

FINANCING AGREEMENT

BETWEEN

**THE GOVERNMENT OF [REDACTED]
REPUBLIC OF MACEDONIA**

AND

THE EUROPEAN COMMISSION

**CONCERNING THE NATIONAL PROGRAMME FOR THE
[REDACTED] REPUBLIC OF MACEDONIA FOR 2010
UNDER THE INSTRUMENT FOR PRE-ACCESSION
ASSISTANCE**

Dated

(Centralised Management)

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Annex A Commission decision C(2010) 5936 of 28/08/2010 adopting the National programme for [REDACTED] Republic of Macedonia under the IPA-Transition Assistance and Institution Building Component for 2010

Annex B Framework Agreement between the Commission of the European Communities and the Government of [REDACTED] Republic of Macedonia dated 30 October 2007

FINANCING AGREEMENT

THE GOVERNMENT OF [REDACTED] REPUBLIC OF
MACEDONIA

and

THE EUROPEAN COMMISSION

hereafter jointly referred to as "the Parties" or individually as "the beneficiary country", in the case of the Government of [REDACTED] Republic of Macedonia, or "the Commission", in the case of the European Commission.

Whereas

- (a) On 1 August 2006, the Council of the European Union adopted Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (hereafter: the "IPA Framework Regulation"). With effect from 1 January 2007, this instrument constitutes the single legal basis for the provision of financial assistance to candidate countries and potential candidates in their efforts to enhance political, economic and institutional reforms with a view to their eventually becoming members of the European Union.
- (b) On 12 June 2007, the Commission adopted Regulation (EC) No 718/2007 implementing the IPA Framework Regulation, detailing applicable management and control provisions (hereafter: the "IPA Implementing Regulation").
- (c) European Union assistance under the instrument for pre-accession assistance should continue to support the beneficiary countries in their efforts to strengthen democratic institutions and the rule of law, reform public administration, carry out economic reforms, respect human as well as minority rights, promote gender equality, support the development of a civil society and advance regional cooperation as well as reconciliation and reconstruction, and contribute to sustainable development and poverty reduction.

European Union assistance for candidate countries should additionally focus on the adoption and implementation of the full EU *acquis*, and in particular prepare them for the implementation of the European Union's agricultural and cohesion policy.

- (d) The Parties have concluded on 30 October 2007 a Framework Agreement setting out the general rules for cooperation and implementation of the European Union assistance under the Instrument for Pre-accession Assistance.
- (e) The Commission adopted on 28 August 2010 the National Programme for [REDACTED] Republic of Macedonia under the IPA Transition Assistance and Institution Building Component for 2010 (hereafter: "the programme"). The programme is to be implemented partly by means of decentralised management and partly by the Commission on a centralised basis.
- (f) It is necessary for the implementation of this programme that the Parties conclude more than one Financing Agreement to lay down the conditions for the delivery of European Union assistance, the rules and procedures concerning disbursement related to such assistance and the terms on which the assistance will be managed.
- (g) This Financing Agreement relates to the part of the programme to be implemented by the Commission on a centralised basis, which will consist of 2 projects as specified in section 1 of the Financing Agreement.

HAVE AGREED ON THE FOLLOWING:

1 THE PROGRAMME

The European Commission will contribute, by way of grant, to the financing of the following programme, which is set out in Annex A to this Agreement.

Programme number: IPA 2010/022-265

Title: National Programme for the former Yugoslav Republic of Macedonia under the IPA-Transition Assistance and Institution Building Component for the year 2010.

2 IMPLEMENTATION OF THE PROGRAMME

- (1) This part of the programme shall be implemented by the Commission on a centralised basis, in the meaning of Article 53a of Council Regulation (EC) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, as last modified by Regulation (EC) No 1525/2007 of 17 December 2007 (hereafter: "the Financial Regulation").
- (2) The programme shall be implemented in accordance with the provisions of the Framework Agreement on the rules for co-operation concerning EU Financial Assistance to [REDACTED] Republic of Macedonia and the implementation of the Assistance under the Instrument for Pre-accession Assistance (IPA), concluded between the Parties on 30 October 2007 (hereafter: "the Framework Agreement"), which is set out in Annex B to this Agreement.

3 STRUCTURES AND AUTHORITIES WITH RESPONSIBILITIES

- (1) The Beneficiary shall designate a national IPA co-ordinator, in accordance with the Framework Agreement, who shall act as the representative of the Beneficiary vis-à-vis the Commission. He/she shall ensure that a close link is maintained between the Commission and the Beneficiary with regard both to the general accession process and to EU pre-accession assistance under IPA.

4 FUNDING

The funding for the implementation of this Agreement shall be as follows:

- (1) The European Union contribution for the year 2010 for this part of the programme to be implemented by the Commission under centralised management is fixed at a maximum of € 6,782,430. However, payments of the European Union contribution by the European Commission shall be made within the limits of the funds available.
- (2) The cost of the structures and authorities put in place by the beneficiary country for the implementation of this programme shall be borne by the Beneficiary.

5 CONTRACTING DEADLINE

- (1) The individual contracts and agreements which implement this Agreement shall be concluded no later than two years from the date of conclusion of this Agreement.
 - (2) In duly justified cases, this contracting deadline may be extended before its end date to a maximum of three years from the date of conclusion of this Agreement.
 - (3) Any funds for which no contract has been concluded before the contracting deadline shall be cancelled.
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6 DEADLINE FOR THE EXECUTION OF CONTRACTS

- (1) The contracts must be executed within a maximum of two years from the end date of contracting.
- (2) The deadline for disbursement of funds may be extended before its end date in duly justified cases.

7 DISBURSEMENT DEADLINE

- (1) Disbursement of funds must be made no later than one year after the final date for the execution of contracts.
- (2) The deadline for disbursement of funds may be extended before its end date in duly justified cases.

8 TREATMENT OF RECEIPTS

- (1) Receipts for the purposes of IPA include revenue earned by an operation, during the period of its co-financing, from sales, rentals, service enrolment/fees or other equivalent receipts with the exception of:
 - (a) receipts generated through the economic lifetime of the co-financed investments in the case of investments in firms;
 - (b) receipts generated within the framework of a financial engineering measure, including venture capital and loan funds, guarantee funds, leasing;
 - (c) where applicable, contributions from the private sector to the co-financing of operations, which shall be shown alongside public contribution in the financing tables of the programme.
- (2) Receipts as defined in paragraph 1 above represent income which shall be deducted from the amount of eligible expenditure for the operation concerned. No later than the closure of the programme, such receipts shall be deducted from the relevant

operation's eligibility expenditure in their entirety or pro-rata, depending on whether they were generated entirely or only in part by the co-financed operation.

9 ELIGIBILITY OF EXPENDITURE

- (1) Expenditure under the programme in Annex A shall be eligible for European Union contribution if it has been incurred after the contracts and grants implementing such programme have been signed, except in the cases explicitly provided for in the Financial Regulation.

- (2) ~~The following expenditure shall not be eligible for European Union contribution under the programme in Annex A:~~
 - (a) taxes, including value added taxes;
 - (b) customs and import duties, or any other charges;
 - (c) purchase, rent or leasing of land and existing buildings;
 - (d) fines, financial penalties and expenses of litigation;
 - (e) operating costs;
 - (f) second hand equipment;
 - (g) bank charges, costs of guarantees and similar charges;
 - (h) conversion costs, charges and exchange losses associated with any of the component specific euro accounts, as well as other purely financial expenses;
 - (i) contributions in kind;
 - (j) any leasing costs;
 - (k) depreciation costs.
- (3) By way of derogation from paragraph 2 above, the Commission will decide on a case-by-case basis whether the following expenditure is eligible:
 - (a) operating costs, including rental costs, exclusively related to the period of co-financing of the operation;
 - (b) value added taxes, if the following conditions are fulfilled:
 - (i) the value added taxes are not recoverable by any means;

- (1) The implementation of this Agreement will be subject to periodic reviews at times arranged between the Parties.
- (2) Any amendment agreed to by the Parties will be in writing and will form part of this Agreement. Such amendment shall come into effect on the date determined by the Parties.

14 TERMINATION

- ~~(1) Without prejudice to paragraph 2, this Agreement shall terminate eight years after its signature. This termination shall not preclude the possibility for the Commission making financial corrections in accordance with Article 56 of the IPA Implementing Regulation.~~
- (2) This Agreement may be terminated by either Party by giving written notice to the other Party. Such termination shall take effect six calendar months from the date of the written notice.

15 SETTLEMENT OF DIFFERENCES

- (1) Differences arising out of the interpretation, operation and implementation of this Agreement, at any and all levels of participation, will be settled amicably through consultation between the Parties.
- (2) In default of amicable settlement, either Party may refer the matter to arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States in force at the date of this Agreement.
- (3) The language to be used in the arbitration proceedings shall be English. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either Party. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

16 NOTICES

- (1) Any communication in connection with this Agreement shall be made in writing and in the English language. Each communication must be signed and must be supplied as an original document or by fax.
- (2) Any communication in connection with this Agreement must be sent to the following addresses:

For the European Commission:

*Head of Unit DG ELARG B2
Rue de la Loi 170, 1049 Brussels, Belgium
Fax: (+32) 299 86 40*

- (ii) it is established that they are borne by the final beneficiary, and
 - (iii) they are clearly identified in the project proposal.
- (4) Expenditure financed under IPA shall not be the subject of any other financing under the European Union budget.

10 RETENTION OF DOCUMENTS

- (1) All documents relating to the programme in Annex A shall be kept for at least five years from the date on which the European Parliament grants discharge for the budgetary year to which the document relate.
- (2) In the case that the programme in Annex A is not definitely closed within the deadline set in paragraph 1 above, the documents relating to it shall be kept until the end of the year following that in which the programme in Annex A is closed.

11 INTERPRETATION

- (1) Subject to any express provision to the contrary in this Agreement, the terms used in this Agreement shall bear the same meaning as attributed to them in the IPA Framework Regulation and the IPA Implementing Regulation.
- (2) Subject to any express provision to the contrary in this Agreement, references to this Agreement are references to such Agreement as amended, supplemented or replaced from time to time.
- (3) Any references to Council or Commission Regulations are made to the version of those regulations as indicated. If required, modifications of these regulations shall be transposed into this Agreement by means of amendments.
- (4) Headings in this Agreement have no legal significance and do not affect its interpretation.

12 PARTIAL INVALIDITY AND UNINTENTIONAL GAPS

- (1) If a provision of this Agreement is or becomes invalid or if this Agreement contains unintentional gaps, this will not affect the validity of the other provisions of this Agreement. The Parties will replace any invalid provision by a valid provision which comes as close as possible to the purpose of and intent of the invalid provision.
- (2) The Parties will fill any unintentional gap by a provision which best suits the purpose and intent of this Agreement, in compliance with the IPA Framework Regulation and the IPA Implementing Regulation.

13 REVIEW AND AMENDMENT

For the Beneficiary Country:

*Deputy Prime Minister for European Affairs
Ilindenska bb, 1000 Skopje
Fax: (+389) 2 3113 710*

18 NUMBER OF ORIGINALS

This Agreement is drawn up in duplicate in the English language.

19 ANNEXES

The Annexes A and B shall form an integral part of this Agreement.

20 ENTRY INTO FORCE

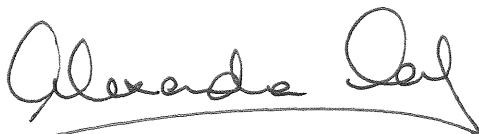
This Agreement shall enter into force upon its signature by the latter of the two Parties by way of Exchange of Letters.

Signed, for and on behalf of the Government of [REDACTED] Republic of Macedonia,

Mrs Teuta Arifi

National IPA Coordinator (NIPAC), Deputy Prime Minister for European Affairs

Signed, for and on behalf of the European Commission,



Mrs Alexandra Cas Granje,

*Director DG Enlargement for Croatia, [REDACTED] Republic of Macedonia, Turkey,
Iceland*

