

ANNEX
IPA 2008 – NATIONAL PROGRAMME - BOSNIA AND HERZEGOVINA

1. IDENTIFICATION

Beneficiary	Bosnia and Herzegovina
Programme	National Programme 2008 under IPA Component I - Part I
CRIS number	2008/020 111
Year	2008
Cost	€12.5 million
Implementing Authority	EUROPEAN COMMISSION For project number 3 ("state prison"): Council of Europe Development Bank (CEB)
Final date for concluding the Financing Agreement	at the latest by 31 December 2009
Final date for contracting	2 years from the date of the conclusion of the Financing Agreement. No deadline for audit and evaluation of projects covered by the Financing Agreement implementing this programme, 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 from the final date for contracting. These dates apply also to the national co-financing.
Sector Code	15130, 99810, 99820
Budget lines	22.02.02
Programming Task Manager	DG ELARG C1
Implementation Task Manager	EC Delegation to BiH – Operations Section

2. PRIORITY AXES / PROJECTS

2.1. Priority axes

Part I of the IPA Component I - 2008 National Programme for Bosnia and Herzegovina supports the association process primarily in the field of rule of law. The programme will provide support to the police reform and judiciary institutions. It also aims at facilitating the country's progress towards the EU membership through raising public awareness of the EU integration process and assisting the national authorities in planning, programming and implementing of the Instrument for Pre-Accession Assistance (IPA) by means of a Project Preparation Facility.

These priorities are identified in the Bosnia and Herzegovina 2007 European Partnership as short term priorities for action. Assistance in other sectors will be considered in the second part of the 2008 National Programme.

The programme's strategic reference is the Multi-Annual Indicative Planning Document (MIPD) 2007-2009. Assistance is aimed at supporting the country's efforts in its transition from potential candidate to candidate status. Funds under IPA component I aim at providing for Institution Building which is needed to meet this objective. In particular, BiH has to approximate to European standards, among other things, in the sectors of justice, freedom and security, where sustained efforts remain necessary in order to continue to increase the effectiveness of the legislative bodies.

2.2. Description of projects grouped per priority axis

The programme focuses on **Axis 1 – Addressing the Political Requirements and civil society dialogue**. The priorities selected address mainly Article 78 of the initialled Stabilisation and Association Agreement with Bosnia and Herzegovina which requires the reinforcement of institutions and rule of law. Support is also provided to the BiH authorities for policy planning and programme preparation, as well as communication with the civil society and general public on EU integration issues.

No.	Political Criteria	EC contribution €million	Project Description
01.	Support to the Police reform process	2.0	<i>Project Purpose:</i> to assist in establishing the necessary legislative and institutional framework for the police service functioning and operating in a single efficient and sustainable structure, capable of fulfilling its role in the enforcement of the rule of law. <i>Implementation:</i> 1 twinning contract and 1 supply contract. The call for twinning proposals will be launched during 4 th quarter 2008. The tender for the supply contract will be launched indicatively during the 4 th quarter of 2008.
02.	Support to the State Court and Prosecutor's Office of BiH to fight War Crimes	3.0	<i>Project purpose:</i> to build sustainable professional and technical capacities for prosecuting and investigating cases related to war crimes, economic crime, organised

No.	Political Criteria	EC contribution € million	Project Description
	and Organised Crime		<p>crime and corruption.</p> <p><i>Implementation:</i> a direct grant agreement to the Registry of the State Court, in view of its <i>de jure</i> monopoly situation, to provide capacity building and training to the State Court and the Prosecutors Office, in accordance with Article 168(1)(c) of the Implementing Rules to the Financial Regulation. It is expected that the direct grant agreement will be concluded during the 4th quarter of 2008.</p>
03.	Support to the construction of a State high-security Prison in Bosnia and Herzegovina	4.0	<p><i>Project purpose:</i> to establish a permanent-type facility designated for serving sentence of detainment and imprisonment. This project aims at enabling BiH Court and the Prosecutor's Office to prosecute and sentence high profile individuals in cases of war crime, organised crime, terrorism and corruption.</p> <p><i>Implementation:</i> The construction of the State Prison is a common effort of international donors and the BiH authorities. The Commission and the Governments of The Netherlands, Sweden and the USA contribute grants and the Development Bank of the Council of Europe (CEB) contributes a loan. BiH participates in the financing. The Commission plans to entrust the CEB to implement the Commission's grant as a jointly managed project. The indicative date for the conclusion of the contribution agreement is 4th quarter of 2008.</p>
04.	Project Preparation Facility	1.5	<p><i>Project purpose:</i> to support and enable BiH authorities to submit good quality project proposals to the European Commission for the implementation of European Partnership (EP) and the Stabilisation and Association Agreement (SAA) and to support effective implementation of these projects in BiH.</p> <p><i>Implementation:</i> service contracts or Twinning Light contracts, which will be launched during the 1st and 2nd quarters of 2009. The indicative number of contracts is 8.</p>
05.	EU Awareness II	2.0	<p><i>Project purpose:</i> to create a dialogue and debate to facilitate the country's progress towards EU membership.</p> <p><i>Implementation:</i> 1 service contract, a call proposal for grant(s) to provide support and communication expertise to existing EU Information centres, and 1 direct grant agreement to the EU Info Correspondence Centre to finance its operational costs. The tender for the service contract will be launched during the fourth quarter of 2008. The call for proposals will be launched during the 4th quarter of 2008.</p> <p>The direct grant agreement to the EICC will be concluded in view of its <i>de facto monopoly</i> in</p>

<i>No.</i>	<i>Political Criteria</i>	<i>EC contribution € million</i>	<i>Project Description</i>
			accordance with Article 168 (c) of the Implementing rules to the Financial Regulation. It will be concluded during the 1st quarter of 2009.
TOTAL		12.5	

2.3. Overview of past and on going assistance (EU / IFI / Bilateral assistance) including lesson learned

2.3.1. Police Reform

The recognition of the need to fight more effectively against organised crime and admittance that the organisation of BiH Police forces are fragmented and not financially sustainable led to the establishment of the Police Restructuring Commission, which benefited from EC financing under CARDS 2004. After the political agreement of October 2005 to restructure the police forces based on the three principles set by the EU, a temporary body was established under the Council of Ministers tasked with the elaboration of an implementation plan by September 2006.

CARDS 2005 assistance addressed specific parts of the implementation plan aiming at supporting certain key functions of a single structure for policing. EC experts supported the specific working groups established for each domain of the plan. The plan included the necessary draft legislation for the police reform; a detailed timeline over a period of five years for the implementation period and other aspects, such as defining the local police areas.

The interventions already implemented focused mainly on building the capacity of State-level institutions and law enforcement agencies. They related, inter alia, to IT databases, telecommunications system, forensics and training. These interventions paved the way for the reorganisation of pivotal aspects of police work and will constitute the first sectors where reform will effectively take place following the Mostar Declaration of October 2007.

Based on previous experience of negotiations on police reform, it is expected that political difficulties may persist during the implementation period. It is therefore important that the EC assistance is deployed in a consistent and vigorous manner. The difficult and fragmented internal political situation of the country will require delicate fine-tuning and commitment from the beneficiaries, in order to ensure the sustainability of the projects.

Donor coordination in this sector is ensured through regular meetings co-chaired by the EC Delegation and EUPM and within the Rule of Law Working Group chaired by OHR. The meetings bring together EU Member States, international organisations and third countries bilateral assistance programmes.

2.3.2. Support to the State Court (War Crime Chamber)

The International Registry to the State Court has been supported by international assistance since its creation in 2005. The European Commission provided direct grants to the Registry worth €5.8 million under CARDS 2004 for supporting its operations in the period 2005-2008.

This project is linked to the efforts made for overall judicial reform of Bosnia and Herzegovina, in particular to sustain the State Court and the State Prosecutors' office. It contributes to strengthening domestic capacities for prosecution of war crimes, organised crime, corruption and economic crime.

Based on previous experience, the project will ensure strong local/national ownership and management skills within all the local and national institutions concerned.

Additional funding for the Registry will also be provided by the US, the UK, the Netherlands, Sweden, Germany and Spain.

2.3.3. Construction of the State Prison

The "Analysis of examination of the effectiveness and efficiency of the execution of criminal sanctions", financed by the United Kingdom, underlined that a prison at BiH State level would be essential for a long-term development of an effective and efficient prison system. Such project demands significant initial capital costs and operational costs that cannot be covered by the State budget alone.

In parallel, the Council of Europe is implementing an "Assistance to the Reform of the Prison System" financed by the Canadian International Development Agency. The European Commission also financed a twinning light (with Austria) to make an assessment of prison infrastructure and training needs assessment. A follow up project for penitentiary reform is foreseen under IPA 2007.

The ECD closely cooperates with the US, the Netherlands, Sweden and Council of Europe Development Bank which are co-funders of the project.

2.3.4. Project Preparation Facility

The project is linked to a number of past and ongoing activities since CARDS 2003, with the overall objective to facilitate the participation of the various BiH stakeholders in the EC's programming process and to assist with programme and project design activities. In the last two years, emphasis has been placed on strengthening capacities and capabilities of the Directorate of European Integration as a main co-ordinator and a leading institution for carrying out activities related to the EU integration process. Greater importance was also brought to the development of the mechanisms of horizontal and vertical co-ordination among BiH institutions directly involved in the implementation of the European Partnership priorities.

In the context of the programming of CARDS 2006 and IPA 2007, it has become clear that beneficiaries require assistance in developing sector policies, strategies and projects. In particular, it proved necessary to provide a support facility targeted specifically at the design phase before larger scale funds are committed to less-well defined and relatively high-risk projects.

2.3.5. EU awareness II

Currently, assistance in this area is provided through the EU Awareness Program, which aims at raising awareness for all public authorities, civil society organisations and the general public. Another objective is to enable the Directorate of European Integration to strengthen its capacities in the field of public relations and carry out its role in the dissemination of information on the Stabilisation and Association Process, EU membership and EU related issues. Good understanding regarding communications and improved capacity to implement them among DEI officials is the key point of departure for successful dissemination of information to the BiH public at large.

The EU Awareness project started in January 2007 and ends in January 2009. EU Info centres started in July 2006 and will run until the end of 2008. IPA 2008 funds are planned for continuation of these activities for another 2 years. The current EU Awareness project is co-

financed by UK (DFID) which contributes to the costs of the EUIC Tuzla and of the EUIC Mostar (East Mostar University). Various events are coordinated with all EU Member States.

2.4. Horizontal issues

Equal opportunity for participation of men and women and the minority representation will be assured in all aspects of project implementation. Participation in the projects activities will be guaranteed on the basis of equal access regardless of racial or ethnic origin, religion or belief, disability, sex or sexual orientation.

In addition, the police reform project will ensure that the gender and minority/vulnerable groups concerns awareness is raised through the training activities undertaken in its framework.

The Registry project will ensure that gender concerns are raised and tackled through strengthening the witness protection for women victims of war crimes as well as psychological assistance throughout trials and investigations. Particular attention will be given to preserve victims' rights, which in great majority are women.

Good governance is perceived as a core element of the programme since the police reform not only touches the overall organisation of the police services, but it also addresses the essential elements of confidence building of police services with the general public. The fight against corruption equally is part of the overall police reform strategy.

This Registry project looks likewise into the major issues of good governance and fight against corruption and organised crime. On good governance, the project reinforces the third power of any democratic country: judiciary. As concerns the fight against corruption and organised crime, recent prosecutorial investigations in Bosnia and Herzegovina show links between war criminal networks, organised crime and corruption and thus in this junction the project will be beneficial to tackle this cross cutting issue.

The State Prison project reinforces the functioning of a crucial pillar of the rule of law: the penitentiary system. On the fight against corruption and organised crime, the project makes the prison system more professional, accountable and safe to the citizens of Bosnia and Herzegovina.

The Project Preparation Facility will ensure incorporation of these aspects into the programming/strategic planning related activities and outputs. The project on EU Awareness II will give particular attention to the rights of the citizens with emphasis on equal opportunities and minority /vulnerable groups concerns, the civil society participation to the policymaking and the need for good governance in all integration areas. The project will also raise the awareness on the importance of environmental protection aspect in the implementation of EU policies.

As concerns the State Prison project, pertinent decisions on adopting a plan on parcelling and urban-technical conditions are underway. Compliance will be ensured with the relevant environmental acquis, in particular the EIA Directive.

2.5. Conditions

The programme includes the following conditionalities:

- The projects fiches are formally approved by exchange of letter between the Commission and the government of BiH;

- The government will ensure that the beneficiary institutions have adequate financial, material and human resources in that EC financial support is used in the most effective and sustainable manner possible;
- Beneficiary institutions will formally endorse the design and tender documents, including terms of reference;
- The government shall ensure the availability of land, free of ownership claims or disputes, provision of all necessary building permits and authorisations for the construction of the planned works. The Government shall ensure long-term sustainability of the actions by allocating the necessary resources, including running costs and maintenance costs;
- Beneficiary institutions organise, select and appoint members (including gender and ethnic balance) of working groups, steering and coordination committees, and seminars as required by the project activities.

Additional project specific conditions are described in the project fiches. In the event that these conditions are not met, suspension or cancellation of the project or specific activities will be considered.

2.6. Benchmarks

	N		N+1 (cumulative)		N+2 (cumulative)	
	EU	NF*	EU	NF*	EU	NF*
Number of tenders launched or grant agreements signed	5		17-18		17-18	
Number of calls for proposals launched	1		1		NA	
Contracting Rate (%)	0		100		100	

* In case of parallel national co-financing

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

The revised Strategy for the Implementation of the Decentralised Implementation System in BiH is ready for adoption by the Council of Ministers. The DIS Working Group under the chairmanship of the NIPAC/NAO, although not officially nominated, has already started convening regularly to discuss the implementation of the requirements for DIS. The National Fund and the Central Financial and Contracting Unit (CFCU) in the Ministry of Finance and Treasury have been staffed by half of the planned levels and further recruitment is encouraged. The staff is trained by the ongoing technical assistance project and the target date for submission of the accreditation package to the EC is set at February 2009.

3. BUDGET (AMOUNTS IN €)

3.1. Indicative budget table

Centralised management	Institution Building (IB)					Investment (INV)					Total (IB + INV)	Total IPA Community contribution	
	Total expenditure	IPA Community contribution		National contribution*		Total expenditure	IPA Community contribution		National contribution*				
	€ (a)=(b)+(c)	€ (b)	% ⁽¹⁾	€ (c)	% ⁽¹⁾	€ (d)=(e)+(f)	€ (e)	% ⁽¹⁾	€ (f)	% ⁽¹⁾	€ (g)=(a)+(d)	€ (h)=(b)+(e)	% ⁽²⁾
Priority Axis 1 - Political Requirements	4,840,000	4,700,000	97.11	140,000	2.89	27,223,000	7,800,000	28.65	19,423,000	71.35	32,063,000	12,500,000	38.99
1. Police Reform	1,200,000	1,200,000	100.00		0.00	800,000	800,000	100.00		0.00	2,000,000	2,000,000	
2. Support to State Court						7,573,000	3,000,000	39.61	4,573,000	60.39	7,573,000	3,000,000	
3. State prison						18,850,000	4,000,000	21.22	14,850,000	78.78	18,850,000	4,000,000	
4. PPF	1,500,000	1,500,000	100.00		0.00						1,500,000	1,500,000	
5.EU Awareness	2,140,000	2,000,000	93.46	140,000	6.54						2,140,000	2,000,000	
TOTAL	4,840,000	4,700,000	97.11	140,000	2.89	27,223,000	7,800,000	28.65	19,423,000	71.35	32,063,000	12,500,000	38.99

* 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 Community contribution of the entire FP.

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

The Community contribution, which represents 38.9% of the total budget to this programme, has been calculated in relation to the eligible expenditure, which in the case of centralised management is based on the total expenditure.

The rate of the Community contribution will be:

- Grant to the Registry to the State Court: up to 39.61% of eligible expenditure;
- Joint management with the CEB on the State Prison project: up to 21.22% of eligible expenditure;
- Grant(s) to EU Information Centres: up to 90.91% of eligible expenditure;
- Grant to the EU Info Correspondence Centre: up to 68.97% of eligible expenditure;
- Other projects and activities: 100% of eligible expenditure.

In the case of grants, final beneficiaries will in general provide for co-financing. Individual grant agreements implementing the projects as foreseen under the Programme will be financed in accordance with the rules of co-financing established in Article 231(1) (d) of the Implementing Rules to the Financial Regulation.

4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of implementation

The programme will be implemented on a centralised basis by the European Commission, EC Delegation to Bosnia and Herzegovina, in accordance with Article 53a of the Financial Regulation¹ and the corresponding provisions of the Implementing Rules².

Project 3 ("Construction of high-security State prison") will be implemented by the European Commission by joint management with the Council of Europe Development Bank following Article 53d of the Financial Regulation and the corresponding provisions of the Implementing Rules.

To this end, the Commission and the Council of Europe Development Bank will conclude a Contribution Agreement.

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

¹ 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) and by Regulation (EC, Euratom) No 1525/2007 of 17 December 2007 (OJ L 343, 27.12.2007, p. 9).

² OJ L 357, 31.12.2002, p. 1 Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.4.2007, p. 13).

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 website³ at the date of the initiation of the procurement or grant award procedure.

In case of project 3 ("construction of high-security State prison"), the general rules for procurement and grant award procedures shall be defined in the Contribution Agreement between the Commission and the Council of Europe Development Bank.

4.3. Implementation Principles for Twinning Projects

Twinning projects shall be set up in the form of a grant agreement, whereby the selected Member State administrations agree to provide the requested public sector expertise against the reimbursement of the expenses thus incurred.

The contract may in particular provide for the long-term secondment of an official assigned to provide full-time advice to the administration of the beneficiary country as resident twinning advisor.

The twinning grant agreement shall be established in accordance with relevant provisions of Part One, Title VI of the Financial Regulation and Part One, Title VI of its Implementing Rules.

The twinning manual is available on the web site of the Directorate General for Enlargement of the European Commission at the following address:

http://ec.europa.eu/enlargement/financial_assistance/institution_building/twinning_en.htm

4.4. Environmental Impact Assessment and Nature Conservation

All investment shall be carried out in compliance with relevant Community Environmental Legislation.

The procedure for environmental impact assessment as set down in the EIA directive will fully apply to all investment projects and the application of the European Principles for the Environment will be ensured. As the project 'Support to the construction of a State high security Prison in Bosnia and Herzegovina' correspond to projects which fall within the scope of annex 2 of the EIA-directive⁴, an environmental impact assessment shall be made for this project⁵, equivalent to that provided for by the EIA-directive.

³ Current address: http://ec.europa.eu/europeaid/work/procedures/implementation/works/index_en.htm

⁴ 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).

⁵ Cf. Annex EIA to the corresponding investment project fiche.

5. MONITORING AND EVALUATION

5.1. Monitoring

The Commission may undertake any actions it deems necessary to monitor the programmes concerned. These actions may be carried out jointly with the international organisation(s) 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 Regulation, 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. The Commission may also carry out strategic evaluations.

5.3. 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) 2185/96⁶.

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

6. 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 nature⁷, 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.

⁶ OJ L 292, 15.11.1996, p. 2.

⁷ 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 and the indicative time frame for launching the procurement procedures.