

COMMISSION DECISION

C/2007/6202 on 14/12/2007

on support to the operational budget of the Office of the High Representative (OHR) in Bosnia and Herzegovina from January to June 2008 under the IPA-Transition Assistance and Institution Building component in 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(3) thereof,

Whereas:

- (1) Article 2(1) of Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability² establishes that Community assistance under that Regulation shall be provided only to the extent that an adequate and effective response cannot be provided under related Community instruments for external assistance.
- (2) Regulation (EC) No 1085/2006 lays down the objectives and main principles for pre-accession assistance to candidate and potential candidate countries.
- (3) The Council established a European Partnership for Bosnia and Herzegovina³. The Commission adopted on 29 May 2007 a multi-beneficiary multi-annual indicative planning document 2007/2009 which presents indicative allocations for the main priorities for pre-accession assistance to the countries concerned⁴ and which provides, *inter alia*, that support should be given to Interim Civilian Administrations on the Western Balkans.
- (4) The Council adopted on 7 February 2007 Joint Action 2007/87/CFSP amending and extending the mandate of the European Union Special Representative in Bosnia and Herzegovina⁵. With Decision 2007/427/CFSP of 18 June 2007⁶, the Council has further extended the mandate of the European Union Special Representative in Bosnia and Herzegovina until 29 February 2008. The Peace Implementation Council foresees a closure of the Office of the High Representative by 30 June 2008.

¹ OJ L 210, 31.7.2006, p. 82.

² OJ L 327, 24.11.2006, p. 1.

³ Council Decision 2006/55/EC of 30 January 2006, OJ L 35, 7.2.2006, p. 19.

⁴ Decision C(2007)2205.

⁵ OJ L 35, 8.2.2007, p. 25.

⁶ OJ L159, 20.6.2007, p. 63.

**ANNEX: PROGRAMME TO SUPPORT THE OPERATIONAL BUDGET OF THE
OFFICE OF THE HIGH REPRESENTATIVE (OHR) IN BOSNIA AND
HERZEGOVINA FROM JANUARY TO JUNE 2008**

1. IDENTIFICATION

Beneficiary	Bosnia and Herzegovina
CRIS number	2007/019-472
Year	2007
Cost	EUR 2,848,959
Implementing Authority	European Commission.
Final dates for contracting	30 June 2008
Final dates for execution	30 June 2008
Sector Code	91010
Budget line(s) concerned	22.02.03 Interim Civilian Administrations in the Western Balkans
Programming Task Manager	Unit D3 Regional Programmes, DG Enlargement
Implementation Task Manager	EC Delegation to Bosnia and Herzegovina

2. PRIORITY AXES / (MEASURES) / PROJECTS

Priority axis 06: Horizontal and Regional Support
Measure 06.61: Interim Civilian Administrations

2.a Priority axis 06 – Measure 06.61

Background

The mandate of the High Representative is to oversee all civilian aspects of the implementation of the Peace Agreement for Bosnia and Herzegovina, initialled in Dayton on 21 November 1995 and signed in Paris on 14 December in the same year (The General Framework Agreement for Peace or ‘GFAP’). The mandate of the High Representative is set out in Annex 10 of GFAP. It declares him the final authority to interpret the civilian aspects of the Peace Agreement. The Peace Implementation Council (PIC), a group of 55 governments and international organisations which sponsor and direct the peace implementation process, has subsequently elaborated on his mandate.

The High Representative maintains close contact with the parties involved in the peace process, co-ordinates the activities of the international agencies and organisations, co-operates with the European Union Police Mission and issues regular reports. In the event of inertia on the part of the authorities of Bosnia and Herzegovina, he may impose legislation necessary for the implementation of the GFAP, or dismiss local officials who obstruct its implementation.

With the appointment in 2002 of Lord Ashdown as the High Representative the additional title of EU Special Representative was added to that of High Representative underscoring the EU's commitment to Bosnia and Herzegovina. Christian Schwarz-Schilling succeeded Lord Ashdown as High Representative and EU Special Representative at the end of January 2006. Mr Miroslav Lajcak succeeded Christian Schwarz-Schilling as of 1 July 2007.

Under Annex 10 to the GFAP in Bosnia and Herzegovina, the High Representative is mandated to oversee the civilian aspects of the peace settlement. The High Representative's mandate as the EU Special Representative is reflected in Council Joint Actions 2006/49/CFSP of 30 January 2006¹, 2007/87/CFSP of 7 February 2007² and 2007/427/CFSP of 18 June 2007³.

On 22-23 June 2006, the PIC Steering Board decided that the OHR would begin preparations to close on 30 June 2007. By Joint Action 2006/523/CFSP of 25 July 2006⁴, the Council of the European Union has amended the mandate of the EU Special Representative (EUSR) in order to enable him to support the planning for a future reinforced EUSR office in the context of the closure of the OHR.

On 27 February 2007, the PIC Steering Board agreed to postpone the closure of the Office of the High Representative, with the aim of closing the Office by 30 June 2008. This decision will be subject to a review by the PIC Steering Board at its meetings in October 2007 and February 2008. This schedule was reconfirmed by the PIC Steering Board in its declaration of 19 June 2007. Similarly, the extension of the mandate of the EU Special Representative is reflected in Council Joint Action 2007/427/CFSP of 18 June 2007.

On 13 April 2007, the PIC Steering Board approved a total budget of €10,750,788 for the Office of the High Representative, consisting of the final twelve months of operation.

In general terms the trend in the OHR's financial needs is a year on year reduction which is in keeping with an overall expectation that improvements in BiH will lead to the phasing out of the OHR. The OHR budget from 1 July 2007 until 30 June 2008 is in total 5.27% lower than the equivalent of the operating budget of the OHR for the first half of 2007. The reduction of staff from 324 in 2006 to 238.5 in the period July 2007 to June 2008 better reflects the continuous efforts to further scale down the OHR, maintaining however the necessary operational strength.

Basis of EC Support

Between the creation of the OHR in 1996 and 2000, the European Union contributed to the yearly budgets of the organisation under Common Foreign and Security Policy (CFSP).

On 22 May 2000, the Council of the European Union adopted Regulation (EC) 1080/2000 on support for the establishment and operation of interim civilian administrations in the Balkans (the OHR, the UNMIK Pillar IV in Kosovo and eventually the Special Coordinator of the Stability Pact for South Eastern Europe)⁵. Following the adoption of this Regulation and since the second part of 2000, EU support for the OHR has been provided from the 'first pillar' and by decision of the European Commission.

¹ Appointing the European Union Special Representative in Bosnia and Herzegovina (and extending the mandate of the EUSR), in particular Article 1 (OJ L26/21 of 31.1.2006).

² Amending and extending the mandate of the EUSR, in particular Article 1 (OJ L35/35 of 8.2.2007).

³ Extending the mandate of the EUSR (OJ L159/63 of 20.6.2007).

⁴ Amending the mandate of the EUSR (OJ L205/30 of 27.7.2006).

⁵ OJ L 122 of 24.5.2000, p. 27.

As of 1 January 2007, Council Regulation (EC) 1080/2000 has been repealed, with the exception of Article 1a, by Regulation (EC) No 1717/2006 of 15 November 2006 establishing an Instrument for Stability⁶. The legal basis for the provision of a Community contribution to the OHR is now Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)⁷. The Community contribution to the operation of the OHR is foreseen in the Multi-Beneficiary Multi-annual Indicative Planning Document for 2007-2009 under section 2.2.10 Interim Civilian Administrations.

When the OHR was established, the European Union contribution was 50.6% of the organisation's budget. The Council of the European Union agreed on 8 May 1999 to increase this percentage to 53%. This political commitment of the Union continues to be applied by providing the same percentage of the approved budget of the OHR under Council Regulation (EC) 1080/2000 and now Council Regulation (EC) 1085/2006.

2.b Description of projects grouped per priority axis and (if relevant) per measure

The objective of this Financing Proposal is to allow the High Representative to fulfil his political mandate in Bosnia and Herzegovina, continuing his work on the civilian aspects of the implementation of the GFAP in the first half of 2008. The political mandate of the High Representative is decided by the PIC and its Steering Board, which includes the Commission and several EU Member States. The Steering Board approves the yearly budget of the OHR on the basis of the scale and nature of activities entrusted to the OHR in the period considered. The Steering Board also approves the mid-year budget review of the OHR, including revised allocations for each budget item in the budget period.

The activities of the OHR in the first half of 2008 will continue to take place on both state and entity government levels in Sarajevo, Banja Luka, Mostar and Brcko. The priorities under this budget are: (i) to complete as many of the remaining Mission Implementation Plan (MIP) tasks as possible depending on political developments; (2) to prepare and execute the OHR closure and to assist the build up of the EUSR office; (3) to coordinate the efforts of the international community on the ground. In order to assure the execution of these tasks, 238.5 staff (international and local) will be needed during the entire period.

The budget of the OHR for the period January-June 2008 finances the costs of the operations of the different departments of the organisation. OHR departments perform tasks foreseen for the High Representative under the GFAP and those entrusted to him by subsequent decisions of the PIC. It is proposed to contribute an amount of **€2,848,959**, i.e. the EC funds needed for the financing of the OHR budget from 1 January until 30 June 2008.

The total EC contribution for the period from 1 July 2007 to 30 June 2008 amounts to €5,697,918, corresponding to the agreed 53% EC share of the operational OHR budget for this period. The funds required for the period July-December 2007 have been committed through Commission Decision E/20071434. A liquidation phase of an additional six months will follow the final closure of the operations of the OHR. The funds for the liquidation phase have already been committed (Commission Decision E/2006/2804 adopted on 15 December 2006) and are proposed to be ring fenced until the PIC finally decides to close OHR (foreseen for

⁶ OJ L 327, 24.11.2006, p.1.

⁷ OJ L 210, 31.7.2006, p. 82.

30 June 2008). Funds allocated for liquidation in Commission Decision E/2006/2804 will be used at a later stage than initially foreseen, indicatively from 1 July until 31 December 2008.

The programme will be implemented by means of a direct grant awarded to the Office of the High Representative in Bosnia and Herzegovina, on the basis of Article 168.1(c) of the Implementing Rules to the Financial Regulation, which provides for the award of direct grants “to bodies with a *de jure* or *de facto* monopoly duly substantiated in the award decision”. The European Union has committed to finance part of the OHR budget until it is completely phased out. To this end, a contribution agreement will be concluded with the Office of the High Representative in Bosnia and Herzegovina.

2.c Overview of past and on going assistance (EU / IFI / Bilateral and national assistance)

The European Union has supported the Office of the High Representative in Bosnia and Herzegovina since its creation in 1996. EU contributions to the OHR over the years and up to 31 December 2007 have amounted to approximately €128 million, partly through CFSP Joint Actions, partly through Commission Decisions adopted on the basis of the Council Regulation (EC) N° 1080/2000 and Council Regulation (EC) N° 1086/2006.

This proposal is complementary to the EC financial assistance provided to Bosnia and Herzegovina through the National Multi-annual Indicative Planning Document under the IPA programme.

2.d Conditions

The main assumption relating to this Financing Proposal is that the current state of peace in Bosnia and Herzegovina will continue and that the OHR will continue to operate uninterrupted until 30 June 2008. Should the OHR’s mandate come to an end before 30 June 2008, the EC contribution will be reduced pro rata.

2.e Benchmarks

	N	N + 1 (cumulative)	N+2 (cumulative)
Contracts (number)	1	1	1
Contracting Rate (%)	100%	100%	100%

3. BUDGET (amounts in EUR)

3.1. Indicative budget table

	EU – IPA assistance				Total national co-financing *		Contributions by other donors		Total (IPA plus National Co-financing plus contributions by other donors)	
	Institution Building	Investment	Total (IB and INV) in EUR	Total in %	EUR	(%)	EUR	(%)	EUR	(%)
Priority axis 06 Horizontal and Regional Support										
Support to the OHR budget for the period from 1 January to 30 June 2008	€2,848,959	€0	€2,848,959	53%	€0	0%	2,526,435	47%	5,375,394	100%
TOTAL	€2,848,959	€0	€2,848,959	53%	€0	0%	2,526,435	47%	5,375,394	100%

* public and private national and/or international contributions

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

The total OHR budget approved by the PIC for the period 1 July 2007 to 30 June 2008 amounts to €10,750,788 and consists of the final twelve months of operation. The total EC contribution for the period from 1 July 2007 to 30 June 2008 amounts to €5,697,918, corresponding to the agreed 53% EC share of the operational OHR budget for the period from 1 July 2007 to 30 June 2008. The total EC contribution to the OHR under this Financing Proposal corresponds to the period from 1 January until 30 June 2008 and amounts to €2,848,959, which will be disbursed according to the provisions of the contribution agreement to be concluded between the Commission and the OHR.

The other donors to the budget of the OHR (and their percentage contributions of the approved budget are) the United States of America (22%), Japan (10%), Russia (4%), Canada (3.03%), the Organisation of the Islamic Conference (2.5%) and other non-EU countries, including Balkan countries (5.47%).

The Community contribution has been calculated in relation to the total eligible expenditure.

4. IMPLEMENTATION ARRANGEMENTS

4.1 Method of implementation

The programme will 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.

The Delegation of the European Commission to Bosnia and Herzegovina will be responsible for the implementation of this programme.

4.2 General rules for procurement and grant award procedures

Procurement shall follow the provisions of Part Two, Title IV of the Financial Regulation and Part Two, Title III, Chapter 3 of its Implementing Rules as well as the rules and procedures for service, supply and works contracts financed from the general budget of the European Communities for the purposes of cooperation with third countries adopted by the Commission on 24 May 2007 (C(2007)2034).

Grant award procedures shall follow the provisions of Part One, Title VI of the Financial Regulation and Part One, Title VI of its Implementing Rules.

The Commission 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 EC external actions" ("Practical Guide") as published on the EuropeAid website¹⁰ at the date of the initiation of the procurement or grant award procedure.

5. MONITORING AND EVALUATION

5.1 Monitoring

The Commission may undertake any actions it deems necessary to monitor the programmes concerned.

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 IPA Implementing Regulation¹¹, with the aim of improving the quality, effectiveness and consistency of the assistance from Community 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.

⁸ 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).

⁹ OJ L 357, 31.12.2002, p. 1 Regulation as last amended by Regulation (EC, Euratom) No 748/2007 (OJ L111 of 28.4.2007, p.13).

¹⁰ http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm

¹¹ Commission Regulation (EC) No 718/2007 of 12 June 2007 (OJ L 170, 29.6.2007, p. 1).

The Commission may also carry out strategic evaluations.

6. AUDIT, FINANCIAL CONTROL AND ANTI-FRAUD MEASURES

The accounts and operations of all parties involved in the implementation of this programme, as well as all contracts and agreements implementing this programme, are subject to, on the one hand, the supervision and financial control by the Commission (including the European Anti-Fraud Office), which may carry out checks at its discretion, either by itself or through an outside auditor and, on the other hand, audits by the European Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Beneficiary Country.

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) 2185/96¹².

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

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 nature¹³, 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.

¹² OJ L 292; 15.11.1996; p. 2

¹³ 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.

- (5) Therefore, the Community should continue to support the operational budget of the Office of the High Representative (OHR) in Bosnia and Herzegovina from January to June 2008 under the IPA Transition Assistance and Institution Building Component.
- (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 1605/2002⁷ (hereafter: “Implementing Rules”) and constitutes thus a financing decision within the meaning of Article 75 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁸ (hereafter: “Financial Regulation”);
- (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 support to the operational budget of the Office of the High Representative (OHR) in Bosnia and Herzegovina from January to June 2008 under the IPA Transition Assistance and Institution Building Component for 2007, as set out in the Annex, is hereby adopted.

This programme shall be implemented by centralised management.

Article 2

The maximum amount of Community contribution shall be **EUR 2,848,959**, to be financed through Article 22.02.03 – interim civilian administrations programme in the Western Balkans of the General Budget of the European Communities for 2007.

Done in Brussels, [...]

For the Commission

[...]

Member of the Commission

⁷ OJ L 357, 31.12.2002, p. 1 Regulation as last amended by Regulation (EC, Euratom) No 748/2007 (OJ L111 of 28.4.2007, p.13)

⁸ 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).