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COMMISSION DECISION

of 2008

amending the CARDS Annual Action Programme in Bosnia and Herzegovina 2005

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No. 2666/2000 of 5 December 2000¹ on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EC and 1999/311/EC, as amended by Council Regulation (EC) No 2415/2001 of 10 December 2001² and (EC) No 2112/2005 of 21 November 2005³,

Whereas:

- (1) According to Article 3 (1) of Council Regulation (EC) No. 2666/2000 Community assistance shall be provided through annual action programmes for each country receiving Community assistance;
- (2) Article 3 (2) of Council Regulation (EC) No. 2666/2000, specifies that annual action programmes covering Community assistance in Bosnia and Herzegovina shall be adopted in accordance with the procedure referred to in Article 10 (2);
- (3) The Commission adopted on 30 June 2005 the Annual Action Programme of 2005 for Bosnia and Herzegovina⁴;
- (4) Article 9 (2) of Council Regulation (EC) No. 2666/2000, specifies that amendments to Decisions shall be adopted by the Commission where they do not comprise substantial changes to the nature of the programmes;
- (5) During the implementation of the 2005 Annual Action Programme savings of an amount of EUR 594 000 were made that can be used for finalising other on-going projects and for that purpose need to be reallocated.
- (6) The reallocation does not have any financial impact on the total value of the programme which will remain unchanged.

¹ OJ L306 of 7 December 2000, p.1.

² OJ L327 of 12 December 2001, p.3.

³ OJ L344 of 27 December 2005, p.23.

⁴ C(2005)1930/2 of 23 June 2005.

(7) The CARDS Committee referred to in Article 9 (2) and 10 of Council Regulation (EC) No. 2666/2000, will be notified of the revised decision,

HAS DECIDED AS FOLLOWS:

Article 1

Section 7 "Cost and financing" of the annual Action Programme 2005 for Bosnia and Herzegovina shall be replaced as follows:

<u>Sector areas of cooperation</u>	<u>Financial Allocations (€m)</u>
1. Democratic Stabilisation	3,349 000.00
2. Good Governance and Institution Building	
2.1. Public Administration Reform	17,745 000.00
2.2. Justice and Home Affairs	13,746 292.98
3. Economic and Social Development	14,078 777.38
4. Opening of Community Programmes	480 929.64
TOTAL	49,400 000.00

Article 2

All other terms and conditions of the initial decision remain valid.

Done at Brussels, [...]

For the Commission

[...]

Member of the Commission

ANNEX
Amended Annual Action Programme for Bosnia and Herzegovina
CARDS 2005

1. IDENTIFICATION

Budget heading	22 05 01 Assistance for the Countries of the Western Balkans
Total cost	EUR 49.4m
Legal basis	Council Regulation 2666/2000 as amended by Council Regulation (EC) No. 2415/2001

2. COUNTRY UPDATE

On 18 November 2003 the European Commission published a Feasibility Study which reviewed Bosnia and Herzegovina's (BiH) readiness to open negotiations on a Stabilisation and Association Agreement (SAA) with the European Union. The study concluded that in the light of reform up to October / November 2003, the Commission hoped that it would be in a position to recommend to the Council the opening of SAA negotiations in 2004. However, such a recommendation would be conditional on BiH making significant progress in addressing the 16 reform areas identified in the Study. These priority points set a substantial reform agenda for BiH.

It is welcomed that the Council of Ministers, with the support of the Directorate for European Integration (DEI), has adopted a structured and methodical approach to reform. In late December 2003 an action plan for addressing the Feasibility Study priorities was adopted and in January 2004 presented to Parliament. The document outlines deadlines and responsibilities among the BiH institutions. Its existence is testimony to both organisational will and a more co-ordinated approach. A February 2004 multi-party declaration in favour of European integration was also welcome. In addressing the Feasibility Study priorities, BiH has made good progress in adopting legislation, whereas implementation of laws and reforms has been slower.

In terms of the political situation, progress has been made. Government at State level has improved its performance with a new Ministry of Defence and a number of other new state institutions being established. However, problems persist and low staffing levels, lack of premises and lack of capacity in a number of areas continue to slow down reform and proper policy making. Inadequate co-ordination and co-ordination, especially between the State and Entities still affect government business and reform. Public administration reform is underway. The European Commission is currently, in co-operation with the BiH authorities, conducting a number of sectoral and system reviews, which should provide the basis for a comprehensive Action-plan for public administration reform. Co-operation with the International Criminal Tribunal on former Yugoslavia (ICTY) remains inadequate.

The banking sector has been successfully privatised, and a liberal trade policy has largely been implemented. Improvements in public finance have also been made across the board. However, consolidated public expenditure consumes 54 percent of GDP, and the current

account deficit stands at a very high 19 percent. Despite impressive growth rates, the economy stands at only 70 percent of its pre-war level.

The **social and economic rights** of BiH citizens remain limited by continuing economic debility. Officially, up to 40% of the population is unemployed. Around 20% live below the poverty threshold, with a further 30% close to it. Equally, the health sector in both Entities remains weak with inadequate funding. Large numbers are not covered by health insurance, and even for those who are, coverage is unreliable. Parallel health systems also persist in BiH. The international community has initiated the process of reform of the educational system in BiH. The reform provides for a common core curriculum for all schools in BiH, special care for returnee children and children with special needs, and improvement of the infrastructure. Although the reform process is under way, nationalistic sensitivities have until now obstructed the process. In terms of the refugee return, BiH also has seen progress during 2004, and currently over one million refugees and displaced people have returned to their pre-war homes. Of these, just under half are minority returnees. Also, over 99% of all property claims have been resolved and a completion of the property law implementation process is in sight. Nevertheless, the sustainability of refugee returns is not yet guaranteed mostly due to the weak economic situation.

3. SUMMARY OF THE ACTION PROGRAMME

The **overall objective** of the Action Programme is as per the Multi Annual Indicative Programme, “to support the participation of Bosnia and Herzegovina in the Stabilisation and Association Process (SAP)”.

The **specific objectives** of the Multi Annual Indicative Programme are to:

- Help consolidate the state of Bosnia and Herzegovina as a democratic country in which the rule of law and good governance apply thereby enabling it to participate in the SAP and build on the General Framework Agreement for Peace;
- Support the development of functioning State institutions capable of acting as reliable counterparts for the international community and representing the entire country's interests effectively;
- Support economic reform and transition to a market economy, in order to facilitate sustainable economic growth, trade and employment, and to facilitate the integration of the Bosnia and Herzegovina economy into EU structures and those of the wider international community;
- Facilitate and encourage co-operation between BiH and the other countries of the region as part of the SAP.

Crosscutting issues, especially gender, environment and corruption, are pertinent to all aspects of the programme. They are relevant for all stages in programme design and will be thoroughly considered in the implementation phase.

This Action Programme proposal consists of projects in the following **priority sectors**:

1) Democratic Stabilisation

EC support under the democratic stabilisation heading will focus on the areas of reintegration of refugees and further support to free and independent media.

In September 2004 the UNHCR celebrated the return of 1 million people to BiH. This is a significant achievement but needs to be accompanied by a number of measures with the aim of sustaining return and promoting reintegration.

A number of issues in the field of media need to be addressed, including the support to the Communication Regulatory Agency (CRA) after the transfer of responsibilities from the High Representative's Broadcast Agent to the BiH). The weak financial situation of the public broadcasters and the inefficient management of the Public Broadcasters are the main concerns for the sustainability of public broadcasting in BiH and also need to be addressed.

All programme components are coherent with EC co-operation policies as the principles of liberty, democracy, respect for human rights and the rule of law form a cornerstone of the European Union. The European Initiative for Democracy and Human Rights covers areas which are complimentary, such as civil society development, minority rights, help to victims of torture etc. Furthermore, the objectives of are in line with the MIP objectives of helping to consolidate the state of Bosnia and Herzegovina as a democratic country and to support the development of functional state institutions.

Broadly, the following interventions are foreseen:

- Capacity building to the State Ministry for Human Rights and Refugees (and if need be other government bodies) to implement the recommendations of the functional review in the return sector and provision of grants to non-state actors to foster reconciliation and fight discrimination against returnees;
- Provision of technical assistance to the Public Broadcasting System to put into operation the Joint Legal Entity and provision of technical equipment to the CRA to monitor the frequencies spectrum for both the broadcasting and telecommunication sectors.

2) Good Governance and Institution Building (including Administrative Capacity and Justice and Home Affairs)

EC support under the good governance and institution building heading will focus on the areas of public administration reform (PAR) and justice and home affairs (JHA). The reform of the PAR and JHA Sectors are integral part of the Office of the High Representative's Jobs and Justice agenda and the PAR pledges of the BiH authorities as well as of the PRSP.

In the area of public administration reform, the reform process for each sector will be based upon the EC sponsored Functional Reviews, the recommendations of which will be integrated in an overall PAR Strategy due to be released in spring 2005 by the BiH authorities. Public administration reform will strengthen the capacity of the BiH State, and will play an essential role in the development process by regulating economic agents, putting in place regulatory frameworks conducive to investment, facilitating the active promotion of development and the improvement of transport and energy infrastructure. The aforementioned reforms initiated

by the BiH authorities are fully in line with the European Partnership. A strengthened public administration is a cornerstone of the Stabilisation and Association Process.

Reform in Justice and Home Affairs sector was initiated by the restructuring of Courts and Prosecutors' Offices and the reselection process of Judges and Prosecutors. The reform process has now to be strengthened by the delivery of training by the recently established Centres for Judicial and Prosecutorial Training and the setting-up of a War Crimes Chamber within the BiH Court and the BiH Prosecutor Office. The reform process in the judiciary is now followed by the restructuring of all Police Forces under a single structure of policing in BiH. Linked to the reform of the Police Forces and the State Border Service is the strengthening of Immigration and Asylum capacities, which is progressing.

Broadly, the following interventions are foreseen:

- TA for the Implementation of Functional reviews recommendations (Health, Education, Agriculture), including support to the training activities of the BiH Civil Service Agency and setting-up of a scholarship scheme, as well as support to the computerisation of the work of the BiH Council of Ministers;
- Support to improve the capacity of State Department for Energy, Independent System Operator and Transmission Company;
- Support to fiscal policy, the statistical system and capacity building for transport policy making;
- Support for the establishment of state level customs and indirect taxation;
- Support to the Directorate for European Integration through the SAP facility;
- Support to the recommendations of the Police Restructuring Commission;
- Assistance to the High Judicial and Prosecutorial Council, Judicial and Prosecutorial Training Centres, Bar Associations, BiH Constitutional Court, Land Registries, and the procurement of IT equipment to establish a nationwide network for the judiciary;
- Strengthening of the Immigration and Asylum administrative capacities.

3) Economic and Social Development

EC support under the economic and social development heading will be multi-faceted and focus on the areas of sustainable economic and regional development, trade facilitation and investment support as well as education.

Long-term macroeconomic sustainability of BiH is still far from guaranteed. After high growth rates in the second half of the 1990s fuelled by reconstruction aid, growth is slowing down, unemployment is high and the internal market of BiH yet to be established. The business environment is weak and regional disparities are increasing. Estimated GDP is still below its pre-war level, even though the pervasive and large informal economy may distort this figure. Public spending remains excessively high, while on its balance of payments BiH continues to run a deficit both in the trade and current accounts. However, over the last two years, BiH has been maintaining macro-economic stability, low inflation and is continuing its efforts towards lower fiscal deficits.

The economic circumstances of BiH are unlikely to improve unless efforts are increased to address a plethora of problems, most notable of which include further developing a single economic space and a better business environment for SME development as well as fostering regional development. Relevant policies include the PRSP - a medium-term strategy (2004-2007) for economic development -cutting across numerous sectors and including all the issues as outlined above, the draft EU Integration Strategy, the draft Public Administration Reform strategy and regional economic development plans.

The EC overarching policy for BiH is that of integration of BiH into EU structures in the context of the SAP and the European Partnership (EP). Integration into EU structures presupposes economic development; hence both the SAP and the EP identify economic reform as one of the most important issues to be addressed. The SAP emphasises the importance of strong, stable market-based economies, which are well integrated internally as well as regionally. CSP and MIP specific objectives call for economic growth to be stimulated in BiH by creating the conditions for sustainable development in terms of competitiveness, trade, investment and employment. One of the priorities is national economic integration, with specific attention paid to the development of the single economic space, consistent with the *Acquis*, and the development of the necessary state institutions to support economic integration.

Broadly, the following interventions are foreseen:

- Single Economic Space - competition and state aid;
- Support to SME and regional economic development;
- Infrastructure co-operation with International Financial Institutions in the transport sector;
- Support to the State Veterinary Office;
- Support to higher education via the TEMPUS programme;
- Supply of equipment to VET schools/training centres and training of staff on use and maintenance.

4) The opening of Community programmes

A further step towards EU integration will be the opening up of Community programmes.

The EU agreed in the Thessaloniki Agenda to open participation in Community programmes to the Western Balkan countries, following the enlargement model. The Commission proposed concrete steps to make this possible underlining the need for a selective and gradual approach. The BiH financial contribution ('entry ticket') required to cover the expenses of its participation in such a programme may, based on a Memorandum of Understanding (MoU) between BiH and the Commission, be partly paid through the CARDS budget.

A framework agreement with the European Community laying down the general conditions for BiH's participation in Community programmes will enter into force mid 2005.

The MiP specifically provides for supporting BiH in its engagement with EC Community programmes through two measures, 1) paying part of the BiH "entry ticket" cost and, 2) co-

financing of accompanying measures such as administrative preparations, communication, and training of potential applicants in the preparation of proposals.

BiH currently has little familiarity with Community Programmes apart from its limited engagement in LIFE 3rd Countries. Given the present limited preparedness of BiH to engage in Community programmes it will be necessary to focus first on the programmes requiring less administrative capacity, and to establish priorities among those in concertation with the relevant sectoral ministries and Commission Directorates General. Once the priorities have been established, CARDS will provide support during 2005/6 to the DEI and relevant sectoral ministries to ensure adequate preparation (including awareness building among the potential beneficiaries) for the limited number of selected programmes for which full participation could be co-financed under CARDS 2006.

Implementation

Successful implementation of the Cards 2005 programme requires the BiH government to make particular efforts to ensure the appropriate conditions for the implementation of the programme, including having the adequate endowment of qualified full-time personnel, as well as operating budgets and other necessary conditions for the effective implementation of programs.

In particular, Senior Programme Officers (SPOs) will be designated at an appropriate seniority level in key Ministries or Implementing Authorities at State level, with responsibility to ensure and facilitate program implementation, as well as co-ordination of actions with the European Commission and the DEI at sector level.

4. PAST EC ASSISTANCE AND LESSONS LEARNT

programme / Year	Committed (€)	Contracted □ (€)	% Contracted
CARDS 2001	105.23	102.39	97.30
CARDS 2002	82.81	80.12	96.75%
CARDS 2003	72.83	59.34	81.48%
CARDS 2004	82.96	35.21	42.44%

* Contracted as at Jan 2005.

The lessons learnt from the previous programming exercise can be summarised as follows:

4.1. Involvement of domestic institutions

In the programming of CARDS 2004 it was recognised that the level of involvement on the government side should be significantly increased, that the domestic institutions should play a more influential role both in the definition of strategies and in the implementation of projects. The principle factors influencing this were the lack of government policy, weak sectoral capacities of many of the institutions, and the weak capacity of the Aid Co-ordination Unit of the Directorate for European Integration. The EC also provided resources to the DEI to better facilitate the involvement of the BiH institutions and ensure their commitment to the good use

of EC funding. With these resources for CARDS 2005 programming the involvement of the BiH Institutions has been greater than in previous years. However, programming capacities on the government side remain weak and will continue to be built upon through projects planned for CARDS 2005.

4.2. Greater participation of civil society

In some sectors, a persistent lack of interaction between public authorities and civil society is still evident in the decision-making process. Whilst projects introduced in CARDS 2004 have begun to address some of these issues, there remains a need to identify non state actors (NSAs) to promote an effective dialogue with the civil society. Involvement of civil society has benefited from the process of the BiH Development Strategy (PRSP) which has raised awareness in Government of that sector's issues.

5. COMPLEMENTARY ACTIONS

The Financing Proposal 2005 for Bosnia and Herzegovina will be complementary to the CARDS Regional Programme, in particular in the areas of Institution Building, JHA, and infrastructure development.

Earlier regional programmes are still under implementation and are used as inputs for the present programme, particularly as regards Integrated Border Management, energy and asylum and migration.

The European Initiative for Democracy and Human Rights (EIDHR) continues to operate in BiH and was deconcentrated in 2004.

BiH already benefits from TAIEX and participated in a number of regional seminars covering selected areas of the *acquis communautaire* since the summer 2004. The CARDS regional programme will also allow for and finance further participation in some Community Agencies in 2005-2006.

6. DONOR COORDINATION

6.1. With EU Bodies and Member States in BiH

Meetings were held in Sarajevo during the development of the AP to which the EUSR, EUPM and all Member States were invited and at which the priorities of the AP were presented in order to ensure complementarity with Member States' bilateral assistance plans. Proposed activities give consideration to MS projects. Specific co-ordination meetings have been conducted to inform MS of each fiche's objectives and activities and MS have advised the Delegation of any aspect where they wish to co-ordinate further. Joint actions are planned for the implementation of PAR.

6.2. With the government and donors

BiH authorities were closely involved in programme preparation through the BiH Directorate of European Integration at all stages. Ten programming workshops were conducted with the DEI and other government stakeholders during 2004. Through workshops project identification and national ownership was further strengthened with some 250 participants.

The main donors involved in the respective areas of assistance were involved in the programming workshops. In particular, compatibility with the BiH's Poverty Reduction Strategy Paper was ensured. The areas of co-ordination focused on key elements of the SAP agenda, notably public administration reform and co-ordination of economic policy, which are also preconditions for progress in the wider areas of economic and social development addressed by the PRSP.

Examples of joint operational programmes include:

- Support to the set up of a Department of Energy in Mofer and to the Independent System Operator and its Transmission Company (jointly with the World Bank, EBRD, CIDA, USAID...), complementary to the World Bank-financed electricity infrastructure improvement project;
- Public administration reform (joint approach deriving from the recommendations of the PAR reviews).

7. COST AND FINANCING

7.1. Summary of the AP 2005 allocations

<u>Sector areas of cooperation</u>	<u>Financial Allocations (€m)</u>
1. Democratic Stabilisation	3,349000.00
2. Good Governance and Institution Building	
2.1. Public Administration Reform	17,745000.00
2.2. Justice and Home Affairs	13,746292.98
3. Economic and Social Development	14,078777.38
4. Opening of Community Programmes	0,480929.64
TOTAL	49,400000.00