STRATEGY FOR IMPLEMENTATION OF THE DECENTRALISED IMPLEMENTATION SYSTEM (DIS) IN BiH

By Lisa Brønnum
Danish School of Public Administration
in cooperation with STEs  Marge Vahemae and Kai Kristoffersen

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**Glossary**

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<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>CFCU</td>
<td>Central Financing and Contracting Unit</td>
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<td>CRIS</td>
<td>Common Relex Information System</td>
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<td>CSP</td>
<td>Country Strategy Paper</td>
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<td>DIS</td>
<td>Decentralised Implementation System</td>
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<td>FA</td>
<td>Financing Agreement</td>
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<td>FM</td>
<td>Financing Memorandum</td>
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<td>GAR</td>
<td>Gap Assessment Report</td>
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<td>IPA</td>
<td>Instrument for Pre-Accession Assistance</td>
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<td>JMC</td>
<td>Joint Monitoring Committee</td>
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<td>MoU</td>
<td>Memorandum of Understanding</td>
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<td>NAC</td>
<td>National Aid Coordinator</td>
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<td>NAO</td>
<td>National Authorising Officer</td>
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<td>NF</td>
<td>National Fund</td>
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<td>NCP</td>
<td>national Contact Point Twinning</td>
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<td>NIP</td>
<td>Multi-Annual National Indicative Programme</td>
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<td>PAO</td>
<td>Programme Authorising Officer</td>
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<td>SMSC</td>
<td>Sectoral Sub-Monitoring Committees</td>
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<td>SPO</td>
<td>Senior Programme Officer</td>
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INTRODUCTION

The objective of the present paper is to assist DEI’s Aid Coordination Division to develop the strategy (roadmap) for implementation of the Decentralised Implementation System (DIS) in BiH.

There are two areas that can be waived to decentralisation subject to fulfilment of conditions in article 164 of the Financial Regulation¹ and that is:

a) Procurement and grant award procedures &
b) Payment to final beneficiaries.

The national players in a DIS are²:

- The National Aid Coordinator (NAC).
- The Central Financing and Contracting Unit (CFCU), headed by the Programme Authorising Officer (PAO)
- The National Fund (NF), headed by the National Authorising Officer (NAO)
- Senior Program Officers (SPO) in line ministries
- Beneficiaries
- Joint Monitoring Committee (JMC)

This report describes main criteria, conditions and principles for decentralisation within these main national institutions in managing EC Assistance under DIS.

An indicative needs assessment in the institutions involved has been made in order to determine to what extent the conditions for DIS are currently met and to identify specific actions, changes and improvements required.

The main focus is on the establishment of a Central Financing and Contracting Unit (CFCU), a National Fund (NF) and the role of the National Aid Coordinator (NAC), which are the 3 key institutions that have to be in place in a DIS system.

² In the future it could be foreseen that PIUs would be established in ministries with a big porte folio.
1. **DECENTRALISATION OF MANAGING PRE-ACCESSION ASSISTANCE – DEFINITION AND CONDITIONS**

Implementation of the Decentralised Implementation System (DIS) involves the transfer of part of the responsibility for managing the Pre-Accession Assistance from the Commission to the recipient country, meaning:

- Public procurement/tendering, contracting, budgeting and disbursement of community fund is carried out by institutions established for the purpose: a Central Financing and Contracting Unit (CFCU)
- Request and management of funds from the Commission and financial reporting is carried out by an institution established for the purpose: a National Fund (NF)

The description of the DIS provides the appropriate legal and administrative framework for the transfer of responsibilities for the implementation of the EU funded programmes from the European Commission to the partner countries.

The purpose of going from centralised to a decentralised implementation system is gradually to prepare BiH to take over all responsibilities for managing the EU Community Assistance assistance from the Commission when entering the European Union. By implementing part of the Commission responsibilities on management of pre-accession funds BiH is given the opportunity to practise and develop the internal procedures and structures necessary.

While under DIS, a number of operations are executed by the recipient country some of them, in particular in relation to programming and procurement, are subject to ex-ante control and approval by the Commission and/or the EC Delegation. A full waiver of the ex-ante approval requirement is only done under the Extended Decentralised Implementation System (EDIS), which is based on ex-post control. EDIS is not covered by the present roadmap as this system is first relevant when countries becomes Member States.

Implementation of DIS is based on an agreement (Memorandum of Understanding) between the Commission and the recipient country regarding establishing a National Fund, headed by a National Authorising Officer (NAO) through which all transfers of community funds are made. The institutional framework also includes the establishment of a Central Financing and Contracting Unit (CFCU), headed by a Programme Authorising Officer (PAO). Based on a Financing Agreement with the National Fund the CFCU will take on the responsibilities in relation to the procurement process, i.e. contracting and payment to contractors.

*The institutional framework for DIS is shown in Annex I.*

The procedures and standard documents for awarding services, supplies and works contracts are set out in the Practical Guide to contract procedures financed from the General Budget of the European Communities in the context of external actions, May 2003. Its annexes are applicable to CARDS and replace all those in the procurement section of the Phare DIS Manual.

Note that, owing to the specific nature of CARDS Twinning, the provisions of the Practical Guide are not relevant to it - please refer to the CARDS Twinning Manual.

As a rule, under DIS the Commission carries out ex-ante approval of project selection, tendering and contracting performed by the recipient countries.
The ex-ante control referring to the DIS involves four essential checks by the EC Delegation:
1. Approving the content of the tender dossier before the tender is launched
2. Approving the composition of the evaluation committee (the committee responsible for evaluating the technical and financial proposals and recommending the selected bidder to the Contracting Authority)
3. Checking and approving the evaluation report – the results of the examination of the tenders, and approving the proposal for the award of the contract
4. Endorsing the contract, through the signature of the Head of Delegation, not as a party to the contract but to confirm that all relevant procedures have been respected and that consequently the project can receive EU financing

The decision of the European Commission to allow a recipient country to implement the Decentralised Implementation System (DIS) is based on Council Regulation (EC, Euratom) No. 1605/2002. The requirements to be met by the recipient country in order to be granted a decentralised management arrangement are specified in Article 164 (1), as follows:

Under the decentralised management arrangements, the Commission may decide to entrust management of certain actions to the authorities of beneficiary third countries, after having established that the beneficiary third country or countries are in a position, in the management of Community funds, to apply in whole or in part the following criteria according to the degree of decentralisation agreed:

(a) effective segregation of the duties of authorising officer and accounting officer;
(b) existence of an effective system for the internal control of management operations;
(c) for project support, procedures for the presentation of separate accounts showing the use made of Community funds; and for other forms of support, an officially certified annual statement for the area of expenditure concerned to be made available to the Community;
(d) existence of a national institution for independent external auditing;
(e) transparent, non-discriminatory procurement procedures ruling out all conflicts of interest.

An accreditation of DIS will be decided on the basis of an analysis of the management capacity of the National Fund and the CFCU, financial management and control procedures.

The Commission will examine assessing the fulfilment of these criteria the following areas of an institution:

1) control environment (staff/organisation matters: ethics, mission, role and legal basis, training etc.)
2) performance and risk management (objectives setting: risk assessments, indicators etc.)
3) information and communications (reporting, filing systems etc.)
4) control activities (transaction control: documentation of procedures, segregation of duties, ex-ante and ex-post control activities, supervision, information systems and computer security)
5) audit and evaluation (monitoring and performance)

In the following, the roles of the key players under the DIS are explained together with further details on the way these institutions have to prepare themselves for meeting the above requirements in order for BiH to apply to the Commission for granting of a DIS arrangement.
2. **KEY ACTORS IN A DECENTRALISED IMPLEMENTATION SYSTEM (DIS)**

2.1. **THE NATIONAL FUND (NF), HEADED BY THE NATIONAL AUTHORISING OFFICER (NAO)**

The National Fund is the channel through which Community pre-accession funds flow\(^5\). The National Fund shall be under the responsibility of the National Authorising Officer (NAO) who will have the overall responsibility for the financial management of Community pre-accession funds.

2.1.1 The role of the National Authorising Officer

The NAO who shall be an official of ministerial or state secretary status, appointed by the Government, is the NAC’s financial counterweight, and consequently the NAC and NAO positions must be separated.

The NAO shall ensure that the CARDS rules, regulations and procedures pertaining to procurement, reporting and financial management are respected, and that a proper reporting and project information system is functioning.

In carrying out the responsibilities the NAO, among other things, shall be responsible for the following tasks:

- Request and manage the funds from the Commission
- Appoint the Programme Authorising Officer (PAO) after consulting with NAC.
- Conclude the Financing Agreements with the CFCU
- Ensure that a financial reporting system (CRIS) for CARDS funds is regularly updated and reporting procedures properly respected by the CFCU
- Transfer funds to the CFCU according to the mechanism set out in the Financing Agreements
- Participate with the Commission, the PAO and the NAC in the Joint Monitoring Committee
- Recover non-used funds from the CFCU at the end of the CARDS programme

The NAO will operate through the organisation of a “National Fund Division” in exercising his/her tasks.

2.1.2 The National Fund Division

The National Fund Division should be an entity within the Ministry of Finance, either placed within the Treasury Division or working in close collaboration with the Treasury Division.

Funds received from the Commission must be separated from the general budget funds and placed in a special bank account in the selected bank. From the special bank account the NAO together with the accountant of the National Fund Unit will be authorized to transfer funds to sub-accounts operated by the CFCU for payment to Contractors.

Organisation of the work of the National Fund must be done with respect of the principle of segregation of duties, i.e. there has to be separate functions for the control of the request for funds from the CFCU and for the execution of the bank transactions.

The accounts of the National Fund would have to be audited by an internal auditor who most probably should be the internal auditor of the Ministry of Finance. **The internal auditor must be functionally independent from the NAO and all the latter’s collaborators.** The national supreme audit authority, i.e. the National Court of Auditors, should also audit the Fund. External audit is also going to be made by the EU Court of Auditors and, if appointed by the Commission, other external auditors.

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\(^5\) See flow of funds in Annex III

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**Bosnia and Herzegovina Council of Ministers**

**Directorate of European Integration**

Trg BiH 1/III, Sarajevo, BiH

Tel/Fax: +387 33 217 883

E-mail: slulo@dei.gov.ba

**DSPA, BDA, Louis Berger Consortium**
Staffing
The NAO act as the Head of the National Fund or and since the NAO has to be an official of ministerial of state secretary status, the Head of the division could be of a lower rank and e.g. participate in the control functions.

The job positions in a NF should as a minimum consist of:

- Head of Division (financial controller)
- Financial controllers
- Accountants

As in the CFCU the final number of staff depends on the volume of the programmes being decentralised and the level (full or part).

For assessment and further reflection the Baltic States started with a staff up to 4 and enlarged to 5-6 as a result of increased funding.

The Head of Division and the Financial Controller should be economists while the Accountant preferably should have some experience in accounting or could be an economist.

Equipment
The National Fund, operating as a “self-dependent” unit, needs to be sufficiently equipped in order to operate its own control and accounting systems. The NF should have its own Management Information System to control financial flows. During the initial stage, the bookkeeping could be done manually, and documented on Excel, but eventually it has to be fully computerized and integrated with the general project information system. If the existing accounting system used by the Ministry of Finance and Treasury satisfies the requirements for this could, of course, be used by the National Fund as well but in a separate system where the accounts are separated from the accounts of the Treasury Division.

The National Fund has to prepare its own accounts detailed in a manner prescribed by the Commission. The accounting system could be manual for a start but at a later stage the accounting system should be computerized to cater for the increased number of transactions thereby also making it possible to operate an integrated information system. A special financial reporting system (CRIS or PERSUES), developed and provided by the Commission, has to be installed for exchange of information with the CFCU and the Commission.

The following are considered to be the minimum requirements:

- 2 computers, one for financial control and one for accounting
- Accounting software, could be Excel as a start
- Installation of CRIS (or PERSUES), will be provided by the ECD
- Link to the Information System of the Ministry of Finance and the general CARDS project information system
- Normal office equipment

While one computer for the accounting function should be sufficient, most probably more computers would soon be needed for the financial control as the volume of transactions increases.
Training
The staff will have to be trained in the EC Directives regulating the financial management and control of EU Pre-Accessions financial instruments as well as in the general principles for accounting (e.g. double entry and accrual accounting) in accordance with international standards and best practice. The training could be organised as a combination of seminars, workshops, study tours and on-the-job training under some supervision of experienced external experts.

Working procedures
Working procedures must be developed and documented. The procedures have to be based on the principle of segregation of duties and "four eyes principle", meaning that at least two individuals must control the request of funds from the CFCU and for the execution of bank transactions. Therefore, the unit has to be sufficiently staffed in order to separate the functions of financial control and payment.

The National Fund also has to be subject to internal audit by an independent internal auditor, e.g. the internal auditor of the Ministry of Finance and Treasury.

The documented procedures and systems should comprise:

- A “Memorandum of Understanding on the Establishment of the National Fund”, (MoU), will be the basic agreement between the Commission and the Government of BiH regarding the management of Community pre-accession funds under the DIS.
- Working Procedures Manual, including financial control procedures, checklists etc.
- Reporting requirements, internal in NF and external to EC (ECD), NAC, CFCU and Treasury Division
- Procedures for operation of bank accounts under double signature in accordance with an agreement with the Central Bank:
  - a) one General Account operated by the NAO and the accountant of NF used for receipt of funds from EU and transfer of funds to the CFCU, and
  - b) several sub-accounts, one for each FM, operated by the Head of CFCU and the CFCU accountant for payments to contractors
- CRIS financial reporting system
- Separate accounting system
- Internal Audit, could be the internal audit service of the Ministry of Finance and Treasury
- External Audit, the National Court of Auditors (National Supreme Audit)
- External Audit, European Commission and European Court of Auditors

Decisions and legislative initiatives needed for establishment of a NF would include (the list is not exhaustive):
- Government decree/resolution on authorization for the signing of the “Memorandum of Understanding for the establishment of the National Fund”
- Government decree/resolution on authorization to the NAC for the signing of the Financing Memoranda
- Government decree/resolution on the establishment of the entity “National Fund” Establishing the authority of the National Authorising Officer (Head of NF) to execute his/her tasks and responsibilities in accordance with the MoU and relevant EC regulations and requirements
- Nomination of NAO by the Government
- Conclusion of Financing Agreements (one for each Financing Memorandum) between the NAO and the PAO endorsed by the EC Delegation
- There might also be a need for making an amendment to the Law on the Court of Auditors to explicitly mention the responsibility for the Court of Auditors to audit institutions managing EU funds.
2.2. **THE CENTRAL FINANCING AND CONTRACTING UNIT (CFCU)**

The CFCU is an implementing agency and operates in close coordination with the various Ministries or agencies, which are the beneficiaries of the projects. The role of the CFCU is to carry out the public procurement/tendering, contracting, budgeting and disbursement of community funds. The CFCU is associated in the assessment by the Delegation of the budgetary aspects of draft project Contracts. Furthermore, it signs project Contracts prior to notification by the delegation and acts as the paying agent for the EU contribution to projects.

A Programme Authorising Officer (PAO) to head the CFCU is nominated by the appropriate authorities (the NAO after consultation with the NAC) of the partner country as specified in the Memorandum of Understanding. The appointment must be formally communicated to the European Commission. The PAO is responsible for the effective implementation of the programme and the economic, cost-effective use of funds and the observation of the principles of sound financial management, including the observance of tendering and contracting procedures, and the monitoring of project implementation.

Specific responsibilities of the PAO:
- ensuring the proper establishment of an implementation structure for the programme and its effective running,
- design, implementation and monitoring of projects in accordance with the Financing Memorandum supervision of tendering and contracting procedures,
- observation of the application of DIS rules for contract award and project implementation,
- ensuring transparency in the use of programme funds and an open information policy for all interested parties,
- contract signature and payment approval,
- mediate between individual contractors and project beneficiaries in the case of difficulties or non-performance during contract implementation,
- establishment and operation of an effective accounting system in accordance with DIS rules on financial management and reporting,
- regular reporting on project status and fund management,
- Nomination of Evaluation Committees
- Participate in the Joint Monitoring Committee

The PAO has ultimate responsibility for ensuring that the programme is implemented fully in line with the Financing Memorandum and government policy.

**Staffing**

The staffing of CFCU depends on the volume of the decentralised programmes; from programming to evaluation, that has to be carried out by BiH authorities and with ex-ante control of the Commission. It also depends on the degree of decentralisation in BiH; transfer of all or part of the responsibilities.

The job positions in a CFCU should as a minimum be as follow:

- a) Director of the CFCU
- b) Procurement Specialists
- c) Accountant
- d) Secretary

As indicated above the final number of staff in the CFCU depends again on the volume of the programmes being decentralised and the level (full or part).
For inspiration and further consideration the finance and contract unit in the EC Delegation in BiH has the following staffing:

a) Head of Unit
b) 7 or 8 procurement officers
c) 1 Archivist
d) 5 financial officers
e) 3 contract officers
f) 2 database assistants
g) 2 secretaries

The main requirements for the above posts are **extensive knowledge of English**, speaking and writing, and computer literacy. The experts of the team should have a University degree. Preferable specialisations would be economy, finance, public administration, law, and engineering.

The experts should be able to work as a team with good cooperation and motivation. But they should also be able to work in stress conditions and to manage heavy workload.

**Offices and equipment**

At the disposal of the whole CFCU staff there should be:
- Adequate staff offices with separate meeting/training room,
- Corresponding necessary office furniture and archive space,
- Individual telephones
- Fax line,
- Access to Internet
- Safe place
- Paper shredder

**Training**

In order to identify specific and tailor-made training, a training need analysis should be carried out in advance within the institution were it is decided that the CFCU will be placed. Training topics would be divided into general, such as work planning, quality management, presentation skills etc., and specific DIS training such as contracting, procurement, reporting techniques and reporting, tender documentation etc.

**Working procedures of CFCU**

There should be clear legal basis and documented proofs about the activities and responsibilities of CFCU. The list of documents is as follows:
- Memorandum of Understanding establishing CFCU
- Nomination of PAO by NAO
- Book of Rules and organigram of a national authority which is responsible of the activities of the CFCU incl. internal audit function
- “Mini” Book of Rules of the CFCU with organigrams, tasks, authorisations, job descriptions, qualifications, communication and reporting lines with NAC, NAO, PAO, CFCU director, NF and line ministries
- In the tendering and contracting process the main cooperation will be between the CFCU and line ministries and there will be a need for a separate cooperation agreement between them

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6 See examples of Memorandum of Understandings on a CFCU in Annex II
- Procedures manual of CFCU with checklists based on PRAG procedures manual. The manual should also cover CFCU accounting procedures and the tasks of CFCU concerning programming and monitoring.

Decisions and legislative initiatives needed for establishment of a CFCU would include (the list is not exhaustive):

- Government decree/resolution on the establishment of the entity the CFCU (the Implementing Agency)
- Appointing of the PAO (Head of CFCU) by the NAO
- There might also be a need for making an amendment to the Law on the Court of Auditors to explicitly mention the responsibility for the Court of Auditors to audit institutions managing EU funds.

2.3. **The National Aid Coordinator (NAC)**

The NAC is, on behalf of BiH, responsible for ensuring coordination both at level of programming in terms of identification and formulation (with the aim of ensuring a close link between the general accession process and the use of Community financial assistance) and at the level of monitoring and assessment of the respective pre-accession funds.

The NAC is also leading and responsible for programming through the preparation and coordination of the annual Financing Memoranda, in liaison with the National Authorising Officer (NAO) and the relevant Ministries, and in agreement with the Commission.

The NAC is a member of the Joint Monitoring Committee, and is the main counterpart to the EC Delegation during the whole project cycle; ensuring coordination with BiH ministries and acting as liaison between the EC Delegation and the BiH ministries, giving input to (CSP) and Multi-Annual National Indicative Programme (NIP), coordination of the programming with other donor programmes, Commenting and advise on draft of Project Fiches (quality control), forward project fiches to the EC Delegation for comments, Circulation of comments to the respective Beneficiaries, final quality check of project formulations, etc.

2.4. **Senior Programme Officer (SPO)**

Senior Programme Officers are placed within line ministries. The SPO’s have the overall responsibility for the management and technical implementation of the project (where the CFCU is responsible for the administrative and financial implementation) activities within the respective line ministries.

The main tasks of the SPO’s are:
- participating in identification and formulation of the needed assistance,
- preparation and approving of Terms of References and project fiches,
- monitoring project implementation in cooperation with the contractor,
- approving and commenting the project reports (inception, quarterly, final and monitoring reports)
- chairing the Project Steering Committee meetings

Appointment of SPOs is currently going on in BiH, on 24 March 17 SPO’s had been appointed.

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7 See note on “The Role of the SPO in the framework of the decentralised EU assistance management system”, Mari Torm & Nathalie Verschelde 11 October 2004, Annex IV
2.5. **Beneficiaries**
Beneficiaries are located within ministries or administrations at national, regional or local level. The Beneficiaries are responsible for the preparation and implementation of projects. Furthermore they are responsible for input to the programming process; identification and justification of specific sectors needs, preparation of ToR and project Fiches.

2.6. **EC Delegation**
The EC Delegation is the overall authority on all phases in the project cycle. Under DIS the EC Delegation carry out ex-ante (and/or ex-post) control in relation to the Procurement and grant award procedures as well as the payment to final beneficiaries.

The tasks of the EC Delegation can be summarised as follows:
- Provision of inputs to DG Enlargement on definition of policy guidelines
- Ensuring that programming takes full account of the country's political and economic situation; determination of priority sectors, formulation of specific project needs and assessment of project fiches and ToR, inclusive approval of the latter
- Day-to-day relations with ministries and PAO's, Beneficiaries, NAC, NAO and Implementing Agencies.
- Monitoring and supervision of programme implementation,
- Input to programme audit and account clearance
- General co-ordination.

All documentation and correspondence with the European Commission about programme implementation must be sent via the Delegation.
2.7. **Joint Monitoring (or Monitoring) Committee**

A Joint Monitoring Committee (JMC) consisting of the NAC, the NAO, PAO and the Commission meets at least once a year and review all EU funded programmes.

The JMC main tasks are:

- Assessment of the programmes’ progress towards meeting the objectives set out in the Financing Memorandum and the Accession Partnership and, if necessary,
- recommends change(s) of priorities or the reallocation of the funds between programmes and need for additional financial resources to ensure that objectives are met.

Sub-Monitoring Sub-Committee (SMSC) consisting of the NAC, the NAO, PAO, and the relevant line Ministries/Agencies/SPO’s and the Commission can be established to assist the JMC. SMSC’s reviews in detail the progress of each programme, including its components and contracts. Each sector will be supervised by one MSC on the basis of regular monitoring and assessment reports produced by the SPOs & Beneficiaries. The SMSC’s will put forward recommendations on aspects of management and design. The SMSC’s reports to the JMC, to which it submits an overall report on all financed programmes in its sector.

Practise has learned that SMSC’s should meet twice a year, one meeting shortly before the JMC.
3. **ROADMAP FOR PREPARATION OF IMPLEMENTATION OF THE DECENTRALISED IMPLEMENTATION SYSTEM (DIS)**

The roadmap lists the procedural stages leading to a DIS decision by the Commission and the activities carried out under the present assignment.

**Roadmap to DIS:**

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<td>1) Conditions to be met for DIS</td>
<td>Clarification of minimum criteria and conditions to be met for getting DIS granted</td>
<td>Draft of detailed list of criteria and conditions to be met in accordance to the Council Regulation 1605/2002 (Financial Regulation), the Commission Regulation 2342/2002 (Implementing Rules of the Financial Regulation) and the annex of the Council Regulation 1266/1999.</td>
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| 2) Gap assessment | To carry out an assessment of the target BiH institutions in order to determine to what extent the conditions for DIS are currently met and to identify specific actions, changes and improvements required | a. Complete description of target institutions and procedures on the basis the check list prepared under stage 1) 
b. Drawing up a Gap Assessment Report (GAR) on specific actions, changes and improvements required 
c. Strategy for continued work on the DIS implementation by BiH institutions |
| 3) DIS preparation | Preparation for DIS by making the necessary changes and improvements to the target institutions and procedures through implementation of the recommendations of the Gap Assessment Report (GAR) | a. Draft of a work programme setting out detailed actions and timetable for each recommendation in the GAR 
b. Implementation of the work programme by the BiH institutions with support, if necessary, financed under technical assistance projects 
c. Provision of training, seminars and other support and advice for the actions 
d. Development of necessary manuals (financial and control manuals) |
| 4) Compliance assessment | To enable the BiH authorities responsible for the financial management to determine whether the pre-conditions are fulfilled for formal application for DIS | a. Full financial and systems audit by an external auditor on behalf of the national authorities of each target institution covering: 
   ● The requirements set out under stage 1 with particular attention to the points identified in the GAR 
   ● The manuals and other documents relevant to the fulfillment of these requirements 
b. Full verification of the BiH procurement procedures as part of the audit 
c. Drawing up a report (Compliance assessment Report) by the external auditor setting out the findings and conclusions of the audit work and giving an audit opinion which provides positive assurance that the requirements are met 
d. Submission to the Commission of an application for DIS for relevant IA’s |
| 5) Preparation for commission decision | To prepare all elements necessary to enable the Commission to decide whether to grant DIS under article 164 (1) of the Financial Regulation applicable to the general budget of the European Communities | |
4. **ASSESSMENT OF TARGET BIH INSTITUTIONS**

The following needs assessment is made for the 3 target institutions (NAC, CFCU & NF) who is obligatory in order to get a decentralised implementation system running and to get the accreditation of DIS in accordance to the Financial Regulation article 164 (1).

The assessment makes an analysis of the present situation and identifies specific actions, changes and improvement required in the process towards implementation of DIS.

4.1. **MINISTRY OF FINANCE AND TREASURY**

**THE FINANCE AND CONTRACT UNIT (CFCU)**

The CFCU can be located in various institutions, such as the Ministry of Finance or the Prime Ministers Office. It can also be a semi-independent unit under control of the Ministry of Finance, a (state) agency according to the relevant laws of BiH.

The Ministry of Finance and Treasury was established in October 2000 by the Law of Treasury of BiH institutions. Ministry has 7 Sectors (structural units) and 2-3 Divisions (structural sub-units) under each Sector. A Head of Sector acts as an Assistant Minister.

Book of Rules on internal organization of MoFT was officially approved by Council of Ministers in 2003. The Book of Rules, among other topics, describes the tasks of the Sectors. A description of tasks of a Division and job-descriptions of the each employee exist separately from the Book of Rules. Special laws regulate the authorizations and responsibilities, but also salaries and other remunerations of the civil servants and technical staff.

The Book of Rules and organizational chart of the Ministry does not reflect the needs and current situation as the number of the tasks of MoFT increases every year. Recently there has been a survey of the Book of Rules by an international organization in order to propose the amendments, but the result of this survey is unknown to the MoFT at the moment – at the moment, April 2005.

There is considerable lack of personnel to accomplish the tasks of the ministry. It is envisaged to have 110 employees in the MoFT (102 according to Book of Rules), but presently only 47 are recruited. There are 12 persons working in the Sector for Relations with International Financial Institutions and only 1 person of them is responsible for EC issues.

Training of civil servants in order to improve their skills and competence is organized by Civil Service Agency. The training has been delivered in management, legal and economical issues. There has been also training in computer literacy in the ministry. Starting from 2004 international financial institutions, including the European Commission, have offered their training programmes to the staff of ministry.

Communication lines within the MoFT are partly formalized. The reporting process from the level of a Sector to the higher levels is described in the Book of Rules. Besides that, the Divisions present their monthly reports to the Heads of Sectors (Assistant Minister). On the basis of this information a Sector prepares its monthly report. The Divisions hold their internal meetings once a month.

Communication between the other ministries and state institutions are in the development phase.
One of the tasks of the Sector for Relations with International Financial Institutions is to elect an independent auditor and monitor the audit of execution of international contracts. For the time being, the ministry has contracted an international audit company via the public procedure for auditing the use of World Bank funds in BiH. Depending of the quality of the audits the contracts are signed for 1-3 years. In summer 2004 EC auditors audited the use of EC grants and other credits. There is an Independent National Auditing Body in BiH.

Under CARDS National Programme 2004 the Twinning Light Project Fiche has been prepared to assist MoFT in preparation BiH for European Integration. The twinning activities will probably start on the second half of 2005. The project is aiming at advising MoFT of its two key functions in EI process, i.e. multi-annual budgeting and the financial and contractual management of EC assistance to BiH.

In MoFT there is a lack of understanding of the decentralization process, the relevant organizational changes and responsibilities foreseen, but a clear view of the necessary structures for the decentralization, i.e. CFCU and NF.

**THE NATIONAL FUND (NF), HEADED BY THE NATIONAL AUTHORIZING OFFICER (NAO)**

A “Memorandum of Understanding on the Establishment of the National Fund”, (MoU), will be the basic agreement between the Commission and the Government of BiH regarding the management of Community pre-accession funds under the DIS.

In accordance with the MoU a central treasury entity, the National Fund, must be established within the Ministry of Finance.

An electronic money transfer system is under development by the Ministry and the Central Bank for bank transactions.

The internal control is already based on the principle of segregation of duties but an internal audit function is not in place in any government institution. The law on internal audit in public finance came into force from the beginning of 2005 but as the principles and standards for internal audit has been disregarded until now there are no trained auditors and it will take time to implement the law.

With regard to bank relations, it is recommended that in BiH, like in most other accession countries/new Member States, the National Fund and the CFCU should use the Central Bank. In BiH, the Central Bank is qualified to execute all necessary transactions, as there is a well-developed money transfer system both national and international.

Currently, accounts of the Government are already operated through the Central Bank also in foreign currencies. Euro accounts for the EC funds would be interest bearing as required. The Bank operates a modern settlement system and is connected to SWIFT. The conclusion is that accounts could be opened and operated as soon as an agreement is made between the Central Bank and the Ministry of Finance and Treasury.

Most countries prefer to operate the bank accounts through the Central Bank. However it should be mentioned that it is a possibility to open the accounts in commercial banks but in such a case the Government will have to take the risk for failure of the bank. (EU might require a Government guarantee).

And now where central banks are operating systems after international standards it would make sense to use the central bank through which the Government is making all bank transactions.
MAID GAPS IDENTIFIED:
- In BiH there is no formal decision made yet in the level of Council of Ministers where the CFCU should be located.
- There is no Government nomination of the NAO.
- The Books of Rules of MoFT are approved by Council of Ministers in 2003 but do not reflect the current needs and situation.
- There is lack of personnel in MoFT, especially in dealing with EC issues.
- Knowledge of foreign language, especially English, is low in the institutions. This will be significant obstacle managing the assistance programmes.
- Communication lines within the MoFT are formalized from the level of the Sector to the higher levels, not in the Division level.
- There is no internal audit function in the MoFT under direct supervision of the Minister, but it should be noted that a draft law on Internal Audit in the Ministry has been submitted to the Council of Ministers for approval and adoption in the Parliament.
- Communication between DEI and the ministries and other state institutions are in the development phase.
- In MoFT there is a lack of understanding about the decentralization process, about the relevant organizational changes and responsibilities foreseen.

4.2. DEI - THE AID COORDINATION DIVISION

In BiH it has been decided that the NAC shall be placed within the DEI, at the present Aid Coordination Division (ACD) and staffed with 9 civil servants.

Currently there are 5 civil servants and 2 temporary employees working in ACD. At the moment there are 4 vacant positions, 3 Task Managers and one Assistant Director. The recruitment of some of these vacancies is in process at the moment. In the context of programming the CARDS programme the present staffing is sufficient. But if ACD will be responsible of management of bilateral assistance in the future the number of present staff should be increased.

There are good relations and information sharing in the division, internal meetings are held if necessary.

The cooperation (reporting, information sharing) within DEI and with the ministries and other relevant institutions for European Integration are in the stage of development.

The internal organization of DEI is described in the Book of Rules. It was officially approved by Council of Ministers in June 2003. The Book of Rules does not reflect the current situation, concerning organisation of the division and description of job functions. There has been informal discussions about the division of the tasks between the level of Department I and Department II. The Book of Rules will be discussed in DEI in week 9 of 2005.

The actual EC assistance programming with the decentralised elements started in December 2004 for the CARDS 2006 assistance programming where DEI has more responsibilities in the process consulting with ECD.

Programming activities are based on three documents:
- Indicative Framework Plan with explanatory note for 2006 CARDS assistance programming for BiH
- Project Fiches
- Monitoring procedure as of October 2003.
The three documents specify, according to their content, background information, objectives, activities, results, verifiable indicators, means of verification, assumptions, primary actors and bodies, timetable of activities, implementation methods, monitoring activities. Ex-post evaluation is carried out by AIDCO in Brussels.

In addition to the programming documents mentioned a programming guideline has been elaborated within the current project. The guideline will be published in April 2005. Furthermore there is a detailed annual work plan for EC assistance programming in ACD. And by the end of 2005 DEI will operate a database that register all EC Assistance.

**MAIN GAPS IDENTIFIED:**
- April 2005 the NAC is not formally appointed. The actual EC assistance programming (CARDS 2006) with the decentralised elements started in December 2004.
- The cooperation and communication lines (reporting, information sharing) within DEI are not formalised and are in the stage of development.
- The cooperation and communication lines (reporting, information sharing) with the ministries (including MoFT) and other relevant institutions for European Integration are in the stage of development.
- The division of the tasks in the level of Department I and Department II are not clarified and formalised in ACD. Only informal discussions about it have taken place.
- The Books of Rules of DEI are approved by Council of Ministers in 2003 but do not reflect the current needs and situation.
5. **STRATEGY (ROADMAP) FOR IMPLEMENTATION OF DIS IN BiH**

The previous description of requirements and responsibilities under DIS is made in relation to a full decentralisation. However decentralisation can be applied for either full or partial, and granted by the Commission either in full or, if the requirements are not fully met, for partial decentralisation. The decision is to be taken on the basis of a proposal put forward by the Authorising Officer at the Delegation.

It appears from the consultation with the EC Delegation that the process of EC certification - that will eventually lead to the EC Commission granting the implementation of DIS in BiH – is expected to be more thorough and probably more complicated than what has been seen for accession countries until now. It is, therefore, the expectation that the decentralisation will be made gradually and that the BiH Government is going to apply for a partial decentralisation of procurement tasks to the CFCU as a first step.

As stated in “Note to AIDCO Directors”\(^8\) the degree of decentralisation has to be agreed for each project and will be reflected in each Financing Agreement (Financing Memorandum). The Commission may decide to decentralise the management of a project/programme gradually, for instance by allowing decentralised payments for every small amounts at the inception, and later, based on the re-evaluation of the beneficiary country’s standing, increasing the thresholds.

**Possible steps for BiH**

As a result, the Government of BiH might consider applying for a partial implementation of DIS. In a partial decentralisation the procurement task will be the first to decentralise. This means that establishment of the National Fund most probably would be postponed.

Under this approach the following models could be considered:

- **Model 1** Partial decentralisation to the CFCU for the procurement task for all projects or only for selected projects.
- **Model 2** Partial decentralisation to the CFCU for selected projects of the procurement and payment operations to contractors of the selected projects combined with decentralisation to the National Fund of the management of funds for the selected projects.
- **Model 3** Full decentralisation to the CFCU as well as to the National Fund for all programmes.

Timing is an important factor when preparing for implementation of a decentralised system, and decision on which model to.

Having in mind that the European Commission has proposed to replace the existing pre-accession instruments (including CARDS) by one common instrument, the Instrument for Pre-Accession (IPA) as a part of the new financial perspective for the period 2007 to 2013, it is recommended to use the introduction of this new assistance instrument to move to DIS.

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\(^8\) See Annex V
In accordance to the Proposal for Council Regulation establishing an Instrument for Pre-Accession Assistance (IPA)
9, the CARDS regulation has an expiry date set at 31 December 2006, and the IPA instrument suggested to apply from 1 January 2007.

Timing of implementation of DIS in BiH could naturally be connected to the introduction of IPA in 2007. This mean that the CFCU and NF must be fully operational by the summer of 2007 when the first contracting of IPA projects is foreseen.

It is therefore proposed that BiH goes partly for model 3 by a combination of:

a. full decentralisation
   in relation to the CFCU and NF on responsibilities; procurement and grant award procedures plus payment to final beneficiaries &

b. partial decentralisation
   in relation to programmes, CARDS and IPA, so that the implementation of CARDS remain within the EC Delegation under the centralised system as today and full decentralisation in relation to implementation of projects under IPA

In order for the CFCU and NF to be fully operational in 2007 all necessary decisions must be taken in 2005 and the establishment and recruitment of staff must start in 2006.

The need of technical assistance for implementation of the strategy and of DIS should be decided upon, and if necessary then defined and programmed.

Under CARDS National Programme 2004 a Twinning Light Project has been tendered and is expected to start in April/May 2005. The specific objective of this project is to advise Ministry of Finance and Treasury (MoFT) in preparation for European Integration process, i.e. multi-annual budgeting and the financial and contractual management of EC assistance to BiH. The activities in the Project Fiche also include setting up and management of CFCU and/or National Fund.

However it should be taken into account that further assistance might be needed and therefore the Programming CARDS 2006 assistance and onwards assistance should foresee that some additional funds might be needed for setting up the CFCU and the NF, this issue should be discussed between MoFT, DEI (the ACD) and the Delegation of the European Commission in BiH.

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Based upon the gaps identified and the EC financing possibilities, following steps and issues need to be taken and decided upon by BiH in the process of going from a centralised to a decentralised implementation system:

<table>
<thead>
<tr>
<th>MoFT (NF)</th>
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<tbody>
<tr>
<td>Decision on the establishment of the NF.</td>
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<tr>
<td>It should be clarified whether the NF shall be an entity within the Ministry of Finance, placed within the Treasury Division or working in close cooperation with the Treasury Division</td>
</tr>
</tbody>
</table>

| Appointment of a National Authorising Officer (NAO) |
| Appointment of the NAO to head the National Fund should be made by the Government. |

| Budget proposal 2006; staffing, establishment and recruitment |

| Definition/description of relations between the NF and the bank on management of bank accounts |

| Selection of a bank to execute all necessary transactions. |
| Funds received from the Commission must be separated from the general budget funds and placed in a special bank account in the selected bank. From the special bank account the NAO together with the accountant of the National Fund Unit will be authorized to transfer funds to sub-accounts operated by the CFCU for payment to Contractors. |
| It is recommended that in BiH, like in most other New Member States, that the National Fund and the CFCU should use the Central Bank. |

| Selection of an internal auditor |
| The accounts of the National Fund would have to be audited by an internal auditor who most probably should be the internal auditor of the Ministry of Finance and Treasury. The Fund should also be audited by the national supreme audit authority, i.e. the National Court of Auditors. External audit is also going to be made by the EU Court of Auditors and, if appointed by the Commission, other external auditors. |

| Capacity building and development of working procedures, including financial control procedures, checklists etc. |

| Draft of "Memorandum of Understanding (MoU) on establishment of a NF" between the European Commission and the Government of BiH. |

| Signing a "Memorandum of Understanding (MoU) on establishment of a NF" between the European Commission and the Government of BiH. |

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10 Table 2 show an overview including timing suggested for implementation of the strategic milestones.
<table>
<thead>
<tr>
<th>MoFT (CFCU)</th>
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<tbody>
<tr>
<td><strong>Decision on establishment of the CFCU</strong></td>
</tr>
<tr>
<td>The decision must be made at Government level and according to the BiH legal procedures. The decision clarifies which ministry according to the nature of its main responsibilities shall be in charge of tendering, contracting and payments for the implementation of EC aid programmes. If the CFCU is situated in the MoFT together with the NF the financial management and control functions of the National Fund must be clearly separated from the contracting functions of the CFCU.</td>
</tr>
<tr>
<td><strong>Nomination of a Programme Authorising Officer (PAO) to head the CFCU</strong></td>
</tr>
<tr>
<td>The nomination is made by the NAO after consultation with the NAC and upon prior approval by the European Commission.</td>
</tr>
<tr>
<td><strong>Budget proposal 2006; staffing, establishment and recruitment</strong></td>
</tr>
<tr>
<td>Depending on the budgeting process in the state level of BiH and also the EC possibilities to contribute to the establishment of CFCU, the financial resources should be foreseen for setting up the CFCU.</td>
</tr>
<tr>
<td><strong>Written agreement on cooperation and communication lines (reporting, information sharing) with the ministries and other beneficiary institutions of EC funds.</strong></td>
</tr>
<tr>
<td><strong>Capacity building and development of working procedures, including financial control procedures, checklists etc.</strong></td>
</tr>
<tr>
<td><strong>Establishment of an independent internal audit function in the ministry directly subordinated to Minister.</strong></td>
</tr>
<tr>
<td><strong>Draft Memorandum of Understanding (MoU) between the European Commission and the Government of BiH.</strong></td>
</tr>
<tr>
<td><strong>Signing the Memorandum of Understanding (MoU) between the European Commission and the Government of BiH.</strong></td>
</tr>
</tbody>
</table>

11 **Operational costs**

The operational costs are usually described in the Memorandum of Understanding establishing the CFCU.

The operational costs can be financed in various ways:

1. The Commission covered all costs regarding the establishment of the CFCUs (salaries of the staff incl. taxes, office furniture and office equipment, telecommunication expenses, training, technical assistance/advice). The Commission may finance the whole costs for a certain time (e.g. 1-2 years) and then gradually reduce its contributions in agreed volumes and timeframe. Seeking for a solution as above in BiH, BiH should be ready to gradually increase its share to finance the operational cost of the CFCU.
2. BiH will cover all costs regarding the establishment of the CFCU (salaries of the staff incl. taxes, office furniture and office equipment, consumables, telecommunication expenses, training)
3. An agreement between BiH and the Commission to divide the costs. After a fixed period BiH should again take over the whole financing of the CFCU.

In case the Commission covers the salaries of the CFCU staff, the salaries should be at the same level as equivalent posts in the ministry.

In the recent enlargement process most countries did seek for and used the first model.
<table>
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<tr>
<th>DEI (NAC)</th>
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<tr>
<td><strong>Formal appointment of NAC by the Council of Ministers</strong></td>
</tr>
<tr>
<td>The post of NAC means legal representation and special authorities in state level. If applicable in BiH, it may relate also to foreign relations and the changes to the relevant legal act(s). Usually Prime Minister issues such legal acts.</td>
</tr>
</tbody>
</table>

| Involvement of key players in the preparation for implementation of DIS; raising awareness of the impact and steps to be taken, decisions of way to implement the strategy |

| Initiate the decision to be taken on level of decentralisation – partial or full, under CARDS or IPA. This decision should be taken upon agreement between the NAC, the Ministry of Finance (as representing the CFCU and NF), the EC Delegation. |

| Revision of the Book of Rules to take into account the division of tasks and staffing |

| Draft written agreement on cooperation and communication lines (reporting, information sharing) with the ministries and other beneficiary institutions of EC funds. |

| Depending on the degree of decentralisation in the future Financing Agreements signed between the EC and BiH and also the timeframe for establishing the CFCU and National Fund in BiH the NAC in the name of the state should give the written confirmation to EC that BiH guarantees the financial contribution of the European Community and insures its utilisation according to the agreements signed between the Commission and BiH. |

| Such an authority should be given to NAC by relevant legislation (e.g. Law on Ministries and other Administrative Bodies, Law on Administration, Law on Council of Ministers). |

| Formal appointment of a NCP (National Contact Point for Twinning) |

| Initiate establishment of JMC’s and SMSC’s |
### TABLE 2: Timetable for implementation of the strategy for the continued work with preparation for implementation of a Decentralised Implementation System (DIS) in BiH – start months and end months

<table>
<thead>
<tr>
<th>Institution</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
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</table>

- **NF**
  - Decision on establishment of the NF
  - Appointment of a National Authorising Officer (NAO)
  - Budget proposal 2006; staffing, establishment and recruitment
  - Definition/description of relations between the NF and the bank on management of bank accounts
  - Selection of a bank to execute all necessary transactions.
  - Selection of an internal auditor
  - Capacity building and development of working procedures, including financial control procedures, checklists etc.
  - Draft of MoU
  - Signing a “Memorandum of Understanding (MoU) on establishment of a NF” between the European Commission and the Government of BiH.
  - Implementation of DIS
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<tr>
<th>Institution</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
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<td>CFCU</td>
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<tr>
<td>Decision on establishment of the CFCU</td>
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<tr>
<td>Budget proposal 2006; staffing, establishment and recruitment</td>
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<tr>
<td>Nomination of a Programme Authorising Officer (PAO) to head the CFCU</td>
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<tr>
<td>Written agreement on cooperation and communication lines</td>
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<td>Capacity building and development of working procedures, including financial control procedures, checklists etc.</td>
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<tr>
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<tr>
<td>Draft Memorandum of Understanding</td>
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<tr>
<td>Signing the Memorandum of Understanding (MoU)</td>
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<td>Implementation of DIS</td>
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<td>Institution</td>
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<td>NAC</td>
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<tr>
<td>Formal appointment of NAC by the Council of Ministers</td>
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<tr>
<td>Involvement of key players</td>
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<tr>
<td>Initiate the decision on level of decentralisation</td>
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<tr>
<td>Revision of the Book of Rules</td>
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<tr>
<td>Draft written agreement on cooperation and communication</td>
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<tr>
<td>Confirmation to EC of financial contribution</td>
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<tr>
<td>Formal appointment of a NCP (National Contact Point for Twinning)</td>
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<tr>
<td>Initiate establishment of JMC’s and SMSC’s</td>
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ANNEX I: INSTITUTIONAL FRAMEWORK FOR DIS

- Memorandum of Understanding (MoU)
- Financing Memorandum
- National Fund Division (NF)
- National Authorising Officer (NAO)
- National Aid Coordinator (NAC)
- European Commission and EC Delegation to BiH
- Joint Monitoring Committee/Sectoral Sub-Monitoring Committees
- Central Finance and Contracting Unit (CFCU) Headed by the Programme Authorising Officer (PAO)
- Line Ministries/Agencies/SPO's
- Contractors
- Beneficiaries
ANNEX II: EXAMPLES OF MEMORANDUM OF UNDERSTANDINGS ON CFCU AND NF

VLADA REPUBLIKE HRVATSKE

Na temelju članka 32. Zakona o sklapanju i izvršavanju međunarodnih ugovora (»Narodne novine«, br. 28/96), Vlada Republike Hrvatske je na sjednici održanoj 29. svibnja 2003. godine donijela

ODLUKU

o objavi Memoranduma o suglasnosti između Europske komisije i Vlade Republike Hrvatske o osnivanju Središnje jedinice za financiranje i ugovaranje

I.


II.

Tekst međunarodnog akta iz točke I. ove Odluke, u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik glasi:

MEMORANDUM OF UNDERSTANDING BETWEEN THE EUROPEAN COMMISSION AND THE GOVERNMENT OF CROATIA ON THE ESTABLISHMENT OF A CENTRAL FINANCE & CONTRACTING UNIT (CFCU)

WHEREAS

the establishment of the Central Finance and Contracting Unit (CFCU) is to be seen against the background of the following developments:

• the setting up of the EC assistance programme for the Republic of Croatia, and the perspective of decentralising its management through the gradual introduction of a decentralised implementation system with ex ante controls, as regulated by the relevant EC rules;
• the need to establish an EC financial management system compatible with EC regulations and the budgetary procedures of the Republic of Croatia and ensuring effective financial control;
• the benefit in terms of sound financial management and effectiveness of a single adequately staffed unit to handle the financial administration, accounting and payments for EC on behalf of the Government, located within the Government body with statutory responsibility for public funds, and its function as a single point of reference on these issues;
• the increasing role, in the context of the de-concentration process, of the EC Delegation in Croatia, which would benefit from the presence of one single, centrally located and adequately staffed interlocutor with regard to the use of a decentralised implementation system with ex ante controls, responsible for carrying out the Croatian Government’s financial and accounting responsibilities as regards the EC assistance programmes;

THEREFORE

The European Community, represented by the European Commission, hereinafter referred to as »The Commission«, of the one part, and

The Government of Croatia, acting on behalf of the Republic of Croatia, hereinafter referred to as »The Recipient«, of the other part,
have agreed on the present Memorandum of Understanding, aiming at the establishment of a Central Finance & Contracting Unit, which will take over the management of the EC assistance programmes, to be gradually decentralised, as follows:

Article 1
DEFINITIONS

Central Finance and Contracting Unit (CFCU)

An implementing body of the decentralised implementation system (see hereunder) within the national administration in charge of tendering, contracting and payments for EC-funded decentralised projects. For these projects the technical implementation is carried out by a Senior Programme Officer (see hereunder).

Decentralised implementation system

Implementation system of the EC’s external aid programme where part of the management and responsibilities have been transferred to the Partner Country whilst the Commission retains the final responsibility under the EC Treaties.

Joint Monitoring Committee (JMC)

A committee, consisting of the NAC, PAO and the Commission representatives, in charge of the review of EC assistance programmes. The NAC and the EC Delegation will jointly chair the JMC.

National Aid Co-ordinator (NAC)

The State Minister responsible for EU affairs, in charge of the programming within the Recipient. The NAC also ensures a close link between the stabilisation and association process and the use of Community financial assistance, and is responsible for the monitoring and assessment of the decentralised EC programmes.

National Authorising Officer (NAO)

The State Minister responsible for the Treasury heading the National Fund, in cases where the latter is set up. In such a case, the NAO has the overall responsibility for the financial management of EC funds.

National Fund (NF)

The central treasury entity within the Treasury through which the Community funds are channelled towards the Recipient. The establishment of such a body may be considered at a later stage, should the decentralisation expand and/or part of the EC-funds be managed by other bodies (usually called «Implementing Agencies» – see hereunder) in addition to the CFCU.

Programme Authorising Officer (PAO)

An official of the national administration responsible for the implementation of all or part of a programme managed under the decentralised implementation system. The Minister of Finance and the Minister for European Integration jointly nominate the PAO and this nomination must be formally communicated to the European Commission. The PAO is responsible for the operations of the CFCU and for the sound financial management of the projects to be implemented in a decentralised manner.

Senior Programme Officer (SPO)

An official of the national administration (line ministry/agency) in charge of the technical implementation of the projects in case where the CFCU is responsible for the administrative and financial implementation of the said projects.

Project Implementation Unit (PIU)

A body established within the national administration (line Ministry/Agency) in charge of assisting the Senior Programme Officer in the technical implementation of the decentralised projects falling within the competence of the said SPO.
Article 2

ESTABLISHMENT AND RESPONSIBILITIES OF THE CFCU

1. The decentralisation will be decided by the Commission, on a project-by-project basis. The Commission will regularly monitor the implementation of the decentralised projects, and the functioning of the decentralised implementation system will be reviewed after one year of operation. The decision by the Commission to further decentralise will be based on the outcomes of these monitoring exercises and review.

2. The functions of the CFCU, as regulated by this Memorandum of Understanding, will be carried out by the »Department for Financing EU Assistance Programmes and Projects«, established by decree within the Ministry of Finance of the Republic of Croatia. The management of EC funds by the CFCU shall be subject to the provisions of this Memorandum and European Commission rules governing the use of EC funds. Contracts are to be awarded using the procedures and standard documents defines and published by the Commission for the implementation of external actions and the Framework Agreement and its annexes, concluded between the Commission and the Republic of Croatia. The management will also be consistent with the budgetary regulations and procurement rules of the Republic of Croatia, and in accordance with the provisions of Article 11. In case of discrepancies, EC procurement rules prevail. The EC funds for which no contract or use has been signed at the expiry of the related Financing Agreement, or which are not used up to the planned amount shall be returned to the Commission.

3. The director of the CFCU will be directly responsible and report to the Programme Authorising Officer (PAO), jointly appointed by the Minister of Finance and the Minister for European Integration.

Article 3

TASKS OF THE CFCU

1. The CFCU, under the authority of the PAO, will have the sole responsibility over the payments, accounting, contract administration and financial reporting side of the procurement of services, supplies, and works in the context of the decentralised EC assistance programmes in the Republic of Croatia. The CFCU ensures that the EC rules, regulations and procedures pertaining to the procurement of services, supplies and works are adhered to, and that a proper reporting system and project information system is functioning.

2. The technical issues of programme implementation will be the full responsibility of the authorities responsible for implementing each individual programme (SPOs – Senior Programme Officers). The various responsibilities of the latter are detailed in Annex 1 of this Memorandum of Understanding.

3. The CFCU will advise the SPOs/PIUs on EC decentralised implementation system procedures (e.g. procurement and contracting procedures), it being clear however that full responsibility for technical implementation remains with the SPO. The CFCU will develop a specialist capacity and maintain the necessary documentation for this purpose.

Article 4

CFCU STAFF

1. Under the authority of the PAO, the CFCU will be headed by the Director of the CFCU, who will be an official appointed by the Minister of Finance.

2. The CFCU will be further staffed with foreign and local experts, financed by the EC technical assistance as well as with Government-funded staff (see paragraphs 3 and 4 below).

3. The Government of Croatia commits itself to complete the staff of the CFCU, by making gradually available, within a maximum period of 4 months as from the signature of the present MoU, a number of Government-funded staff, as per Annex 2, Article 1 (2).
4. In addition, the Government of Croatia commits itself, either to take over the costs relating to the EC-funded local experts, or to take the steps to replace the said local experts by Government-funded staff upon expiry of the technical assistance team’s mandate.

5. The Commission shall organise and fund, the training of the Government-funded staff of the CFCU referred to in paragraph 2 above.

Article 5
CFCU LOCATION, FACILITIES AND OPERATIONAL COSTS

1. The CFCU will be located in the Ministry of Finance.

2. The Ministry will finance adequate office space for the whole CFCU personnel, including archives, office space for meetings, visiting auditing staff and the Technical Assistance Team, and communication facilities.

3. The Ministry will finance adequate office furniture and other basic facilities (as specified in Annex 2, Art. 2 (1)).

4. The other operational costs of the CFCU will be covered by the national EC allocation to the Republic of Croatia, for a maximum period of one year from the commencement of operations, according to the provisions of Annex 2, Art. 2 (3).

5. After the period mentioned under point 4 above, these operational costs will be fully born by the authorities of the Republic of Croatia.

Article 6
PROGRAMME AUTHORISING OFFICER (PAO)

1. The CFCU will operate under the authority of a Programme Authorising Officer (PAO) who will be nominated jointly by the Minister of Finance and the Minister for European Integration of Croatia. Should the PAO withdraw from office, he/she must be replaced without any delay, following the same nomination procedure.

2. The PAO may not cumulate his/her position with any other position under the decentralisation scheme.

3. The PAO will be responsible to and report to the Minister of Finance.

4. The PAO is responsible for the operations of the CFCU and the sound financial management of all decentralised EC-funded programmes and projects. Additional responsibilities may be defined in the Memorandum of Understanding establishing the National Fund, should the latter be set up.

5. The PAO may delegate part of his/her responsibilities, including the right of signature for all documents and actions to other delegated signatories, up to a maximum of two officials whose signatures become equally valid. The proposed selection of delegated signatories and the responsibilities thus delegated shall be the subject of a separate document to be approved by the Commission. The PAO can, at any time, revoke the delegation of the right of signature. He/she shall inform the Commission accordingly.

6. The PAO (or his/her delegated representative) will sign or endorse, as required, the documents as described in Articles 8 to 14.

Article 7
FUNCTIONS OF THE DIRECTOR OF THE CFCU

1. The Director of the CFCU will be responsible for the financial and administrative management of projects, in accordance with EC procurement rules, regulations and procedures. Contracts are to be awarded using the procedures and standard documents defined and published by the Commission for the implementation of external actions.

2. The Director will be responsible to and report to the PAO.

3. The Director of the CFCU may not cumulate his/her position with any other position under the decentralisation scheme.
Article 8
CFCU BANK ACCOUNT

1. The CFCU shall, for each Financing Agreement partly or fully decentralised, open up a bank account.

2. The above bank account(s) shall be opened at the National Bank of Croatia or in a Government-guaranteed bank account. Service charges and interest on the accounts shall be in line with the market conditions, and agreed by the bank, the CFCU and the Commission. In cases where this system cannot be implemented, specific arrangements can be agreed between the Commission services and the CFCU.

3. The bank account will be denominated in EURO. The deposits made by the Commission as pre-financing must be paid to bank accounts which allow the funds paid by the EC to be identified. The amount of interest or equivalent benefit earned on such deposits shall be notified to the Commission at least once a year and when requests are made for interim payments that clear the pre-financing, and provide a cumulative report six months after the end of the implementation period of each Financing Agreement. Any such interest or equivalent benefit shall be reimbursed to the Commission promptly upon its request.

4. The bank account shall be operated on the basis of a double signature system, one of which should be that of the PAO or of one of his/her delegate.

5. The CFCU will communicate to the Commission all relevant information on the bank account(s): name and address of the bank, account number, name(s) of account holders, interest rates and any other information the Commission deems appropriate.

6. The bank account(s) will be audited periodically under the law provisions of the Republic of Croatia. Separate audits may be carried out from time to time at the initiative of the Commission and of the Court of Auditors of the European Community.

Article 9
REQUEST OF FUNDS FROM THE COMMISSION

1. A first pre-financing, a percentage of the total budget of the Financing Agreement that will be managed in a decentralised manner, will be transferred by the Commission to the CFCU after the signature of the Financing Agreement. This first pre-financing may not exceed 20% of the total budget of the decentralised part of the programme, except on an exceptional basis (see § 5 hereunder). The first pre-financing shall take place provided that the following conditions have been fulfilled:
   I. Nomination of the PAO, the Director of the CFCU and the relevant SPO(s)
   II. Recruitment of the CFCU staff in accordance with article 4
   III. Opening of the bank account in accordance with article 8
   IV. Signature, by the PAO and the SPOs concerned by the decentralisation, of an agreement concerning their respective roles, rights and obligations under the decentralised implementation system, which agreement shall be subject to the prior approval of the Commission.

2. Two new payments of pre-financing will be made of up to 30% of the funds to be managed locally and the third new payment of pre-financing of up to 20% or the full balance of the budget whichever is the lesser amount. The first new payment of pre-financing will be triggered when 5% of the budget has been disbursed by the CFCU. The second new payment of pre-financing may be requested when 35% of the total budget in force has been disbursed. The third new payment of pre-financing will be paid when 70% of the total budget in force is disbursed.

3. The requests for pre-financing and new payments of pre-financing (see Annex 3: standard documents), to be certified and approved by the Programme Authorising Officer, are submitted to the Commission for approval and transfer. The requests for new payments of pre-financing shall be supported by:
I. a declaration of expenditure showing the cumulative amount contracted and paid broken down by sub-programme, project and sub-project (where appropriate) – so demonstrating the link between the indicative budget (i.e. Financing Agreement) and the expenditure and payments actually made based on the financial reporting as presented by the CFCU.

II. appropriate financial reporting in accordance with the financial reporting system of the European Commission indicating effected contracts and payments.

III. bank reconciliation corresponding to the bank account(s) opened by the CFCU. Interest earned on the bank account(s) shall be communicated as well, as stipulated in article 8, paragraph 3.

IV. progress reports as stipulated in Article 13.

V. written declaration by the PAO that the information contained in the Request for New Payment of pre-financing is correct and that the implementation of EC assistance is progressing at a satisfactory rate and according to the objectives laid down in the Financing Agreement.

4. A final written declaration with supporting documentation shall be issued by the PAO just after the end of the disbursement period of the Financing Agreement showing the total amount contracted and disbursed. A final bank reconciliation showing the existing balances in the CFCU shall be enclosed as well. The Commission retains the right to request additional information in support of transfers of funds.

5. Exceptionally, the Programme Authorising Officer may request a first pre-financing larger than 20% where it can be illustrated by a cash-flow projection based on a list of commitments by the CFCU that the cash flow requirements in the subsequent period will exceed 20%.

6. Once a pre-financing has been received in the bank account, the funds will be exclusively used to effect payments against EC-funded contracts concluded by the CFCU.

7. The CFCU shall keep account of all pre-financing and new payments of pre-financing received for the benefit of implementing individual decentralised EC-funded subprogrammes, projects, and sub-projects (where appropriate).

Article 10
REALLOCATION OF FUNDS

1. The PAO may request a reallocation of funds from one sub-programme to another inside the same Financing Agreement (Programme adjustment) following a recommendation from the Joint Monitoring Committee. This can only take effect following Commission endorsement on the basis of a detailed justification.

2. If the reallocation is less than 15% of the Financing Agreement and does not involve a modification of the objectives set in the Financing Agreement, this endorsement will be provided by the Commission Delegation. The subsequent declaration of expenditure (Article 9.3 (i)) shall incorporate these reallocations, and a copy of the endorsement made by the Delegation shall be enclosed.

3. If the reallocation is below 15% but involves a change of objectives from those in the relevant Financing Agreement or if the proposed reallocation exceeds 15% or if existing projects are suppressed or new projects are created involving a change of objectives from those in the relevant Financing Agreement, the reallocation request will have to be submitted to Commission Headquarters for approval, and will be subject to a new Commission Decision.

4. Where appropriate, the PAO may request a reallocation of funds from one project to another inside the same sub-programme after a recommendation from the Monitoring Sub-committee. The reallocation can only take effect following a Commission Delegation endorsement on the basis of detailed justification. If the reallocation involves a change of objectives from those in the relevant Financing Agreement or if existing projects are suppressed or new projects created involving a change of objectives from those in the relevant Financing Agreement, the reallocation request will have to be submitted to the Commission HQ for approval. The subsequent declaration of expenditure (Article 9§3(i)) shall incorporate these reallocations and a copy of the endorsement made by the Delegation enclosed.
Article 11

CONTRACT AWARD PROCEDURES

1. Contracts must be awarded using the procedures and standard documents defined and published by the European Commission for the implementation of external actions.

2. Any derogation to the use of standard EC procurement rules must be justified and is subject to the prior approval of the European Commission.

Article 12

MONITORING AND ASSESSMENT

1. A Joint Monitoring Committee (JMC) shall be established. It shall consist of the National Aid Coordinator, the PAO, and the Commission. The NAC will hold the secretariat of the JMC and will together with the EC Delegation jointly chair the meetings. The JMC will meet at least once a year and will review all decentralised EC-funded programmes. On the basis of monitoring reports the JMC will assess the programmes' progress towards meeting the operational objectives as set out in the Financing Agreement. The JMC will recommend a change of priorities and/or the re-allocation of EC assistance funds, if need be, to ensure that stated objectives and targets are met.

2. To monitor programmes, the JMC will nominate a Monitoring Sub-Committee. It will consist of representatives of the National Aid Co-ordinator, the Programme Authorising Officer and of the Commission. The Sub-Committee will review in detail the progress of each decentralised programme and its components and contracts in accordance with the rules applicable to the decentralised implementation system, looking i.a. at relevance and design, efficiency, effectiveness and likely impact, on the basis of reports produced for the PAO and the Commission and any other relevant evaluations. The Sub-Committee will review i.a. actual output as compared to plan; rate of implementation and contracting; financial flow; and the management structures of the programmes and projects; put forward recommendations for improvement and if these steps are not followed, take necessary corrective steps. The Sub-Committee will report to the JMC and prior to its annual meeting submit an overall detailed report on all decentralised programmes.

3. Notwithstanding any monitoring reports produced at the demand of the JMC, the Commission and the PAO can request, at any stage in the programme cycle, jointly or separately, an independent evaluation report. Evaluation will also measure impacts and appropriateness in the fulfilment of objectives. The Commission's evaluation methodology covering the full range of key evaluation issues as relevance, design, efficiency, effectiveness will be used for this exercise.

Article 13

REPORTING

1. The Programme Authorising Officer shall ensure that the CFCU maintains a viable technical and financial reporting system (including i.a. prequalification and tendering data) for all decentralised EC funds.

2. In addition, the CFCU shall compile pursuant to Article 9§3 (iv) the reports on the financial status of the programme, on schedules for upcoming tenders, effected tender evaluations and contracts awarded, how the projects are implemented, problems encountered (if any), perspectives for the future, and any other necessary information requested by the Commission. Furthermore, the CFCU shall compile quarterly reports on the above-mentioned matters if so requested by the Commission to complete the reporting required in Article 9.
Article 14
ACCOUNTING
1. The CFCU will operate a system gradually covering all financial operations pertaining to all EC-financed decentralised programmes in the Republic of Croatia.
2. This system should follow the requirements of a decentralised implementation system with regard to financial management.

Article 15
AUDITING
1. The accounts and operations of the CFCU and the PIUs may be checked at regular intervals by an outside auditor contracted by the Commission without prejudice to the responsibilities of the European Commission and the European Court of Auditors.
2. Written records of the entire financial management, tendering and contracting shall be stored for five years after the closure of the programme.

Article 16
SETTLEMENT OF DISPUTES
1. Any question relating to the execution or interpretation of this Memorandum of Understanding shall be the subject of consultation between the Recipient and the Commission, leading, where necessary, to an amendment of the Memorandum of Understanding.
2. Where there is a failure to carry out an obligation set out in this Memorandum of Understanding or the related instructions, and no sufficient remedial measures have been taken in due time, the Commission may suspend the financing of the programmes implemented through the system introduced by this Memorandum of Understanding, after consultation with the Recipient and ask for reimbursement of EC assistance related funds.
3. If the consultation does not lead to amicable settlement, the parties may resort to the arbitration as set out in Annex B of the Framework Agreement concluded between the Republic of Croatia and the Commission, which entered into force on July 11, 2002.

Article 17
FINAL PROVISIONS
1. This Memorandum of Understanding is drawn up in duplicate in English and shall enter into force on the date on which it has been signed by both parties.
2. This Memorandum of Understanding will remain valid unless otherwise specified.
3. This Memorandum of Understanding may be subject to a review after each year of operation, and may then be amended by an exchange of letters and this without prejudice to the responsibilities of the Commission, which retains the right to review the implementation provisions, as appropriate, in accordance with a decentralised implementation system.

FOR THE GOVERNMENT OF FOR THE EUROPEAN
THE REPUBLIC OF CROATIA: COMMISSION:
The Minister of Finance The Director General of EuropeAid Cooperation Office
ANNEX 1

RESPONSIBILITIES OF THE SENIOR PROGRAMME OFFICERS

According to the provisions of Article 3, paragraph 2, of the Memorandum of Understanding (MoU) for the establishment of a Central Finance and Contracting Unit under the responsibility of the Ministry of Finance, this Annex, as an integral part of this Memorandum of Understanding, describes the responsibilities of the Senior Programme Officers

1. A Senior Programme Officer (SPO) will be an official appointed by the line Ministry or Agency involved in the project, in order to ensure the good and timely implementation of projects at technical level.

2. The SPO will be assisted by a Project Implementation Unit (PIU), adequately staffed and located within his/her organisation.

3. The SPO may delegate part of his/her responsibility and actions, to a maximum of two officials within the same Ministry or Agency.

4. The names and signatures of the SPOs and, if relevant, the delegated officials to whom the SPOs have delegated their responsibility will be communicated to the PAO, CFCU and the Commission.

5. More specifically the responsibilities of the SPO will include:

   I. Under the guidance and responsibility of the NAC, provide technical contribution to the programming, identification, and formulation of programmes and projects, on the basis of agreed priorities, ensuring their conformity to the country strategy and the multi-annual indicative programme;

   II. Technical implementation and follow-up of the above mentioned projects, including any related policy support, monitoring and execution;

   III. defining the content of projects, including preparation of Terms of Reference, Technical Specifications and/or Bill of Quantities; taking part in tender opening and evaluation;

   IV. Submitting requests to the CFCU to launch tenders (it is however the responsibility of the CFCU to initiate tender launching),

   V. Providing a technical expertise in the evaluation of the tenders

   VI. Endorsing payments against invoices (»in conformity with the facts«)

   VII. planning his/her own activities, reporting regularly to the responsible authority and maintaining contact on technical issues with the Commission.

   VIII. managing the project and associated contract(s), establishing an information system for monitoring progress, ensuring that the contractor performs the tasks as stated in the Contract Dossier, providing monthly, quarterly and annual reports on project execution to the CFCU.

The Senior Programme Officer may also be assisted by EC-funded experts so as to provide policy advice and perform other functions for the Project Implementation Units as detailed in EC assistance programmes or Financing Agreements.
ANNEX 2

RESPECTIVE CONTRIBUTIONS OF THE COMMISSION AND OF THE RECIPIENT TO THE SUPPORT OF THE CFCU

This Annex, forming an integral part of the Memorandum of Understanding (MoU) for the establishment of a Central Finance and Contracting Unit (CFCU) within the Ministry of Finance of the Republic of Croatia, describes the respective contributions of the Commission and of the Government of Croatia to the support of the Central Finance and Contracting Unit staff, facilities and operational costs.

Article 1

FINANCING & PAYMENT OF THE CFCU STAFF

1. The EC will provide a technical assistance team of foreign and local experts, according to the following indicative modalities (the latter may be amended according to the needs):
   – The Team Leader, long-term foreign expert
   – A long-term foreign financial expert
   – A team of short-term foreign experts will be made available on a non-permanent basis, according to the needs
   – The team of local experts will have the following profiles:
     Q 1 Senior Procurement Specialist
     Q 1 Procurement Specialist
     Q 1 Senior Accountant
     Q 1 Financial / Administrative Assistant
     Q 1 Secretary

2. The Government of Croatia will finance the following staff of the CFCU:
   – Beside the Programme Authorising Officer (PAO), the Minister of Finance will appoint the Director of the Central Finance and Contracting Unit (CFCU).
   – In addition, the Government of Croatia will make available, to the CFCU, a team of Government-funded staff, according to the following modalities:
     Q They will be recruited progressively, within a period of maximum 4 months as from the signature of the present MoU, so that a minimum of 5 persons are appointed at the end of the said period
     Q Their profiles will be agreed upon on the basis of the needs
   – Finally, the Government of Croatia commits itself, either to take over the costs relating to the EC-funded local experts, or to take the steps to replace the said local experts by Government-funded staff. Thereafter, the whole staff of the CFCU will be fully funded by the Government of Croatia.

Article 2

CFCU LOCATION, FACILITIES AND OPERATIONAL COSTS

1. On the basis of Article 5, paragraphs 2 and 3, the Ministry of Finance will finance, for the whole CFCU staff, the following facilities and expenses:
   Q Adequate staff offices, including a separate meeting and training office, and corresponding necessary office furniture and archive space, at the disposal of the whole CFCU staff.
   Q Individual telephones and corresponding lines, including two fax lines and access to Internet.

2. On the basis of Article 5, paragraph 4, of the MoU, the other costs necessary for the functioning of the CFCU are the following:
   Q Office running costs, including telecommunication expenses
   The above costs will be fully financed by the national EC allocation for the Republic of Croatia, for a maximum period of one year from the commencement of operations. After this initial period, the
operational costs of the CFCU will be, according to Art 5, paragraph 5 of the MoU, taken over by the Authorities of the Republic of Croatia.

ANNEX 3

STANDARD DOCUMENTS: REQUEST OF FUNDS

<table>
<thead>
<tr>
<th>PROGRAMME TITLE</th>
<th>COUNTRY</th>
<th>CODE</th>
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</table>

REQUEST OF FUNDS
Instalment n. \(^{-3}\) / Balance

Prepared by
---
(name) (signature)
(position) (date)

Programme Authorising Officer (PAO)
---
(name) (signature) (date)

Endorsed and approved by
EC Delegation
---
(name) (signature) (date)

Comments attached ⁴ / / yes / / no
BASIC DATA OF THE PROGRAMME

Programme title:

Programme code:

Expiry date for commitments: FA signed: / /

Expiry date for disbursements: Amendments to the FA signed on: 

Cost estimates:

FA – Initial cost estimates
FAž – Reallocated cost estimates

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TOTAL

Management:

CFCU:
Address:

PAO: (name)

ŠDelegate 1: (name)š
ŠDelegate 2: (name)š

Contact person:
Address:
Telephone number:
Fax number:
Email address:

ŠOpunomoćenik 1: (ime)š
ŠOpunomoćenik 2: (imeš)

Bank Account Information:

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TRANSFER OF FUNDS

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<td>1st Instalment</td>
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<td>2nd Instalment</td>
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<td>3rd Instalment</td>
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<td>Balance</td>
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<tr>
<td>Total received by the CFCU</td>
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| Funds PAID | – |
| CFCU | |
| Total paid by CFCU | – |

BALANCE AT THE CFCU

INTEREST GENERATED

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TOTAL
DOCUMENTS ATTACHED (tick the appropriate box):

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<tr>
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<td>3</td>
<td>Bank Statements</td>
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<td>Progress Report</td>
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<td>6</td>
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<td>8</td>
<td>Commission’s endorsement of reallocations</td>
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FINANCIAL REPORTING SYSTEM OF THE EUROPEAN COMMISSION:

Last reporting done (date):

* CFCU: ----/--/-----

DECLARATION OF EXPENDITURE

The undersigned --------------------, PAO of the Programme ----------------, hereby declares that the total eligible expenditure paid by the CFCU) in accordance with the progress of the programme amounts to EUR ----------------11, which represents ----% 12 of the local budget in force of the programme with respect to which the statement of expenditure is as follows:

<table>
<thead>
<tr>
<th>Sub-programme/CFCUFA</th>
<th>Local</th>
<th>Local</th>
<th>Local</th>
<th>Project/Sub</th>
<th>budget</th>
<th>amounts</th>
<th>amounts paid</th>
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<tbody>
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</table>

TOTAL

I also declare that the aggregate of the funds deposited in the CFCU does not exceed 5% of the local budget in force of the programme and that the data here certified is consistent with the financial reporting system of the European Commission.

<table>
<thead>
<tr>
<th>Bank Account/sub-</th>
<th>Balance</th>
<th>Date of Bank Statement</th>
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<tbody>
<tr>
<td>account Number</td>
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CFCU TOTAL

The Balance represents ---- % of the local budget

In accordance with the financing plan in force, I hereby request payment of the amount corresponding to the ----- instalment / balance (less the interest generated) amounting to EUR ------------ and determined
as follows:

<table>
<thead>
<tr>
<th>Amount</th>
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<tbody>
<tr>
<td>(+) x % of the Local Budget 15</td>
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<tr>
<td>(-) EC funds received</td>
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<tr>
<td>(−) Interest generated</td>
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<td>(=) Instalment Requested 16</td>
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I also declare that the programme is progressing at a satisfactory rate in accordance with the objectives laid down in the Financing Agreement and in the Project fiches.

**PAO**

(date)

(signature)

**LIST OF ACRONYMS**

<table>
<thead>
<tr>
<th>CFCU</th>
<th>Central Finance and Contracting Unit</th>
</tr>
</thead>
<tbody>
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<td>EC</td>
<td>European Community</td>
</tr>
<tr>
<td>JMC</td>
<td>Joint Monitoring Committee</td>
</tr>
<tr>
<td>MoF</td>
<td>Ministry of Finance</td>
</tr>
<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>OJ</td>
<td>Official Journal</td>
</tr>
<tr>
<td>PAO</td>
<td>Programme Authorising Officer</td>
</tr>
<tr>
<td>PIU</td>
<td>Project Implementation Unit</td>
</tr>
<tr>
<td>SPO</td>
<td>Senior Programme Officer</td>
</tr>
</tbody>
</table>

**III.**

Ova Odluka stupa na snagu danom objave u »Narodnim novinama«.

Klasa: 910-04/03-04/01

Urbroj: 5030115-03-3


Predsjednik

Ivica Račan, v. r.
ANNEX III: FLOW OF FUNDS

THE CENTRAL BANK
- General account, Account holder: NF, Mandate: NF
- General sub-accounts, Account holder: NF, Mandate: CFCU

THE EUROPEAN COMMISSION
- Request of funds
  - Bank order for transfer to sub-accounts
  - Information about transfer to sub-account

THE NATIONAL FUND
- Payment approval
  - Bank order for transfer from sub-account to Contractor

TREASURY DIVISION
- Request of national funds
  - Confirmation of transfer

THE CENTRAL FINANCING AND CONTRACTING UNIT (CFCU)
- Reports
  - Invoices and reports

CONTRACTORS

FINAL BENEFICIARIES

FLOW OF DOCUMENTS: FUNDS:

Directorate of European Integration
Trg BiH 1/III, Sarajevo, BiH
Tel/Fax: +387 33 217 883
E-mail: slulo@dei.gov.ba

DSPA, BDA, Louis Berger Consortium
ANNEX IV: THE ROLE (S) OF THE SENIOR PROGRAM OFFICER (SPO) IN THE FRAMEWORK OF THE DECENTRALISED EU ASSISTANCE MANAGEMENT SYSTEM

The Role(s) of the Senior Program Officer (SPO) in the framework of the decentralised EU assistance management system

Background
In the framework of the decentralisation of the EU assistance management the responsibilities of the relevant stakeholders within the current management set-up will be revised (i.e. centralised management system). With the decentralisation the BiH authorities will be responsible for the overall management and implementation of the EU assistance. Therefore it is important to introduce and build up the necessary competences within all relevant state institutions.

Whereas the Ministry of Finance (MoF) will be responsible for the financial management (contracting and making payments) of the assistance, the DEI will be responsible for the overall coordination and management on the policy level (programming of EU assistance, setting the priorities for the assistance, negotiations with the EC Delegation etc).

The respective state administration (line-ministry) will be responsible for the management and coordination of the project activities on daily basis. The nomination and introduction of the responsibilities of SPO is one of the first steps in the process of preparing the line-ministries gradually for the decentralisation management system.

The role(s) of Senior Program Officer (SPO)
The SPO is senior official within the state administration (ministry) having the decision making position (minimum level is the head of department). The SPO needs to understand and be directly involved in the policy development and institution building of the respective sector/area (where the project is operating). It is important to note that the SPO needs additional assistance for managing the projects on daily basis (from the same state administration) who would be responsible for coordinating and managing the project activities on daily basis and who intermediates the information, potential problems (or necessary decisions to be made) to the SPO.

The SPO has the overall responsibility for the management and implementation of the project activities being the main stakeholder for making key decisions needed at all stages of the project management and implementation.

With the gradual introduction of the decentralised management system of the EU assistance under the CARDS 2006 program the following responsibilities for the SPO are foreseen:

- Understanding of the assistance needs in the respective sector/the BiH state authority (participating in the process of identifying and formulating the assistance needs);
- Preparing and approving the Terms of References as part of the tender documentation;
- Monitoring closely the implementation of the project activities and working closely with the contractor, sharing the responsibilities for achieving the results of the project;
- Approving and commenting the project reports (inception, quarterly, final, monitoring reports);
- Being pro-active in managing and solving the potential problematic issues (making decisions) together with the contractor/twinning partner;
- Securing the co-financing of the activities within the project as agreed in the project fiche;
- Chairing the project steering committees;
- In case of problems informing the DEI and EC delegation respectively.

It is crucial that the SPO understands the project management cycle and the strategic decision making process.

With the further decentralisation process the roles of the SPO-s will be extended also to prepare and approve the Technical Specifications for the Supply Contracts (as part of the tender documentation) and to approve the payments to the contractors.
Annex V: Note to AIDCO Directors, Heads of Unit and Heads of Delegation, Brussels 6 August 2004

European Commission
EuropeAid Co-operation Office
Director-General

Brussels, 06 August 2004
AIDCO D(2004) - 27140

Note to AIDCO Directors, Heads of Unit and Heads of Delegation

Subject: Instruction note
Decentralised implementation – Operational implications of Article 164 of the Financial Regulation applicable to the General Budget
For distribution to all staff

1. Introduction

This note provides guidance on the operational implications of Article 164 of the Financial Regulations (FR) focusing on the degree of decentralisation that can be applied and the operational requirements to be met for the various degrees of decentralisation. The guidance note covers only operations financed from the general budget including South Africa, and is as such not applicable for the EDF where decentralised implementation is well established in the relevant legal texts.

On the basis of Article 164 the Commission may decide to entrust management of certain actions to the authorities of beneficiary third countries, after having established that the beneficiary third countries are in a position, in the management of Community funds, to apply in whole or in part the following criteria according to the degree of decentralisation agreed:

(a) Effective segregation of the duties of authorising officer and accounting officer;
(b) Existence of an effective system for the internal control of management operations;
(c) For project support, procedures for the presentation of separate accounts showing the use made of Community funds; and for other forms of support, an officially certified annual statement for the area of expenditure concerned to be made available to the Community;
(d) Existence of a national institution for independent external auditing;
(e) Transparent, non-discriminatory procurement procedures ruling out all conflicts of interest.

Furthermore, the Commission and the beneficiary country(ies) must comply with Article 53.5 and 53.6 of the FR, detailed in articles 35 and 42 of the Implementing Rules (IR). These require them to use clearance-of-accounts procedures, to conduct regular checks to ensure that the actions financed from the
Community budget have been implemented correctly, and to take appropriate measures to prevent irregularities and fraud.

It is acknowledged that:

– where the above requirements are not fully met, a certain degree of decentralisation may nevertheless be decided, provided that the Commission ensures the existence of an adequate framework and monitoring, as detailed below;

– Different tasks may be subject to various degrees of decentralisation within the same project/programme.

Where the requirements are not met the management of operations may not be decentralised.

2. Who is responsible

2.1 Deciding on the degree of decentralisation

According to Article 164 of the FR, it is the Commission, on the basis of a proposal put forward by the Authorising Officer by Delegation, which decides if one can entrust to the authorities of the beneficiary third country(ies) the management of certain actions.

The financing decision taken by the Commission must define the degree of decentralisation including the tasks that are decentralised, the fact that procurement and grant award procedures will be those of the Commission, and the provisions for Commission ex-ante and/or ex-post control of the various tasks. The Financing Agreement, in compliance with the standard template, will fully reflect the content of the Commission decision.

The degree of decentralisation has to be agreed for each project in the individual financing decision corresponding to a Financing Agreement. In defining the level of decentralisation for a project, account can be taken of existing agreements on the implementation of community assistance for the country in question that foresee decentralisation. This will avoid repeating the whole process of verification of the relevant criteria from the start for each individual operation. However, the Authorising Officer will certify, for each individual financing decision, that the conditions for decentralisation are still met. In all cases, audit and evaluation contracts remain fully centralised (award procedures and payments).

2.2 Checking the respect of the criteria

Article 232 of the IR stipulates that the responsible authorising officer, before the signature of the Financing Agreement, shall ensure that the operation would be in compliance with the criteria mentioned in Article 164 taking into account the degree of decentralisation agreed. In view of the fact that the concerned director is responsible for signing the Financing Agreement the responsibility for the respect of the criteria will rest with him/her, in accordance with the Charter of tasks and responsibilities of Authorising Officers. Once the Financing Agreement has been signed, the responsibility for monitoring the continued respect of the criteria during the implementation will rest with the Head of Delegation. The Head of Delegation will have to inform the Director immediately if any issues affecting the basis on which the decentralisation has been agreed emerge.

The prior assessment that the criteria are met and subsequent regular checks must be carried out by the Delegation in full coordination with HQ and, if deemed necessary, with the assistance from an external auditor.

Such assessment and checks will relate to the management structure put in place for the project/programme and/or to the whole country, as detailed in section 4 below.
According to Article 232 of the IR, if the criteria agreed in the Financing Agreement are no longer respected, the implementation of the financing agreement may be suspended. Indeed this requirement is reflected in Article 21 of the General Conditions of the template of financing agreement. Moreover, the Commission must review the decentralisation arrangements in the event of any substantial change of the systems and/or procedures of the beneficiary country (Article 35 of the IR).

2.3 Changing the degree of decentralisation in the course of the project

The standard General Conditions for financing agreements already foresee the possibility to suspend implementation. They will be modified to clarify that when the criteria for decentralisation agreed in a Financing Agreement are no longer met, the Commission may also unilaterally decide to undertake the management of the operations concerned in a centralised manner. This decision should be made by the Commission (written/oral procedure or through habilitation), while the relevant Director will be responsible for deciding on recentralising the management or suspending implementation as prudential measures of budget implementation by the responsible Authorising Officer.

For ongoing financing agreements, where the degree of decentralisation is clearly fixed in the Technical and Administrative Provisions (TAPs), an amendment to the financing agreement will be necessary to make such a change, pending which the project/programme could be continued in a centralised manner or suspended, as appropriate on the basis of the specific circumstances by the relevant Director as responsible Authorising Officer. Where the TAPs remain vague as to the degree of decentralisation, the decision can be made unilaterally by the relevant Director as responsible Authorising Officer. The Commission may also decide to decentralise the management of a project/programme gradually, for instance by allowing decentralised payments for very small amounts at the inception, and later, based on the re-evaluation of the beneficiary country’s standing, increasing the thresholds within the applicable limits (see point 0 below). In such cases the TAPs should provide for the relevant thresholds to be fixed in each annual programme estimate.

3. Content and degree of decentralisation

3.1 General principles

Decentralisation for the purpose of this document means the transfer of the responsibility for a given task from the Commission to the authorities of the beneficiary country(ies). There are two areas that can be subject to decentralisation:

A) Procurement and grant award procedures
B) Payments to final beneficiaries.

For a given project/programme certain tasks can be decentralised (with various degrees) while others remain under centralised implementation.

The degree of decentralisation is linked to the capacity of the beneficiary third country to apply in whole or in part the criteria in section 4 below. As regards procurement and grant award procedures, the degrees of decentralisation mainly include ex ante (and ex-post) or ex post (only) control of the selection process by the Commission. As regards payments, they refer to the size of payments that can be decentralised. Decentralisation will in all cases be based on a programme of measures to be carried out and an estimate of their cost, referred to as a “programme estimate” (“devis-programme”)\(^\text{12}\). The programme estimate is a document laying down the human and material resources required, the budget and the detailed technical and administrative implementing arrangements for execution of a project over a specified period. The

\(^{12}\) Also currently known as “annual work plan”.

beneficiary submits it for approval to the Commission at regular intervals, normally on an annual basis, before the activities it provides for commence. The programme estimate must indicate the contracts and payments that will be subject to decentralisation, and should also cover the whole project/programme including contracts and payments which are not decentralised.

In accordance with the applicable procedures, the Commission approves the programme estimate and in case where payments are decentralised, transfers funds into a specific project account opened by the beneficiary third country or its implementing authority (see section 3.3 below).

In such cases the beneficiary third country will proceed on this basis with the implementation of the programme estimate and will be responsible for the decentralised procurement and grant award procedures and for making the decentralised payments. The pre-financing necessary for the decentralised payments will be regularly replenished after control of the supporting documents, amounting to a regular ex-post control of all actions undertaken by the beneficiary. The programme estimate is thus the main document by which the Commission can verify the progress of the work to be carried out by the third country under the terms of the Financing Agreement.

Guidelines on the use of programme estimates for operations financed from the general budget will be elaborated as a matter of priority, in line with the guidelines developed for the EDF. In the meantime and pending the distribution of such guidelines the responsible authorising officer has to be satisfied that a sufficiently solid framework exists for the use of programme estimates. Where such a framework does not already exist, it is recommended to take inspiration from the relevant parts of the Guidelines developed for the EDF. Under all circumstances, the criteria defined in section 3 and 4 of this guidance note will have to be respected.

Article 165 of the FR stipulates that actions implemented by third countries shall be subject to scrutiny by the Commission, and that such scrutiny shall be exercised either by prior approval (ex-ante control), by ex-post checks or by a combined procedure. The use of respectively ex-ante or ex-post control of individual transactions can be used to graduate the level of decentralisation.

3.2 Decentralisation of procurement and grant award procedures

The responsibility for the procurement and grant award procedures is transferred to the authorities of the beneficiary third country(ies). All contracts implementing the financing agreement must be awarded and implemented in accordance with the procedures and standard documents laid down by the Commission for the implementation of external operations, in force at the time of the launch of the procedure in question.

The possibility to use “domestic” procurement procedures apparent in Article 164 1(e) of the FR is not relevant for the purposes of this note.

The Commission’s ex-ante or ex-post control of the procurement and grant award procedures is carried out in accordance with the “Practical Guide to contract procedures financed from the European Communities in the context of external actions”.

The ex-ante control implies the prior approval by the Commission of all important stages in a contract award procedure, as detailed in the Practical Guide. The endorsement by the Commission of contracts implies its agreement to finance the contract, since the procurement or grant award procedures have been respected. In the event of failure to comply with the agreed procedures, the Commission at any moment and for any given transaction can refuse to give its visa and thereby refuse that the transaction in question be financed from EC funds. In all cases additional ex-post controls are possible. Therefore, the EC financial interests are safeguarded, beside all other possible means offered by the Financial Regulation.

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13 Always bearing in mind that “externalised direct labour” operations are a specificity of the EDF not applicable to the EC Budget, and that under the EC Budget the programme estimate is not a contract for the purpose of the “sunset clause”.

by the ex-ante control of the Commission of the individual transactions as well as subsequent controls or audits. The Contracting Authority assumes full responsibility for its actions and will be accountable for them in any subsequent audit or other investigation.

The Commission carries out **ex-post control** through regular controls or audits of ongoing or closed projects. Its financial interests are safeguarded, beside all other possible means offered by the Financial Regulation, through the recuperation of funds disbursed unduly, where the agreed procedures have not been respected or for activities not eligible for EC financing. To proceed with this level of decentralisation, the Commission must be satisfied that the local systems function effectively and that all other requirements of article 164 of the FR are met.

Where the conditions for ex-ante control are met, the Authorising Officer may, on the basis of the principle of proportionality and applying a “graduation” of the level of decentralisation, accept to use ex-post control for individual procurement contracts up to the threshold as indicated in the table:

<table>
<thead>
<tr>
<th>Works</th>
<th>Supplies</th>
<th>Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>≤ € 50,000</td>
<td>≤ € 50,000</td>
<td>≤ € 50,000</td>
</tr>
</tbody>
</table>

Pending the modification of the “Rules and Procedures for service, supplies and works contracts financed from the General Budget of the EC in the context of cooperation with third countries”, this possibility needs to be expressly foreseen in the financing decision for each project where it is to be used.

The conditions for decentralising the procurement and grant award procedures are found in section 4.

### 3.3 Decentralisation of payments to final beneficiaries

Payments are decentralised where the Commission pays funds to the beneficiary third country to a designated account from where the third country is authorised to make payments to a final beneficiary in accordance with the terms of the Financing Agreement and the relevant programme estimate. It is important to recall that these transfers of funds to the beneficiary third country constitute payments as per articles 80 and 81 FR. Therefore, the competent Authorising Officer remains responsible for such payments as well as for the prior definition and verification of the relevant supporting documents (art. 104 IR).

Payments can only be decentralised where the award procedure for the relevant contracts has been decentralised.

Payments are either managed centrally by the Commission (HQ or Delegation) or decentralised to the third country with Commission ex-post control.

1) Where all criteria are fulfilled, all payments can be decentralised.

2) On the basis of principle of proportionality and applying a “graduation” of the level of decentralisation, the Authorising Officer may, where

   - all criteria are not fulfilled but
   - it is confirmed, through the use of an appropriate programme estimate, that the beneficiary operates inside a well defined framework and the system of pre-financing is based on an agreed set of controls and verification procedures before the next replenishment is made, allow the beneficiaries to make payments for small scale contracts up to the ceilings provided in the table:

<table>
<thead>
<tr>
<th>Works</th>
<th>Supplies</th>
<th>Services</th>
<th>Grants</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; € 300,000</td>
<td>&lt; € 150,000</td>
<td>&lt; 200,000</td>
<td>≤ € 100,000</td>
</tr>
</tbody>
</table>
The Commission’s financial interests are safeguarded, beside all other possible means offered by the Financial Regulation, through the ex-post control and the recuperation of funds disbursed unduly or simply not eligible for EC financing.

3) In all cases, it is understood that if EC funds pay for the ordinary operating costs (excluding equipment) of the structure in charge of the management of the project, such funds can be transferred for decentralised payments. Ordinary operating costs cover only: local staff, utilities, rental of premises, consumables, maintenance, short-term missions and fuel for vehicles. They do not cover the purchase of vehicles and other equipment or any operational activity.

Similarly, where the beneficiary country has qualified management staff in its departments or entities with public-sector participation, and these departments or entities perform operations by direct labour, if these operations entail payments to third parties (e.g. for supplies) these payments can always be decentralised.

3.4 Summary table

The degrees of decentralisation can be summarised as follows:

<table>
<thead>
<tr>
<th>Decentralisation of procurement and grant award procedures</th>
<th>Ex-ante control</th>
<th>Ex-post control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Framework provided by the Commission to complement partial fulfilment of criteria</td>
<td>• &gt; € 50,000 (for procurement contracts)</td>
<td>≤ € 50,000 (for procurement contracts)</td>
</tr>
<tr>
<td>All relevant criteria are met</td>
<td>N.A</td>
<td>All contracts</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Decentralisation of payments</th>
<th>Framework provided by the Commission to complement partial fulfilment of criteria</th>
<th>N.A</th>
<th>Payments made on contracts up to thresholds indicated in section 0.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Above thresholds centralised payments</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Operating costs</td>
</tr>
<tr>
<td>All criteria are met</td>
<td>N.A</td>
<td>All payments</td>
<td></td>
</tr>
</tbody>
</table>

4. Application of criteria

This section contains guidance to the Authorising Officers by sub-delegation on the operational requirements for each of the criteria in Article 164 and elsewhere that would have to be met for various degrees of decentralisation. It must be read in conjunction with the developments above.

For new operations to be proposed for decentralised implementation the Commission will have to be satisfied that the following minimum operational requirements are respected.

Article 164 requires that the decision to decentralise certain actions must be based on a prior control of the situation in the beneficiary authority. It is recognised that in some cases it is difficult to carry out this control before the signature of the FA, because the project implementation structures are organized by the beneficiary government only after the signature of the FA and they may not be operative at the time of

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14 It is recalled that the Practical Guide to contract procedures does not apply to these costs.
such signature. Therefore, where the verification of the relevant criteria can only be effected once the administration of the beneficiary’s structure is in place, it will be necessary to insert a condition in the Financing Agreement that the transfer of funds for decentralised payments can be done only on the basis of a positive assessment of the compliance with the provisions included in the TAPs. The degree of decentralisation still always has to be defined in the financing decision and agreement, as well as possible in-built modifications of such degree of decentralisation. Furthermore, this satisfactory situation must be checked at regular intervals (ideally annually) either by the Commission or by external, independent, auditors.

Criteria A, B and C have to be applied at the level of the organisation that implements the financing agreement in question, which may be a management structure created on an ad hoc basis, a specific but permanent management structure or the whole or part of the State administration of the beneficiary country. Criterion D always applies at the level of the country.

<table>
<thead>
<tr>
<th>Article 164</th>
<th>Operational requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>A) Effective Segregation of the duties of authorising officer and accounting officer.</td>
<td>This criterion is not applicable to the decentralisation of procurement and grant award procedures. For any decentralisation of payments the verification must demonstrate that there is a segregation of the duties of authorising officer and accounting officer. The technical and administrative provisions (TAPs) must contain the provision that the national authorities will appoint a Project Director as Authorising Officer and an Accounting Officer, ensuring that there will be no hierarchical relation between the Project Director and the Accounting Officer (neither formal nor practical). Each one of them must have a clear description of his tasks, responsibilities and powers.</td>
</tr>
</tbody>
</table>

| B) Existence of an effective system for the internal control of management operations | This is applicable for the decentralisation of both procurement/grant award process and/or of payment. For decentralising contract award procedures with ex-ante control and payments for contracts below the thresholds: The Commission must ensure the existence of an internal control process designed to provide reasonable assurances regarding the achievement of the following primary objectives: 
- The reliability and integrity of information 
- The compliance with policies, plans, procedures, laws and regulations 
- The safeguarding of assets 
- The economical and efficient use of resources 
- The accomplishment of established objectives and goals for operations or programmes. It is recommended that the TAPs indicate the appropriate department of the Beneficiary country which will ensure the internal control of management of... |

Based on international audit standards.
For decentralising contract award procedures with ex-post control, and payments for contracts above the thresholds:

The Commission has to be satisfied that the internal control systems mentioned above are effective and based on internationally recognised standards. This can be done through an independent assessment carried out by the Delegation or by a member of an internationally recognised supervisory body for statutory auditing confirming the solidity of the internal control systems. In principle this assessment should be carried out at country level. However, this would not exclude that the assessment can be carried out at sector or regional level in specific cases.

The beneficiary’s track record with managing EC assistance can be taken into account in this assessment.

The TAPs will confirm that the Commission has the possibility to analyse and check the application of the internal control systems at any time. This provision is already included in the General Conditions of the Financing Agreement.

C1) For project support: procedures for the presentation of separate accounts showing use of EU funds

This criterion is not applicable to the decentralisation of procurement and grant award procedures.

Where payments are decentralised the Commission will have to identify in the TAPs the reporting requirement. The minimum requirements are:

1. The beneficiary shall establish an appropriate interest bearing (where possible) bank account in its own country denominated in euro and referred to as the project account. For further details see Article 234 of the Implementing rules and note of DG BUDG dated 09.12.2003 (410795).

2. The project account shall be operated with the joint signatures of the Authorising Officer and the Accounting officer. The accounts shall be endowed to meet the actual cash requirements. Transfers shall be made in euro and converted, where necessary, into the currency of the recipient State as and when payments fall due.

3. The Accounting Officer shall, at least every six months, prepare expenditure reports justifying the use of pre-financing received. Under all circumstances a request for replenishment of the pre-financing will have to be supported by an expenditure report. These reports will be countersigned by the Authorising Officer.

4. All expenses of the project covered by the EC fund will be supported by supporting documents such as contracts, bills, receipts and bank statements. Such documents as well as the book accounting and the inventory logbook shall be kept for at least seven years from the last payment. The project’s bookkeeping will be in accordance with the double-entry system and shall include the registration of each receipt and each expense. The accounting results of these books must appear in a general book of the project, including the accounting for interest.
5. Interests generated by the project account will be accounted for separately and shall be returned to the General Budget, at least once a year.\(^\text{16}\).

6. All funds in the project account, including any interest generated thereon or other equivalent benefits, shall remain the property of the Commission and as such shall be repaid to the Commission. Any unused balances remaining available on the termination of each programme estimate shall revert to the Commission.

These criteria are provisional pending the finalisation of an appropriate guide for the management of programme estimates financed from the Budget. They must be contained in the TAPs and must be verified before the transfer of funds for the decentralised management of payments. They will also be monitored as part of the annual external audits.

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C2) For other forms of support: an officially certified annual statement for the area of expenditure concerned to be made available to the EC.

- Certification of annual statement to be provided by the National Audit Office/Court of Auditors or by an international firm member of an internationally recognised auditing body.
- If need be the TAPs will include that until the Commission has positively assessed the effectiveness of the National Audit Office/court of auditors, the certification will be provided by a member of an internationally recognised supervisory body for statutory auditing. Under all circumstances the Commission will always have the right to carry out its own independent audits and certifications.

D) Existence of a national institution for independent external auditing

- Existence of a national Court of

This is applicable for the decentralisation of both procurement/grant award process and/or of payment.

It is however only relevant where the degree of decentralisation is such that the national institution for independent external auditing is competent to assess the management of EC funds. In such cases, For decentralising contract award procedures with ex-ante control and

\(^{16}\) See article 5.4 FR and articles 3 and 4 IR.
Auditors.

**Payments for contracts below the thresholds:**
The Commission shall verify the existence of a national institution for independent external auditing (Court of Auditors or equivalent).

There may be a few countries where the Institution as such is not part of the governance system, but this should not lead to the suspension of the cooperation if adequate external audits of projects are performed.

**For decentralising contract award procedures with ex-post control, and payments for contracts above the thresholds:**
The Commission has to be satisfied that the national Court of Auditors is an effective guardian of the use of public funds. In view of the ‘discharge requirement’ on the Commission, it should be recalled that the Commission can carry out an independent audit.

<table>
<thead>
<tr>
<th>E) Transparent non-discriminatory procurement procedures ruling out all conflicts of interest</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>“Rules and Procedures for service, supplies and works contracts financed from the General Budget of the EC in the context of cooperation with third countries” and “Practical Guide to contract procedures financed from the General Budget of the EC in the context of external actions”, including standard contracts to be used. It is already regulated in the general conditions of the standard FA.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(Article 53.5)</th>
<th>Operational requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clearance of account procedures</strong></td>
<td>The clearance of accounts and in particular the financial correction mechanisms are legally and financially possible only when the action is fully decentralised (100%).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Article 53.6</th>
<th>Operational requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Regular checks to ensure that the actions to be financed have been implemented correctly</strong></td>
<td>See criterion B To be applied in all cases if any tasks have been decentralised.</td>
</tr>
<tr>
<td>Prevention of irregularities and fraud and recovery of funds if necessary</td>
<td></td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>The Commission must ensure that the beneficiary will take all necessary measures to prevent irregularities and fraud and that the beneficiary will recover funds if necessary. This is already included in Article 17 of the General Conditions.</td>
<td></td>
</tr>
</tbody>
</table>

Koos RICHELLE

(Signed)