dismantling operations of the RA nuclear reactor (Vinca Institute Nuclear Decommissioning (VIND) programme) ought to continue.

The programme will be closely coordinated with the IAEA since several projects are extending and developing activities already funded by this agency. The four projects in Serbia will be implemented by joint management with the IAEA.

The programme will also take into consideration the actions undertaken under the other financing instruments that are addressing nuclear issues (i.e. the Instrument for Nuclear Safety Cooperation and the Stability Instrument).

Description of the projects

Project No 1: "Further steps to approximate the Albanian legislation and regulations in accordance with the *EU acquis* in the field of radiation protection, nuclear safety and security".

Through a 2008 IPA-funded project aimed at enhancing the technical capacity of nuclear regulatory bodies in the Western Balkans, the Albanian Radiation Protection Office - the Albanian nuclear regulator - will receive a significant assistance in order to assess the degree of transposition of the *EU acquis* into the Albanian legislation and regulations. Although it is expected that this project will contribute to align some of the regulations with the *acquis*, it is very likely that further support will be needed to complete the transposition. This is precisely one of the main aims of this project, i.e. to complete the transposition and to review procedures for authorisation, inspection and enforcement. The second aim is to assist the nuclear regulatory body to develop procedures for quality control of the X-ray machines throughout Albanian territory.

A service contract for an amount of EUR 220 000 will be concluded following a call for tenders that will be launched in the third quarter of 2011.

Project No 2: "*Licensing and refurbishing of the national storage facility for radioactive waste at the Rudjer Boskovic Institute*" – Croatia.

One of the main outcomes of the assessment study on the regulatory infrastructure in Croatia is to highlight the fact that a national licensed storage facility for radioactive waste is imperatively needed. This situation is well known by the Croatian authorities who decided in December 2009 to transform the existing and old storage facility located in the Rudjer Boskovic Institute into a national one. However in order to be licensed, this facility needs important refurbishment. It is important to note that the related safety assessment is expected to be performed in close collaboration with the IAEA. Therefore an important part of this project will consist of supporting refurbishment works. Another aspect concerns management and storage of radioactive waste generated during the dismantling of a cyclotron located within the Rudjer Boskovic Institute. The third main activity deals with the supply of equipment to characterise and repack radioactive waste, and to carry out a monitoring

programme of radioactivity into the environment. The last item of this project refers to technical assistance to the Rudjer Boskovic Institute in order to improve its technical capacity of various aspects of radioactive waste management.

The following four contracts are expected to be concluded to implement this project: one works contract for an EU contribution of EUR 595 000 following a tender launched in the third quarter of 2011; two service contracts for an EU contribution of EUR 63 000 (supervision of the works) and EUR 432 000 following tenders launched respectively during the fourth quarter and second quarter of 2011; and one supply contract for an EU contribution of EUR 765 000 following a tender launched in the second quarter of 2011.

The implementation of this project will be decentralised.

Project No 3: "Registry of nuclear materials, radioactive sources, waste and exposures" – Serbia.

Many nuclear materials and radioactive waste are spread all over the territory of Serbia. Therefore the main objective of this project is to work out a comprehensive registry that will be placed under the control of the newly established Serbian nuclear regulatory body (the Agency for Ionising Radiation Protection and Nuclear Safety of Serbia). The project also comprises the delivery of appropriate software in order to operate the database on nuclear materials and radioactive waste. It is worthy to be noted that this database should be designed to incorporate data on occupational exposure. Finally through the project, a national strategy for reducing the radiological risks should be drawn up.

Project No 4: "Part 2 of project for conditioning and secure storage of disused sealed radioactive sources and any other radioactive waste and nuclear materials located in Serbia".

This project is part of the Vinča (Serbia) Institute Nuclear Decommissioning (VIND) programme and will mainly consist of extending the scope of the 2008 IPA funded project on the conditioning and repackaging of sealed radioactive sources at Vinča. This project should allow the additional conditioning and repackaging of 2000 disused sealed sources of category 3 and 4 more.

Project No 5: "Stabilisation of spent nuclear fuel storage pool at the Vinča site in Serbia".

This project is also part of the VIND programme. After the removal of spent nuclear fuel from the Vinča pool, this latter has to be decontaminated and dismantled. This operation constitutes the main aim of this project. Six main tasks have to be implemented: radiological characterisation of spent fuel storage building, drawing up of a work plan for decontamination and radioactive waste management, preparation of a safety analysis report to be submitted to the Serbian nuclear regulatory body, removal and treatment of radioactive liquid waste, decontamination or stabilisation of spent fuel storage basins, management and storage of radioactive waste generated during decontamination and dismantling operations.

Projects No 3, No 4 and No 5 will be implemented by joint management with the IAEA via a contribution agreement with the IAEA for a total amount of EUR 4 600 000 (project No 3 - EUR 800 000, project No 4 - EUR 800 000 and project No 5 - EUR 3 000 000, respectively).

The contribution agreement covering projects 3, 4 and 5 should be concluded in the third quarter of 2011 in accordance with the terms of the Financial and Administrative Framework

Agreement (FAFA) between the European Union and the United Nations signed on 29 April 2003, to which the IAEA adhered on 17 September 2004.

Project No 6: "Project Management Unit for EU supported projects"

This is the third back-up project to the twelve EU-funded projects implemented or to be implemented at Vinča that comes to a total budget of more than EUR 16 million. Through this project, assistance will be given in planning each project and activity; developing and maintaining project schedules, including the scheduling of each activity and input so as to ensure timely completion and successful achievement of the objectives and performance objectives.

Taking into account the important technical assistance activities being implemented and coordinated by the IAEA at Vinča, it was deemed worthwhile to implement the project in joint management with this Agency. In this way, overlapping of technical assistance is avoided and synergies can be developed.

A contribution agreement with the IAEA for an amount of EUR 400 000 will be concluded in the second quarter of 2012 (via an amendment to the existing contribution agreement) for the implementation of this project in accordance with the terms of the Financial and Administrative Framework Agreement (FAFA) between the European Union and the United Nations, signed on 29 April 2003, to which the IAEA adhered on 17 September 2004.

2. c Overview of past and on going assistance including lessons learned and donor coordination

Since 2007 the IPA horizontal programme on nuclear safety and radiation protection is providing the Western Balkans with a significant support in order to solve a number of important issues, e.g. enhancement of the technical capacity of nuclear regulators, radioactive waste management, repatriation of spent nuclear fuel to the Russian Federation, and reduction of the radiological risks in particular in the medical sector. Although some political problems somewhat delayed the implementation of these successive programmes, in particular concerning the rather late establishment in some of the Beneficiaries of nuclear regulatory bodies, the overall appraisal of past and on going assistance is very positive. The lessons learnt mainly concern the quality of the information received from the IPA-funded project implemented in joint management with the IAEA which was not always at the level required. It took a lot of time to make the IAEA understand that joint management is not limited to blind funding by IPA but also implies dissemination of the information so that DG Enlargement can follow up the progress of the work project per project and step by step. As a result a number of new requirements have been introduced into the recent Contribution Agreements with the IAEA in order to reinforce collaboration and the access to information. Lessons from the past in most central and eastern European countries show the need to have a comprehensive inventory of radioactive materials and waste that is under control by the national nuclear regulatory body. The latest developments of the VIND programme under the coordination of the IAEA showed that supplementary technical expertise would be required for the monitoring taking into account the increasing number of projects being implemented and their high technical complexity. The lessons learned from past projects at the Vinča Nuclear Institute have demonstrated the need to urgently address some of the issues included under this programme such as the conditioning of sealed radioactive sources.

Coordination with other external donors is performed through the IAEA and this could constitute an argument to continue the collaboration with this Agency at least for some projects. Attempts will be made in the near future to improve the situation.

Coherence of approach with the Instrument for Nuclear Safety Cooperation (INSC) is ensured through close contacts and exchange of information with the members of the INSC Committee.

2. d Horizontal issues

The implementation of projects 1 to 6 will contribute to significantly improve the protection of the people and the environment from ionising radiation in the Western Balkans. They will also contribute to decrease exposure to ionising radiation for members of the public. As a general rule, enhancement of the capacity of nuclear safety authorities is a prerequisite to improve nuclear safety and radiation protection in the whole Western Balkans.

2. e Conditions

Not applicable.

2. f Benchmarks

	2011		2012 (cumulative)		2013 (cumulative)	
	EU	NF*	EU	NF*	EU	NF*
Contribution Agreements with the IAEA	1	-	2	-	2	-
Number of tenders launched	5	-	5	-	5	-
Contracting Rate (%)	86	0	100	100	100	100

* in case of parallel national co-financing

3. BUDGET (AMOUNTS IN EUR)

3.1. Indicative budget

3.1.1. Table for centralised projects (Albania)

Centralised management	Institution Building (IB)					Investment (INV)					Total (IB + INV)	Total IPA EU contribution		
	Total expenditure		IPA EU contribution		National contribution*		Total public expenditure		IPA EU contribution		National contribution*			
	EUR (a)=(b)+(c)	EUR (b)	%⁽¹⁾	EUR (c)	%⁽¹⁾	EUR (d)=(e)+(f)	EUR (e)	%⁽¹⁾	EUR (f)	%⁽¹⁾	EUR (g)=(a)+(d)	EUR (h)=(b)+(e)	%⁽²⁾	
Priority axis 3	Ability to assume the obligations of Membership and approximation to European Standards											220 000	3	
Project 1 - Further steps to approximate the Albanian legislation and regulations in accordance with the EU <i>acquis</i> in the field of radiation protection, nuclear safety and security	220 000	220 000	100	-	-	-	-	-	-	-	220 000	220 000	-	

TOTAL	220 000	220 000	100	-	-	-	-	-	-	-	220 000	220 000	3
--------------	---------	---------	-----	---	---	---	---	---	---	---	---------	----------------	----------

* Contribution (public and private national and/or international contribution) provided by national counterparts.

- (1) Expressed in % of the Total expenditure IB or INV (column (a) or (d)).
- (2) Priority axis rows only. Expressed in % of the grand total of column (h). It indicates the relative weight of the priority with reference to the total IPA EU contribution of the entire FP

3.1.2. Table for decentralised projects (Croatia)

Decentralised management	Institution Building (IB)					Investment (INV)					Total (IB + INV)	Total IPA EU contribution	
	Total public expenditure	IPA EU contribution		National public contribution*		Total public expenditure	IPA EU contribution		National public contribution*				
	EUR (a)=(b)+(c)	EUR (b)	% ⁽¹⁾	EUR (c)	% ⁽¹⁾	EUR (d)=(e)+(f)	EUR (e)	% ⁽¹⁾	EUR (f)	% ⁽¹⁾	EUR (g)=(a)+(d)	EUR (h)=(b)+(e)	% ⁽²⁾
Priority axis 3	Ability to assume the obligations of Membership and approximation to European Standards											1 855 000	26
Project 2 - Improvement of Conditions of the Radioactive Waste Storage at Ruder Boskovic Institute in Croatia	480 000	432 000	90	48 000	10	1 673 500	1 423 000	85	250 500	15	2 153 500	1 855 000	-
TOTAL	480 000	432 000	90	48 000	10	1 673 500	1 423 000	85	250 500	15	2 153 500	1 855 000	26

* public contribution (private contributions are not taken into account (Article 67(1) IPA IR) under decentralised management).

(1) Expressed in % of the Total expenditure IB or INV (column (a) or (d)).

(2) Priority axis rows only. Expressed in % of the grand total of column (h). It indicates the relative weight of the priority with reference to the total IPA EU contribution of the entire FP

3.1.3. Table for projects to be implemented in joint management with the IAEA

Joint management	Institution Building (IB)					Investment (INV)					Total (IB + INV)	Total IPA EU contribution		
	Total public expenditure	IPA EU contribution		National public contribution*		Total public expenditure	IPA EU contribution		National public contribution*					
		EUR (a)=(b)+(c)	EUR (b)	%⁽¹⁾	EUR (c)		%⁽¹⁾	EUR (d)=(e)+(f)	EUR (e)	%⁽¹⁾				EUR (f)
Priority axis 3	Ability to assume the obligations of Membership and approximation to European Standards												5 000 000	71
Project 3 - Registry of nuclear materials, radioactive sources, wastes and exposures	880 000	800 000	91	80 000	9	-	-	-	-	-	880 000	800 000	-	
Project 4 - Part 2 of project for conditioning and secure storage of disused sealed radioactive sources in Serbia	880 000	800 000	91	80 000	9	-	-	-	-	-	880 000	800 000	-	
Project 5-Stabilisation of spent nuclear fuel storage pool at the Vinca site in Serbia	3 150 000	3 000 000	95	150 000	5	-	-	-	-	-	3 150 000	3 000 000	-	
Project 6 - Project Management Unit for	400 000	400 000	100	-	-	-	-	-	-	-	400 000	400 000	-	

EU supported projects													
TOTAL	5 310 000	5 000 000	94	310 000	6	-	-	-	-	-	5 310 000	5 000 000	71

* Contribution (public and private national and/or international contribution) provided by national counterparts.

(1) Expressed in % of the Total expenditure IB or INV (column (a) or (d)).

(2) Priority axis rows only. Expressed in % of the grand total of column (h). It indicates the relative weight of the priority with reference to the total IPA EU contribution of the entire FP

3.1.4. Table summarising the IPA support according to the management mode adopted

Priority axis 3	Ability to assume the obligations of Membership and approximation to European Standards												
	Institution Building (IB)					Investment (INV)					Total (IB + INV)	Total IPA EU contribution	
	Total public expenditure	IPA EU contribution		National public contribution*		Total public expenditure	IPA EU contribution		National public contribution				
	EUR (a)=(b)+(c)	EUR (b)	% ⁽¹⁾	EUR (c)	% ⁽¹⁾	EUR (d)=(e)+(f)	EUR (e)	% ⁽¹⁾	EUR (f)	% ⁽¹⁾	EUR (g)=(a)+(d)	EUR (h)=(b)+(e)	% ⁽²⁾
Decentralised management	480 000	432 000	90	48 000	10	1 603 500	1 423 000	85	243 500	15	2 153 500	1 855 000	26
Centralised management	220 000	220 000	100	-	-	-	-	-	-	-	220 000	220 000	3
Joint Management	5 310 000	5 000 000	94	310 000	6	-	-	-	-	-	5 310 000	5 000 000	71
TOTAL	6 010 000	5 652 000	94	358 000	6	1 603 500	1 423 000	85	243 500	15	7 683 500	7 075 000	100

(1) Expressed in % of the Total expenditure IB or INV (column (a) or (d)).

(2) Expressed in % of the grand total of column (h).

3.2 Principle of Co-Financing applying to the projects funded under the programme

For project No 1 which is under centralised management, the EU contribution represents 100% of the total budget allocated to this part of the programme. This has been calculated in relation to the eligible expenditure, which is based on the total expenditure.

For project No 2 which is under decentralised management, the EU contribution represents 86% of the total budget allocated to this part of the programme. This has been calculated in relation to the eligible expenditure, which is based on the public expenditure. Joint co-financing will be used as a rule. The requirements of co-financing for Institution Building (IB) and Investment (INV) at project level have been complied with.

For projects in joint management with the IAEA (projects No 3 to 6), the EU contribution represents 94% of the total budget allocated to this part of the programme. This has been calculated in relation to the eligible expenditure, which is based on the total expenditure. Joint co-financing will be used. The level of co-financing for these projects has been reduced due to the need to support the repatriation of the Serbian spent nuclear fuel to the Russian Federation, which proved to be more expensive than originally estimated.

4. IMPLEMENTATION ARRANGEMENTS

4.1 Method of implementation

Project No 1 will be implemented on a centralised basis by the European Commission in accordance with Article 53a of the Financial Regulation⁶ and the corresponding provisions of the Implementing Rules⁷.

Project No 2 shall be implemented by decentralised management, in accordance with Article 53c of the Financial Regulation and the corresponding provisions of the Implementing Rules. 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 European Commission shall apply to the tendering of contract, launch of call for proposals and the award of contracts and grants until the European Commission allows for decentralised management without ex-ante controls as referred in Article 18 of the IPA Implementing Regulation⁸.

For projects No 3, No 4, No 5 and No 6, the programme will be implemented by the European Commission by joint management with the International Atomic Energy Agency following Article 53d of the Financial Regulation and the corresponding provisions of the Implementing Rules. To this end, the Commission and the IAEA will conclude two Contribution Agreements (one for project No 6 and another one for projects No 3, 4 and 5), in accordance with the Financial and Administrative Framework Agreement (FAFA).

⁶ OJ L 248, 16.9.2002, p.1.

⁷ OJ L 357, 31.12.2002, p. 1.

⁸ OJ L 170, 29.6.2007, p. 1.

Joint management will be used to delegate implementation of tasks to international organisations. Only the IAEA is concerned by this management mode and it is currently subject to an assessment in relation to Article 53d of the Financial Regulation. In anticipation of the results of the assessment, the authorising officer deems that, based on the longstanding and problem free cooperation with the IAEA, joint management mode can be proposed and a Convention can be signed in accordance with the provisions laid down in Article 43 of the Implementing Rules to the Financial Regulation.

4.2 General rules for procurement and grant award procedures

For projects No 1 and No 2 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 Union 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.

The Contracting authorities shall also use the procedural guidelines and standard templates and models facilitating the application of the above rules provided for in the "Practical Guide to contract procedures for EU external actions" ("Practical Guide") as published on the Commission's EuropeAid Office website⁹ at the date of the initiation of the procurement or grant award procedure.

For projects No 3, No 4, No 5 and No 6, the general rules for procurement and grant award procedures shall be defined in the Contribution Agreements between the Commission and the IAEA implementing such programme/activity.

5. MONITORING AND EVALUATION

5.1 Monitoring

The Commission may undertake any actions it deems necessary to monitor the programmes concerned and for the projects in joint management with IAEA these actions may be carried out jointly with the IAEA.

Decentralised projects will be monitored through the IPA Monitoring Committee assisted by Transition Assistance and Institution Building Monitoring Committee, and the Joint Monitoring Committee.

They shall assess the effectiveness, quality and coherence of the implementation of this programme. They may make proposals to the European Commission and the national IPA co-ordinator, with a copy to the national authorising officer, for decisions on any corrective measures to ensure the achievements of programme objectives and enhance the efficiency of the assistance provided.

⁹ http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm

5.2 Evaluation

Programmes shall be subject to ex ante evaluations, as well as interim and, where relevant, ex post evaluations in accordance with Articles 57 and 82 of the IPA Implementing Regulation, with the aim of improving the quality, effectiveness and consistency of the assistance from EU funds and the strategy and implementation of the programmes.

The results of ex ante and interim evaluation shall be taken into account in the programming and implementation cycle.

The Commission may also carry out strategic evaluations.

For decentralised projects, after the conferral of management powers, the responsibility for carrying out interim evaluations shall lie with the Beneficiary Country, without the prejudice on the European Commission's rights to perform any ad hoc interim evaluations of the programmes it deems necessary. Ex post evaluation shall remain a prerogative of the European Commission even after the conferral of management powers to the Beneficiary Country.

6. AUDIT, FINANCIAL CONTROL, ANTIFRAUD MEASURES; FINANCIAL ADJUSTMENTS, PREVENTIVE MEASURES AND FINANCIAL CORRECTIONS

6.1 Audit, Financial Control and Anti-fraud measures

The accounts and operations of all parties involved in the implementation of this programme, as well as all contracts and agreements implementing this programme, are subject to, on the one hand, the supervision and financial control by the European 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 EU Delegation in the Beneficiary Country.

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

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

6.2 Financial adjustments

For decentralised projects, the national authorising officer, who bears in the first instance the responsibility for investigating all irregularities, shall make the financial adjustments where irregularities or negligence are detected in connection with the implementation of this programme, by cancelling all or part of the EU assistance. The national authorising officer shall take into account the nature and gravity of the irregularities and the financial loss to the EU assistance.

¹⁰ OJ L 292; 15.11.1996; p. 2

In case of an irregularity, including negligence and fraud, the national authorising officer shall recover the EU assistance paid to the Beneficiary in accordance with national recovery procedures.

6.3 Audit trail

For decentralised projects, 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

For decentralised projects, Beneficiaries shall ensure investigation and effective treatment of suspected cases of fraud and irregularities and shall ensure the functioning of a control and reporting mechanism equivalent to that provided for in Commission Regulation 1828/2006¹¹. All suspected or actual cases of fraud and irregularity as well as all measures related thereto taken must be reported to the European Commission services without delay. Should there be no suspected or actual cases of fraud or irregularity to report, the Beneficiary Country shall inform the European 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.

The Beneficiary Country shall take any appropriate measure to prevent and counter active and passive corruption practises at any stage of the procurement procedure or grant award procedure, as well as during the implementation of corresponding contracts.

Active corruption is defined as the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Union's financial interests.

Passive corruption is defined as the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such advantage, to act or to refrain from acting in

¹¹ OJ L371, 27.12.2006, p. 1.

accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Union's financial interests.

The authorities of the Beneficiary Country, including the personnel responsible for the implementation of the programme, shall also undertake to take whatever precautions are necessary to avoid any risk of conflict of interest, and shall inform the European Commission immediately of any such conflict of interest or any situation likely to give rise to any such conflict.

6.5 Financial corrections

For decentralised projects, in order to ensure that the funds are used in accordance with the applicable rules, the European 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 European Commission and the Beneficiary Country.

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 European Commission finds that expenditure under this programme has been incurred in a way that has infringed applicable rules, it shall decide what amounts are to be excluded from EU financing.

The calculation and establishment of any such corrections, as well as the related recoveries, shall be made by the European Commission following the criteria and procedures provided for in the IPA Implementing Regulation.

7. NON SUBSTANTIAL REALLOCATION OF FUNDS

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

8. LIMITED ADJUSTMENTS IN THE IMPLEMENTATION OF THE PROGRAMME

Limited adjustments in the implementation of this programme affecting essential elements listed under Article 90 of the Implementing Rules to the Financial Regulation, which are of an

indicative nature¹², may be undertaken by the European Commission's authorising officer by delegation (AOD), or by the European Commission's authorising officer by sub-delegation (AOSD), in line with the delegation of powers conferred upon him by the AOD, in accordance with the principles of sound financial management without an amending financing decision being necessary.

¹² These essential elements of an indicative nature are, for grants, the indicative amount of the call for proposals and, for procurement, the indicative number and type of contracts envisaged and the indicative time frame for launching the procurement procedures.