

FRAMEWORK AGREEMENT

BETWEEN

THE REPUBLIC OF ALBANIA

REPRESENTED BY

THE GOVERNMENT OF THE REPUBLIC OF ALBANIA

AND

THE EUROPEAN COMMISSION

ON

**THE ARRANGEMENTS FOR IMPLEMENTATION OF UNION
FINANCIAL ASSISTANCE TO THE REPUBLIC OF ALBANIA UNDER
THE INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II)**

DATED ()

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- ANNEX A: Functions and responsibilities of the structures, authorities and bodies in accordance with Article 10 of this Agreement
- ANNEX B: Internal control framework
- ANNEX C: Model Management Declaration
- ANNEX D: Model Annual Audit Activity Report
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- ANNEX H: Reporting of suspected fraud and other irregularities concerning the Instrument for Pre-accession Assistance (IPA II)
- ANNEX I: Thematic priorities for assistance
- ANNEX J: Thematic priorities for assistance for territorial cooperation

The European Commission, hereinafter referred to as “**the Commission**”, acting for and on behalf of the European Union

on the one part,

and

the Government of the Republic of Albania, acting on behalf of the Republic of Albania, hereinafter referred to as “**the IPA II beneficiary**”

on the other part,

and together, jointly referred to as “**the Parties**”

Whereas

- (1) On 11 March 2014, the European Parliament and the Council adopted Regulation (EU) No 231/2014 establishing an instrument for pre-accession assistance¹ (hereinafter referred to as the “IPA II Regulation”). This instrument constitutes the legal basis for the provision of financial assistance to the beneficiaries listed in Annex I to the IPA II Regulation (hereinafter referred to as the “IPA II beneficiaries”) to support them in adopting and implementing the political, institutional, legal, administrative, social and economic reforms required by those beneficiaries in order to comply with the Union's values and to progressively align to the Union's rules, standards, policies and practices, with a view to Union membership.
- (2) On 11 March 2014, the European Parliament and the Council adopted Regulation (EU) No 236/2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action² (hereinafter referred to as the “Common Implementing Regulation”).
- (3) On 2 May 2014, the Commission adopted a Commission Implementing Regulation (EU) No 447/2014 on the specific rules for implementing Regulation (EU) 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession Assistance (IPA II)³, (hereinafter referred to as the “IPA II Implementing Regulation”) setting out the applicable management and control provisions.
- (4) The IPA II beneficiary is eligible under IPA II as provided for in the IPA II Regulation.
- (5) Article 8 of the IPA II Regulation requires that the Commission and the IPA II beneficiaries conclude Framework Agreements on the implementation of assistance.

¹ Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L 77, 15 March 2014, p. 11).

² Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L 77, 15 March 2014, p. 95).

³ Commission Implementing Regulation (EU) No 447/2014 on the specific rules for implementing Regulation (EU) 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L 132, 3 May 2014, p. 32).

- (6) It is therefore necessary to set out the rules for implementation of Union financial assistance under IPA II,

HAVE AGREED AS FOLLOWS:

SECTION I GENERAL PROVISIONS

Article 1 Interpretation

- (1) Subject to any express provision to the contrary in this Agreement, the terms used in this Agreement shall bear the same meaning as attributed to them in the IPA II Regulation, the Common Implementing Regulation and the IPA II Implementing Regulation.
- (2) Subject to any express provision to the contrary in this Agreement, references to this Agreement are references to such Agreement as amended, supplemented or replaced from time to time.
- (3) Any references to Regulations of the European Parliament and of the Council or to Commission Regulations are references to such regulations as amended, supplemented or replaced from time to time.
- (4) Headings in this Agreement have no legal significance and do not affect its interpretation.

Article 2 Partial invalidity and unintentional gaps

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

Article 3 Definitions

For the purposes of this Agreement the following definitions shall apply:

- (a) "Programme" means an action programme, individual, special or support measures provided for in Articles 2 and 3 of the Common Implementing Regulation;
- (b) "Sectoral Agreement" means an arrangement concluded between the Commission and an IPA II beneficiary relating to a specific IPA II policy area or programme, setting out the rules and procedures to be respected which are not contained in this Agreement or Financing Agreements;
- (c) "Financing Agreement" means an annual or multi-annual agreement concluded between the Commission and an IPA II beneficiary, for implementing the

Union's financial assistance through an action falling within the scope of the IPA II Implementing Regulation;

- (d) "Participating countries" means the IPA II beneficiaries alone or the IPA II beneficiaries together with the Member State(s) or with the countries falling within the scope of the European Neighbourhood Instrument⁴ participating in a multi-annual programme for cross-border cooperation jointly drawn up by the participating countries;
- (e) "Recipient" means a grant beneficiary (including a twinning contractor), contractor under service, supply or works contract, a beneficiary under cross-border cooperation programmes, a contracting party to a delegation agreement under indirect management or any natural or legal person that receives IPA II assistance;
- (f) "Financial year" means the period from 1 January to 31 December of one given year.

Article 4 Purpose and scope

- (1) In order to promote co-operation between the Parties and to assist the IPA II beneficiary in its progressive alignment with the standards and policies of the Union, including the *acquis*, with a view to Union membership, the Parties agree to implement actions in the following policy areas as applicable to the IPA II beneficiaries with a view of achieving the objectives as set out in Articles 1 and 2 of the IPA II Regulation:
 - (a) reforms in preparation for Union membership and related institution- and capacity building;
 - (b) socio-economic and regional development;
 - (c) employment, social policies, education, promotion of gender equality, and human resources development;
 - (d) agriculture and rural development;
 - (e) regional and territorial cooperation.
- (2) The actions shall be financed and implemented within the legal, administrative and technical framework laid down in this Agreement and as further detailed in Sectoral Agreements and/or Financing Agreements, if any.
- (3) Where the European Regional Development Fund contributes to programmes or measures established under the IPA II Regulation for cross-border cooperation between IPA II beneficiaries and Member States pursuant to Article 9(2) of the IPA II Regulation, such assistance shall be implemented according to the IPA II Implementing Regulation.
- (4) Where IPA II assistance contributes to transnational and interregional cooperation programmes or measures established under Regulation (EU) No 1299/2013 of the

⁴ Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15 March 2014, p. 27).

European Parliament and the Council⁵ pursuant to Article 9(3) of the IPA II Regulation, such assistance shall be implemented according to that Regulation.

- (5) Where IPA II assistance contributes to cross-border cooperation programmes or measures established under Regulation (EU) No 232/2014 of the European Parliament and the Council⁶ and pursuant to Article 9(4) of the IPA II Regulation, such participation shall be implemented according to that Regulation.
- (6) Where appropriate, IPA II assistance may contribute to programmes or measures which are introduced as part of a macro-regional strategy.
- (7) The IPA II beneficiary's administration shall take all necessary steps to facilitate the implementation of the related programmes.

Article 5 General principles for financial assistance

- (1) The following principles shall apply to Union financial assistance under IPA II:
 - (a) It shall respect the principles of coherence, complementarity, coordination, partnership and concentration;
 - (b) It shall be consistent with Union policies and shall support progressive alignment to the *acquis*;
 - (c) It shall comply with the budgetary principles laid down in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁷ (hereinafter referred to as the "Financial Regulation") and Commission Delegated Regulation (EU) No 1268/2012 (hereinafter referred to as the "Rules of Application of the Financial Regulation")⁸;
 - (d) It shall be consistent with the needs identified in the enlargement process and the absorption capacities of the IPA II beneficiary. It shall also take account of lessons learned under previous assistance;
 - (e) The ownership of the programming and implementation of assistance by the IPA II beneficiary shall be strongly encouraged and adequate visibility of IPA II assistance shall be ensured;
 - (f) Actions shall be planned, with clear and verifiable objectives, which are to be achieved within a given period; the results obtained should be assessed through specific, measurable, agreed, realistic and time related (SMART) indicators;
 - (g) Any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation shall be prevented during the implementation of assistance;

⁵ Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20 December 2013, p. 259).

⁶ Regulation (EU) No 232/2014 of the European Parliament and of the Council establishing the European Neighbourhood instrument (OJ L 77, 15.3.2014, p. 27)

⁷ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26 October 2012, p. 1).

⁸ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31 December 2012, p. 1).

- (h) The objectives of pre-accession assistance shall be consistent with the principle of sustainable development, including climate change mitigation and adaptation.
 - (2) Assistance to the IPA II beneficiary shall be provided in accordance with the enlargement policy framework defined by the European Council and the Council and shall take due account of the Communication on the Enlargement Strategy and the Progress Reports comprised in the annual enlargement package of the Commission, as well as of the relevant resolutions of the European Parliament.
- In accordance with the specific objectives set out in Article 2(1) of the IPA II Regulation, the thematic priorities for providing assistance according to the needs and capacities of the IPA II beneficiaries are set out in Annex I to this Agreement. Each of those thematic priorities may contribute to the attainment of more than one specific objective.
- In accordance with the specific objective set out in point (d) of Article 2(1) of the IPA II Regulation, assistance shall support cross-border cooperation, both between the IPA II beneficiaries and between them and Member States or countries under the European Neighbourhood Instrument, with a view to promoting good neighbourly relations, fostering Union integration and promoting socio-economic development. The thematic priorities for assistance for territorial cooperation are set out in Annex J to this Agreement.
- (3) IPA II assistance shall be provided on the basis of country or multi-country indicative strategy papers (hereafter referred to as the "strategy papers"), established for the duration of the Union's multiannual financial framework for the period from 2014 to 2020, by the Commission in partnership with the IPA II beneficiaries.
 - (4) The provision of IPA II assistance shall be subject to the fulfilment of the IPA II beneficiary's obligations under this Agreement and under Sectoral Agreements and Financing Agreements, if any.

Article 6 Principle of ownership

- (1) The ownership of the programming and implementation of IPA II assistance lies primarily with the IPA II beneficiary.
- (2) The IPA II beneficiary shall appoint a National IPA Co-ordinator (NIPAC), who shall be the main counterpart of the Commission for the overall process of: strategic planning, coordination of programming, monitoring of implementation, evaluation and reporting of IPA II assistance.

The NIPAC shall:

- (a) ensure coordination within the IPA II beneficiary's administration and with other donors and a close link between the use of IPA II assistance and the general accession process;
- (b) co-ordinate the participation of IPA II beneficiaries in the relevant territorial cooperation programmes, namely cross-border cooperation programmes referred to in Article 27 of the IPA II Implementing Regulation as well as, if appropriate, transnational or interregional cooperation programmes established and implemented under Regulation (EU) No 1299/2013 and cross-border cooperation programmes established and implemented under Regulation (EU)

No 232/2014. The NIPAC may delegate this coordination task to a territorial cooperation co-ordinator or operating structure as appropriate;

- (c) endeavour that the IPA II beneficiary's administration takes all necessary steps to facilitate the implementation of the related programmes.
- (3) The NIPAC shall be a high-ranking representative of the government or the national administration of the IPA II beneficiary with the appropriate authority.
- (4) To provide a strengthened basis for the management of pre-accession assistance and national funds, the Commission and the IPA II beneficiary shall engage in a dialogue on public financial management. In this respect, the Commission shall assess the level of compliance of the administration of the IPA II beneficiary with the principles of an open and orderly public financial management system. Where the administration complies with those requirements only in part, the IPA II beneficiary and the Commission shall agree on the necessary measures to address the identified deficiencies.

Article 7 Methods of Implementation

IPA II assistance in the Republic of Albania shall be implemented by the Commission as provided for in the Financial Regulation under:

- (a) direct management by the Commission departments, including its staff in Union Delegations and/or through executive agencies as defined in point (a) of Article 58(1) of the Financial Regulation;
- (b) indirect management, whereby the Commission entrusts budget implementation tasks of certain programmes or actions to the IPA II beneficiary as defined in point (i) of point (c) of Article 58(1) of the Financial Regulation while retaining overall final responsibility for general budget implementation in accordance with Article 58(2) of the Financial Regulation;
- (c) indirect management with entities other than IPA II beneficiaries as defined in points (ii), (iii), (v) to (vii) of point (c) of Article 58(1) of the Financial Regulation;
- (d) shared management with Member States as defined in point (b) of Article 58(1) of the Financial Regulation for cross-border cooperation programmes involving Member States of the European Union and implemented in accordance with the IPA II Implementing Regulation.

Article 8 Financing Agreements

- (1) Where required by the related financing decision, the Commission and the IPA II beneficiary shall conclude a Financing Agreement in accordance with Article 6 of the IPA II Implementing Regulation.
- (2) Financing Agreements shall provide, *inter alia*, the terms on which the IPA II assistance shall be managed, including the applicable methods of implementation, aid intensities, implementation deadlines as well as the rules on eligibility of expenditure.
- (3) Where programmes are implemented under indirect management by the IPA II beneficiary, Financing Agreements shall include the required provisions of Article 40 of the Rules of Application of the Financial Regulation and shall lay down the

provisions defining *ex-ante* controls on key grant award and procurement procedures, if any, to be performed by the Union Delegation or the Commission as well as controls and supervision, if any, to be conducted by the Union Delegation or the Commission.

- (4) For cross-border cooperation programmes between IPA II beneficiaries or IPA beneficiaries and countries under the European Neighbourhood Instrument, a single Financing Agreement may be signed by the Commission and all the participating countries in a particular programme.
- (5) The rules for implementation of cross-border cooperation programmes between one or more Member States and one or more IPA II beneficiaries shall be set out in the Financing Agreement for a given cross-border cooperation programme to be signed between the IPA II beneficiary, the Commission and, where applicable, the Member State hosting the managing authority of that cross-border cooperation programme.
- (6) In accordance with Article 26 of Regulation (EU) No 1299/2013, the programme implementation conditions governing the financial management as well as the programming, monitoring, evaluation and control of the participation of third countries, through a contribution of IPA II resources to transnational and interregional cooperation programmes established and implemented under that Regulation between Member States and one or more IPA II beneficiaries, shall be established in the relevant cooperation programme and also, where necessary, in the financing agreement between the Commission, the governments of the third countries concerned and the Member State hosting the managing authority of the relevant cooperation programme while ensuring that those conditions are consistent with the Union's cohesion policy rules.
- (7) This Framework Agreement shall apply to all Sectoral and Financing Agreements concluded between the Parties for financial assistance under IPA II. Where they exist, Sectoral Agreements related to a given policy area or a programme shall apply to all Financing Agreements concluded under that policy area or programme. Where there is no Financing Agreement, the rules included in this Agreement shall apply.

Article 9 Sectoral Agreements

Further details concerning rural development programmes under the policy area agriculture and rural development complementing this Agreement will be laid down in the respective Sectoral Agreements, which will, among other aspects, set out measures through which assistance will be implemented.

SECTION II RULES FOR INDIRECT MANAGEMENT BY THE IPA II BENEFICIARY

TITLE I MANAGEMENT AND CONTROL SYSTEMS

Article 10 Establishment of structures and authorities for indirect management by the IPA II beneficiary

- (1) The following structures and authorities shall be established by the IPA II beneficiary in the event of indirect management:

- (a) the National IPA Co-ordinator (NIPAC);
- (b) the National Authorising Officer (NAO);
- (c) the operating structures.

The operating structure for rural development programmes under the policy area agriculture and rural development shall consist of the following separate authorities, operating in close cooperation:

- (i) the Managing Authority, being a public body acting at national level, to be in charge of preparing and implementing the programmes, including selection of measures and their publicity, the coordination, evaluation, monitoring and reporting of the programme concerned and managed by a senior official with exclusive responsibilities; and
 - (ii) the IPA Rural Development (IPARD) Agency with functions of a similar nature as a paying agency in the Member States being in charge of publicity, selection of projects as well as authorisation, control and accounting of commitments and payments and the execution of payments.
- (2) The NAO shall establish a management structure composed of a National Fund and a support office for the NAO.
- (3) The IPA II beneficiary shall provide for an audit authority.
- (4) The IPA II beneficiary shall ensure adequate segregation of duties between and within the structures and authorities referred to in paragraphs (1) to (3). Duties are segregated when different tasks related to a transaction are allocated to different staff, thereby helping to ensure that each separate task has been properly undertaken.

Article 11 Functions and responsibilities of the structures and authorities

- (1) The structures and authorities mentioned in Article 10 shall be assigned functions and responsibilities as set out in Annex A to this Agreement and shall comply with the internal control framework of Annex B to this Agreement.
The IPA II beneficiary shall immediately inform the Commission of any substantial changes concerning the structures and authorities mentioned in Article 10.
- (2) Policy area or programme specific assignments of functions and responsibilities may be set out in Sectoral or Financing Agreements in line with the basic approach chosen for the assignment of functions and responsibilities as set out in Annex A to this Agreement.
- (3) Where under indirect management by the IPA II beneficiary specific persons and/or entities have been given responsibility for an activity in relation to the management, implementation, control, supervision, monitoring, evaluation, reporting or audit of programmes, the IPA II beneficiary shall enable such persons and/or entities to exercise the duties associated with that responsibility. This includes, in particular, the cases where there is no hierarchical link between such persons and/or entities and the bodies participating in that activity. The IPA II beneficiary shall, in particular, provide those persons and/or entities with the authority to establish:
 - (a) formal working arrangements between them and the bodies concerned;

- (b) an appropriate system for the exchange of information between them and the bodies concerned, including the power to require information and a right of access to documents and staff on the spot, if necessary;
- (c) the standards to be met and the procedures to be followed.

TITLE II SPECIFIC PROVISIONS RELATING TO ENTRUSTING THE IPA II BENEFICIARY WITH BUDGET IMPLEMENTATION TASKS

Article 12 Conditions for entrusting the IPA II beneficiary with budget implementation tasks

- (1) The Commission entrusts budget implementation tasks to the IPA II beneficiary by concluding a Financing Agreement.
- (2) When managing IPA II funds, the IPA II beneficiary shall respect the principles of sound financial management⁹, transparency and non-discrimination, and shall ensure the visibility of IPA II assistance. The IPA II beneficiary shall guarantee a level of protection of the financial interests of the European Union equivalent to that required under the Financial Regulation when managing IPA II funds, with due consideration for:
 - (a) the nature of the tasks entrusted to them and the amounts involved;
 - (b) the financial risks involved;
 - (c) the level of assurance stemming from their systems, rules and procedures together with the measures taken by the Commission to supervise and support the implementation of the tasks entrusted to them.
- (3) In order to protect the financial interests of the Union, the IPA II beneficiary shall:
 - (a) set up and ensure the functioning of an effective and efficient internal control system;
 - (b) use an accounting system that provides accurate, complete and reliable information in a timely and regular manner clearly distinguishing costs accepted and payments made;
 - (c) provide for that the structures and authorities referred to in Article 10(1) and (2) are subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit authority functionally independent of the structures and authorities concerned;
 - (d) apply appropriate rules and procedures for providing financing from IPA II assistance through grants, procurement and financial instruments.
- (4) The IPA II beneficiary shall further:

⁹ The principle of sound financial management comprises the principles of economy, efficiency and effectiveness. The principle of economy requires that the resources used shall be made available in due time, in appropriate quantity and quality and at the best price. The principle of efficiency concerns the best relationship between resources employed and results achieved. The principle of effectiveness concerns the attainment of the specific objectives set and the achievement of the intended results.

- (a) ensure, in accordance with Article 23, the *ex-post* publication of information on recipients of IPA II assistance;
 - (b) ensure a reasonable protection of personal data as laid down in Directive 95/46/EC of the European Parliament and the Council¹⁰ and Regulation (EC) No 45/2001 of the European Parliament and the Council¹¹.
- (5) Where substantial changes are made to the systems or rules of the IPA II beneficiary or to the procedures that relate to the management entrusted to the IPA II beneficiary of Union funds, the IPA II beneficiary shall inform the Commission thereof without delay. The Commission shall review the financing agreements concluded with the IPA II beneficiary in order to ensure continued fulfilment of the requirements set out in paragraph 3.

Article 13 Entrusting budget implementation tasks

- (1) The NAO, on behalf of the IPA II beneficiary, shall be responsible for submitting to the Commission a request for being entrusted with budget implementation tasks under a given programme or measure.
- (2) Before submitting the request referred to in paragraph 1, the NAO shall ensure that the management structure and the relevant operating structure(s) satisfy the requirements of points (a), (b) and (d) of Article 12(3) and those of Annex B to this Agreement. In doing so the NAO may rely on results of an *ex-ante* assessment carried out with regard to a national accreditation decided pursuant to Council Regulation (EC) No 1085/2006¹² or a previous Financing Agreement.

When the NAO cannot rely on a previous *ex-ante* assessment the request shall be supported by an audit opinion on the management structure and the operating structure(s), drawn up by an external auditor independent from the structures and authorities under Article 10(1) and (2) and be based on examinations conducted according to internationally accepted auditing standards.

- (3) The request shall be accompanied by a confirmation made by the NAO, the NIPAC and the head of the audit authority that they are ready to carry out the functions and responsibilities assigned to them in Annex A to this Agreement.
- (4) Before the Commission entrusts budget implementation tasks of IPA II assistance, it shall review the request referred to in paragraph 1 of this Article and the established structures and authorities referred to in Article 10 and shall, for the purposes of the *ex-ante* assessment pursuant to Article 61(1) of the Financial Regulation, obtain evidence that the requirements set out in points (a) to (d) of Article 12(3) and those of Annex B to this Agreement are fulfilled. This review may include on-the-spot verifications by the Commission.

¹⁰ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23 November 1995, p. 31).

¹¹ Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12 January 2001, p. 1).

¹² Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an instrument for pre-accession assistance (IPA) (OJ L 210, 31 July 2006, p. 82).

For entrusting budget implementation tasks of IPA II assistance, the Commission may rely on an *ex-ante* assessment carried out with regard to an earlier Financing Agreement with the IPA II beneficiary or an *ex-ante* assessment carried out with regard to the conferral of management powers decided under Regulation (EC) No 1085/2006. On the request of the Commission, the IPA II beneficiary shall provide additional evidence if those assessments do not address all the requirements.

Article 14 Measures in case of non-compliance of management structure and operating structures with points (a), (b) and (d) of Article 12(3) and Annex B to this Agreement

- (1) After the Commission has entrusted budget implementation tasks, the NAO shall monitor the continued fulfilment by the management structure and operating structure(s) of the applicable requirements set out in points (a), (b) and (d) of Article 12(3) and Annex B to this Agreement. In case of failure to satisfy these requirements, the NAO shall inform the Commission with copy to the NIPAC without delay and shall take any appropriate safeguard measures regarding payments made or contracts signed.
- (2) In addition, the NAO shall take all necessary steps in order to ensure the renewed fulfilment of the requirements referred to in paragraph 1.

Article 15 Suspension or termination of parts of the Financing Agreement concerning the entrusted budget implementation tasks

- (1) The Commission shall monitor the compliance with Articles 12(3) and 51(1) and may take appropriate remedial measures, including the suspension or termination of parts of the Financing Agreement at any time, if the requirements are no longer fulfilled.
- (2) Where the Commission suspends or terminates parts of the Financing Agreement concerning the entrusted budget implementation tasks, the following provisions shall apply:
 - (a) the Commission may interrupt transfers of funds to the IPA II beneficiary;
 - (b) new legal commitments made by the operating structure concerned after the notification of the suspension or termination shall not be considered eligible for IPA II assistance;
 - (c) without prejudice to any other financial corrections, the Commission may make financial corrections as laid down in Article 43 on the transactions affected by previous non-compliance with the requirements for entrusting budget implementation tasks.
- (3) The Sectoral or Financing Agreement may lay down further provisions concerning the suspension or termination of those parts concerning entrusted budget implementation tasks.

SECTION III

RULES FOR PROGRAMMING

Article 16 Programming of the assistance

- (1) IPA II assistance shall be provided on the basis of strategy papers, established for the duration of the Union's Multi-annual Financial Framework by the Commission in partnership with the IPA II beneficiary. That assistance shall be implemented through programmes and measures as referred to in Articles 2 and 3 of the Common Implementing Regulation. Implementation shall, as a rule, take the form of annual or multi-annual, country specific or multi-country programmes, as well as cross-border co-operation programmes established in accordance with the strategy papers and drawn up by the IPA II beneficiary and/or the Commission, as appropriate, and adopted by the Commission.
- (2) Annual or multi-annual, country or multi-country programmes shall be based on action documents save for where otherwise provided for in this agreement. The action documents shall be prepared at national level by the relevant authorities designated by the IPA II beneficiary save for multi-country programmes which are prepared by the Commission in consultation with the IPA II beneficiaries. The NIPAC shall ensure that the objectives set out in the actions or programmes proposed by the IPA II beneficiary are coherent with the objectives in the country strategy papers and take due account of the relevant macro-regional and sea basin strategies. Where programming documents are prepared by the IPA II beneficiary, the NIPAC shall coordinate the preparation of the documents and submit them to the Commission.
- (3) In accordance with Article 5(6) of the IPA II Regulation, the Commission shall encourage coordination among the relevant stakeholders when preparing assistance. In accordance with the principle of ownership of Article 6 of this Agreement, the IPA II beneficiary shall ensure that relevant stakeholders, including civil society organisations and local authorities are or have been duly consulted and have timely access to relevant information allowing them to play a meaningful role in the programming process, in cooperation with the Commission where appropriate.
- (4) Assistance may be granted to support the participation of the IPA II beneficiary in Union programmes and Union agencies. The participation of the IPA II beneficiary in Union programmes shall follow the specific terms and conditions set out for each such programme in an agreement concluded between the Commission and the IPA II beneficiary, in accordance with the agreements establishing the general principles for participation of the IPA II beneficiaries in Union programmes.
- (5) The IPA II assistance under rural development programmes in the policy area agriculture and rural development shall be provided on the basis of relevant priorities set out in the country strategy papers, through a pre-defined set of measures further specified in the Sectoral Agreement. The implementation shall take the form of multi-annual rural development programmes with split commitments in accordance with Article 189(3) of the Financial Regulation, drawn up at national level and covering the entire period of the IPA II implementation. The programme shall be prepared by the Managing Authority as specified in point (i) of Article 10(1)(c) of this Agreement to be submitted to the Commission after consulting the appropriate interested parties.

Assistance under the rural development programmes shall contribute to achieving the following objectives:

- (a) In view of Union priorities for rural development, by means of developing human and physical capital, to increase the food-safety of the IPA II beneficiary and the ability of the agri-food sector to cope with competitive pressure as well as to progressively align the sector with Union standards, in particular those concerning hygiene and environment, while pursuing balanced territorial development of rural areas.
- (b) Channelling investment support through management and control systems which are compliant with good governance standards of a modern public administration and where the relevant country structures apply standards equivalent to those in similar organisations in the Member States of the European Union.

Article 17 Adoption and amendments of programmes

- (1) After the adoption of the programme, the programme may, if necessary, be amended in accordance with Article 2 of the Common Implementing Regulation in order to take into account new information and results relating to the implementation of the actions concerned, including the results of monitoring and evaluation, as well as the need to adjust the amounts of assistance available. Any proposal for amendments submitted by the IPA II beneficiary shall be duly substantiated and shall include at least the following information: the text of the amended programme, the reasons for the proposed amendment, the expected effects of the amendment and the amended financial and action/activity/measure tables, where the proposed amendments are of a financial nature.
- (2) The IPA II beneficiary shall propose amendments to programmes whenever necessary to reflect changes in the relevant Union legislation or where changes in conditions for implementation so require.
- (3) The detailed provisions for preparation, adoption and amendments of the programmes as provided in the relevant documents and instructions prepared by the Commission shall be applied.

SECTION IV RULES FOR IMPLEMENTATION

TITLE I GENERAL RULES AND PRINCIPLES FOR IMPLEMENTATION

Article 18 Rules on procurement and award of grants

- (1) Assistance under all IPA II policy areas shall be managed in accordance with the rules for external action contained in Title IV of Part Two of the Financial Regulation and its Rules of Application.
- (2) All service, supplies, and work contracts and grant agreements shall be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external actions, in force at the time of the launch of the procedure in question, unless otherwise provided for in Sectoral or Financing Agreements.

- (3) Results of tender procedures as well as grant and prize awards shall be published in accordance with the rules referred to in paragraph 1 and as further specified in Article 23.
- (4) In case of indirect management by the IPA II beneficiary, within one month after the entry into force of the respective Financing Agreement, the NAO shall provide a procurement plan/financial forecasts for the programme or action implemented under the Financing Agreement to the Commission. This obligation shall not apply to IPA II assistance under rural development programmes in the policy area agriculture and rural development.
- (5) As regards procurement, the national law of the IPA II beneficiary transposing Directive 2014/24/EU shall be considered equivalent to the rules applied by the Commission in accordance with the Financial Regulation. The Commission may accept such national law to be applied for the implementation of IPA II assistance subject to the terms of the relevant provision in the Financing Agreement.

Article 19 Rules on nationality and origin for public procurement, grant and other award procedures

- (1) Participation in the award of procurement contracts, grants and other award procedures for actions financed under IPA II shall be open to all natural persons who are nationals of, and legal persons which are effectively established in the following countries (hereafter referred to as "eligible countries"), and to International Organisations¹³:
 - (a) Member States, IPA II beneficiaries, contracting parties to the Agreement on the European Economic Area and partner countries covered by the European Neighbourhood Instrument, and
 - (b) countries for which reciprocal access to external assistance is established by the Commission. Reciprocal access may be granted, for a limited period of at least one year, whenever a country grants eligibility on equal terms to entities from the Union and from countries eligible under IPA II. Before the Commission decides on the reciprocal access and on its duration, it will consult the IPA II beneficiary.

Legal persons may include civil society organisations, such as non-governmental non-profit organisations and independent political foundations, community based organisations and private sector non-profit agencies, institutions and organisations and networks thereof at local, national, regional and international level as long as they are capable of having legal rights and duties in accordance with the respective national laws.

- (2) If actions are jointly co-financed with a partner or other donor, or through a trust fund established by the Commission, countries which are eligible under the rules of that partner, other donor or Member State or determined in the trust fund constitutive act shall also be eligible.

¹³

International Organisations are international public-sector organisations set up by intergovernmental agreements, specialised agencies set up by such organisations and other non-profit organisations assimilated to international organisations by a Commission decision.

If actions are implemented in indirect management through one of the entrusted bodies listed in points (ii) to (viii) of Article 58(1)(c) of the Financial Regulation, the countries which are eligible under the rules of that body shall also be eligible.

If actions are jointly financed by IPA II and by another instrument for external action, including the European Development Fund, the countries identified under both IPA II and the other instrument shall be considered eligible for the purpose of those actions.

In case of actions of a global, regional or cross-border nature financed by IPA II, the countries, territories and regions covered by the action may be considered eligible for the purpose of that action.

- (3) All supplies purchased under a procurement contract, or in accordance with a grant agreement, financed under IPA II shall originate from an eligible country.

However, they may originate from any country when the amount of the supplies to be purchased is below the threshold for the use of the competitive negotiated procedure. For the purposes of this article, the term "origin" is defined in Article 23 and 24 of Council Regulation (EEC) N°2913/92¹⁴.

- (4) The rules under this article do not apply to, and do not create nationality restrictions for natural persons employed or otherwise legally contracted by an eligible contractor or, where applicable, subcontractor.
- (5) In order to promote local capacities, markets and purchases, priority shall be given to local and regional contractors when the Financial Regulation provides for award on the basis of a single tender. In all other cases, participation of local and regional contractors shall be promoted in accordance with the relevant provisions of the Financial Regulation.
- (6) Eligibility as defined in this article may be further restricted in the Financing Agreement with regard to the nationality, geographical location or nature of applicants, where such restrictions are required by the specific nature and the objectives of the action and where they are necessary for its effective implementation, in particular to participation in award procedures in case of cross-border cooperation actions as referred to in Article 63.
- (7) Tenderers, applicants and candidates from non-eligible countries or goods from non-eligible origin may be accepted eligible by the Commission in case of urgency or of unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of a project, programme or action impossible or exceedingly difficult.
- (8) Natural and legal persons who have been awarded contracts shall comply with applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards¹⁵.

¹⁴ Council Regulation (EEC) N°2913/92 of 12 October 1992 establishing the Community Customs Code and other Community legislation governing non-preferential origin (OJ L 302, 19 October 1992, p. 1).

¹⁵ The ILO core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation and the abolition of child labour.

Article 20 Participation in Union programmes and agencies

In case of participation in Union programmes and agencies, implementation shall consist of payment to the programme or agency budget by the IPA II beneficiary. The respective country or multi-country programme may foresee contributions to the cost of the IPA II beneficiaries' participation in Union programmes and agencies.

Article 21 Implementation principles for budget support to the IPA II beneficiary

- (1) The Commission may decide to grant budget support to the IPA II beneficiary. Such support shall be implemented under direct management. Complementary support accompanying budget support can be provided under direct management, under indirect management with the IPA II beneficiary or under indirect management with other entities than the IPA II beneficiary, as applicable.
- (2) Disbursement of budget support shall be conditional on satisfactory progress being made towards achieving the objectives agreed with the IPA II beneficiary and provided for in the Financing Agreement.
- (3) The detailed provisions concerning the eligibility criteria covering stable macro-economic framework, sound public financial management, transparency and oversight of the budget and national/sector policies and reforms as well as risk assessment and preparation, implementation and follow-up of budget support are provided in the relevant documents and instructions prepared by the Commission which are applicable for the purposes of implementing IPA II assistance through budget support.

Article 22 Implementation principles for twinning

- (1) Actions may be implemented through twinning whereby the selected Member State administrations agree to provide the requested public sector expertise. Twinning shall be set up in the form of a grant to cover the reimbursement of the expenses incurred by the Member State(s) involved and may in particular provide for the long term secondment of a pre-accession advisor assigned to provide full time counsel to the administration of the IPA II beneficiary, hereinafter referred to as resident twinning advisor (RTA). The IPA II beneficiary shall make available adequate office facilities to the RTA.

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

- (2) A twinning manual, applicable to all twinings, has been established by the Commission and is updated regularly.

TITLE II TRANSPARENCY AND VISIBILITY

Article 23 Information, publicity and transparency

- (1) The IPA II beneficiary commits towards increased transparency and accountability in the delivery of assistance, including by publicly disclosing information on assistance volume and allocation, ensuring that data is internationally comparable and can be easily accessed shared and published. Any actor implementing IPA II assistance shall

fulfil the requirements on information, publicity and transparency, and ensure the appropriate EU visibility of the actions.

- (2) In case of indirect management by the IPA II beneficiary, the operating structures shall be responsible for publishing information on recipients of IPA II assistance in the following way:
- (a) The publication shall be made according to a standard presentation, in a dedicated and easily accessible place of the IPA II beneficiary's internet site. If such internet publication is impossible, the information shall be published by any other appropriate means, including the official journal of the IPA II beneficiary.
 - (b) Publication shall take place no later than 30 June of the year following the financial year in which the funds were awarded.
 - (c) The IPA II beneficiary shall communicate to the Commission the address of the internet site where the information was published. If the information is published by any other appropriate means, the IPA II beneficiary shall give the Commission full details of the means used. Reference shall be made to this location in the dedicated place of the internet site of the Commission.
 - (d) The operating structures shall ensure that the recipient is informed that it will be included in the published list of recipients. Any personal data included in this list shall be processed in accordance with the requirements of Regulation (EC) No 45/2001, and with due observance of the requirements of confidentiality and security.

The IPA II beneficiary shall publish the name and locality of the recipient, the amount awarded and the nature and purpose of the awarded contract. The locality of a legal person shall be its address. The locality of a natural person shall be a region at NUTS 2 level¹⁶.

The information referred to in the second sub-paragraph shall only be published for prizes, grants and contracts which have been awarded as a result of contests, grant award procedures or public procurement procedures. The information shall not be published for contracts below the threshold referred to Article 137(2) of the Rules of Application of the Financial Regulation.

As far as data referring to natural persons are concerned, the names shall be replaced by "natural person" two years after the end of the financial year in which the funds were awarded. The same shall apply to personal data referring to legal persons for whom the official title identifies one or more natural persons.

Publication of names of natural persons shall be waived if such publication risks violating their fundamental rights or damaging their commercial interests.

The IPA II beneficiary shall present a list of data to be published concerning natural persons with justification for proposed waivers of publication to the Commission which must grant prior approval to this list. Where necessary, the Commission shall complete the locality of the natural person limited to a region at NUTS 2 level.

¹⁶ NUTS means Nomenclature of territorial units for statistics and NUTS 2 level means the class of administrative units with an average size of population between 800 000 and 3 million.

Publication of contracts may be waived if such publication risks harming the commercial interests of contractors or grant beneficiaries. The IPA II beneficiary shall present a list with such justifications to the Commission which must grant prior approval to such publication waiver.

- (3) In case of indirect management by the IPA II beneficiary, the relevant bodies shall, in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external actions, in force at the time of the launch of the procedure in question, prepare a contract award notice, once the contract has been signed, and send it to the Commission for publication unless otherwise provided for in the Financial Regulation and further specified in Sectoral Agreements. The contract award notice may also be published by the IPA II beneficiary in the relevant media.
- (4) The strategy papers and programmes as well as any revision thereof, shall be public documents, where applicable, and shall be made available to the general public and civil society.

Article 24 Visibility and communication

- (1) The Commission and the IPA II beneficiary shall agree on a coherent plan of visibility and communication activities to make available, and actively publicise information about programmes and actions under IPA II assistance in the Republic of Albania. The procedures for implementing such activities shall be specified in the Sectoral or Financing Agreements.
- (2) In case of direct management, implementation of the activities referred to in paragraph 1 shall be the responsibility of the Commission with the assistance of the IPA II beneficiary.
- (3) In case of indirect management by the IPA II beneficiary, and for cross-border cooperation programmes referred to in points (b) and (c) of Article 63(2), implementation of the activities referred to in paragraph 1 shall be the responsibility of the operating structure(s) of the IPA II beneficiary(ies).
- (4) Visibility and communication activities shall demonstrate how the particular action contributes to the agreed programme objectives and the accession process and shall be aimed at strengthening general public awareness as well as support of actions financed and of the objectives pursued. The visibility and communication activities shall aim at highlighting to the relevant target audiences the added value and impact of the Union programmes and actions. Visibility activities shall also promote transparency and accountability on the use of funds.
- (5) The IPA II beneficiary shall report on its visibility and communication activities to the IPA monitoring committee and the sectoral monitoring committees.

TITLE III DATA PROTECTION AND CONFIDENTIALITY

Article 25 Data protection

- (1) The IPA II beneficiary shall ensure a reasonable protection of personal data. Personal data means any information related to a natural person. Any operation performed upon personal data, such as collection, recording, organisation, storage, adaption or

alteration, retrieval, consultation, use, disclosure, erasure or destruction, shall be based on rules and procedures of the IPA II beneficiary and shall only be done as far as it is necessary for the implementation of the IPA II assistance.

- (2) In particular, the IPA II beneficiary shall take appropriate technical and organisational security measures concerning the risks inherent in any such operation and the nature of the information relating to the natural person concerned, in order to:
 - (a) Prevent any unauthorised person from gaining access to computer systems performing such operations, and especially unauthorised reading, copying, alteration or removal of storage media; unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored information;
 - (b) Ensure that authorised users of an IT system performing such operations can access only the information to which their access right refers;
 - (c) Design its organisational structure in such a way that it meets the above requirements.

Article 26 Confidentiality

- (1) The IPA II beneficiary agrees that the documents possessed by an entity referred to in points (ii) to (iii) of Article 58(1)(c) of the Financial Regulation to which the Commission entrusted budget implementation tasks may be forwarded to the Commission by that entity for the sole purpose of monitoring the execution of those tasks. The Commission shall respect confidentiality arrangements agreed between the IPA II beneficiary and that entity in accordance with the provisions of this Agreement.
- (2) Without prejudice to Article 50, the IPA II beneficiary and the Commission shall preserve the confidentiality of any document, information or other material directly related to the implementation of the IPA II assistance that is classified as confidential.
- (3) The Parties shall obtain each other's prior written consent before publicly disclosing such information.
- (4) The Parties shall remain bound by the confidentiality until five years after the end of the execution period.

TITLE IV GRANTING OF FACILITIES AND TAXATION

Article 27 Granting of facilities for the implementation of programmes and execution of contracts

- (1) In order to ensure the effective implementation of programmes under IPA II, the IPA II beneficiary shall take all necessary measures to ensure:
 - (a) that, in case of service, supplies or works tender procedures as well as grant awards and twinnings, natural or legal persons eligible to participate in award procedures pursuant to Article 19 shall be entitled to temporary installation and residence where the importance or the duration of the contract so warrants. This right shall be acquired only after the procedure has been launched and shall be enjoyed by the managerial and technical staff including RTAs, needed

to carry out studies and other preparatory measures to the drawing up of bids/applications/proposals. This right shall expire one month after the decision of contract award;

- (b) that tenderers and applicants can submit their bids/applications/proposals without encountering any obstacle such as additional legal, administrative or customs related requirements that impair equal treatment among tenderers or applicants unless such requirements are enshrined in an underlying programme document adopted by the Commission;
 - (c) that personnel taking part in the implementation of IPA II assistance and members of their immediate family are accorded no less favourable benefits, privileges and exemptions than those usually granted to other international or expatriate staff employed in the Republic of Albania, under any other bilateral or multilateral agreement or arrangements for assistance and technical co-operation;
 - (d) that personnel taking part in the implementation of IPA II assistance and members of their immediate family are allowed to enter the Republic of Albania, to establish themselves in the Republic of Albania, to work there and to leave the Republic of Albania, as the nature of the underlying contract so justifies;
 - (e) the granting of all permits necessary for the importation of goods, in particular professional equipment, required for the execution of the underlying contract, subject to existing laws, rules and regulations of the IPA II beneficiary;
 - (f) that imports carried out under IPA II will be exempted from all charges;
 - (g) the granting of all permits necessary for the re-export of the above goods, once the underlying contract has been fully executed;
 - (h) the granting of authorisations for the import or acquisition of the foreign currency necessary for the implementation of the underlying contract and the application of national exchange control regulations in a non-discriminatory manner to contractors, regardless of their nationality or place of establishment;
 - (i) the granting of all permits necessary to repatriate funds received in respect of the action financed under IPA II, in accordance with the foreign exchange control regulations in force in the Republic of Albania;
 - (j) that transactions necessary for carrying out contracts financed under IPA II will be exempted from procedures requiring the transfer of the payment for goods and/or services to their contractors abroad through banks or financial institutions operating in the Republic of Albania.
- (2) The IPA II beneficiary shall ensure full co-operation of all relevant authorities. It will also ensure access to state-owned companies and other governmental institutions, which are involved or are necessary in the implementation of a programme or in the execution of the contract.

- (3) After the entry into force of this Agreement the IPA II beneficiary shall adopt or amend the legislation and/or enabling acts necessary to enforce the requirements of the procedures laid down in this article while keeping these procedures as simple, reasonable and time efficient as possible.

Article 28 Rules on taxes, customs duties and other fiscal charges

- (1) Except where otherwise provided for in a Sectoral Agreement or a Financing Agreement, taxes, customs and import duties and levies and/or charges having equivalent effect are not eligible under IPA II. This rule shall also apply to co-financing provided by the IPA II beneficiary and recipients of IPA II assistance.
- (2) The following provisions shall apply:
- (a) All imports by Union contractors shall be allowed to enter the Republic of Albania without being subject to customs or import duties, Value Added Tax (VAT), excise duties and other special consumption taxes or to any other similar tax, duties or charges having equivalent effect. Such exemption shall only be applied to imports in connection with the goods supplied and/or services rendered and/or works executed by the Union contractors under a Union contract. The Republic of Albania shall ensure that the imports concerned will be released from the point of entry for delivery to the Union contractors as required by the provisions of the contract and for immediate use as required for the normal implementation of the contract, without any delays or disputes over the settlement of the above mentioned duties, taxes or charges.
 - (b) Union contractors shall be exempted from VAT for any service rendered and/or goods supplied and/or works executed under the Union contract. Goods supplied or services rendered or works executed by a contractor to the Union contractor shall also be exempted from VAT in so far that they are connected with the objectives and activities under the Union contract.
 - (c) The exemption provided for in paragraph (b) shall in principle be put into effect through ex-ante exemption. Where this is not technically and/or practically feasible, it shall be put into effect through refund/offsetting.

Where ex-ante exemption applies, the Union contractor or the contractor supplying goods and/or rendering services and/or executing works for a Union contractor, shall issue an invoice exclusive of VAT for which the IPA II beneficiary shall ensure that an effective mechanism and procedures for VAT ex-ante exemption has been put in place beforehand.

Where the refund procedure applies, Union contractors and contractors of Union contractors shall be able to obtain a VAT refund directly from the tax administration upon submission of a written request to the tax administration accompanied by the necessary documentation required under the Republic of Albania law for the refund of VAT.

The Union contractor and contractors of Union contractors shall be entitled to offset or deduct any input VAT paid in connection with the goods supplied

and/or services rendered and/or works executed under IPA II assistance which are exempted from VAT, as provided in this Agreement, against any VAT collected by them for any of their ordinary business transactions outside IPA II.

The tax administration shall complete any request for exemption, tax refund, and offsetting within a maximum of 30 calendar days without any cost other than minimum and reasonable administrative fees;

- (d) Profit or income arising from Union contracts shall be taxable in the Republic of Albania in accordance with the national/local tax system. However, natural and legal persons, including expatriate staff and RTAs, resident or established in the Member States of the European Union or other countries eligible under IPA II other than the IPA II beneficiary, executing Union contracts shall be exempted from profit or income tax in the Republic of Albania, including withholding and provisional or temporary taxes.

A Union grant to a grant beneficiary shall not be construed as a profit or income to that grant beneficiary. Where a profit is generated from a grant contract, the Commission shall be entitled to recover the percentage of the profit in accordance with the terms of the underlying contract. The remaining profit may be taxable according to the national/local tax system.

- (e) Expenditures of the Union contractors shall be relieved from special consumption taxes or excise duties or from any other taxes or charges having equivalent effect for the expenditure in connection with the goods supplied and/or services rendered and/or works executed by that Union contractor under the Union contract.
- (f) Those benefiting from actions and/or contracts and/or activities carried out under IPA II shall be exempted from “Inheritance and Transfer Tax” or any other taxes or charges having equivalent effect resulting from goods and/or rights and/or constructed facilities and/or funds transferred to them without consideration in any way under IPA II.
- (g) Personal and household effects imported for personal use by natural persons (and members of their immediate families), other than those recruited locally, carrying out tasks defined in service and/or works and/or grant contracts and/or twinning contracts or covenants, shall be exempted from customs duties, import duties, taxes and levies and/or taxes having equivalent effect and/or deterrent excessive collateral requirements, the said personal and household effects being re-exported or disposed of in the state, in accordance with the regulations in force in the Republic of Albania after termination of the contract.
- (h) Union contracts, contracts signed by Union contractors as well as partners in a consortium or joint venture or co-beneficiaries and affiliated entities in grants shall not be subject to stamp or registration duties, or to any other charge having equivalent effect in the Republic of Albania. This exemption shall also apply to transactions (including assignment of rights) and documents related to payments made to the Union contractor, including contracts concluded between

grant/loan beneficiaries (including their partners, affiliated entities or sub-grant/loan beneficiaries) and their contractors (including their staff or contracted experts), and contracts concluded for incidental and provisional expenditure under service contracts and works contracts respectively.

- (i) For the purposes of this Agreement, the term "*Union contractor*" shall be construed as natural and legal persons, rendering services and/or supplying goods and/or executing works under a Union contract. The term "*Union contractor*" shall also refer to grant/loan beneficiaries (including partners, affiliated entities and sub-grant/loan beneficiaries as well as twinning contractors), partners in a consortium or joint venture, contractors and RTAs under twinning contracts as well as contractors under the Technical assistance and Information exchange instrument (TAIEX).
- (j) The term "*Union contract*" means any contract or grant contract, including sub-grant/loan contracts and delegation agreements under indirect management, through which an activity is financed under IPA II, including the co-financing by the IPA II beneficiary or recipients of IPA II assistance and which is signed by the European Commission or the IPA II beneficiary or a grant beneficiary. The term "*Union contract*" shall also cover provisions of assistance under TAIEX and participation in Union programmes including grants received under Union programmes and co-financing of such grants.
- (k) The following charges shall also be exempted for Union contractors implementing a Union contract:
 - (i) special communication tax;
 - (ii) motor vehicle taxes;
 - (iii) special charges applied by regional or local authorities or special boards in the context of contract execution not proportional with the cost involved in their execution or of having equivalent effect of taxes.
- (3) Whenever necessary, the IPA II beneficiary shall adopt or amend the secondary legislation and/or enabling acts necessary to enforce the tax provisions in this Agreement immediately upon its entering into force.
- (4) The rules and procedures referred to in this Article shall also apply to any similar tax, duty, levy or charges having equivalent effect, which may be instituted after the date of entry into force of this Agreement in addition to, or in replacement of existing ones.
- (5) In case of conflict between the provisions in this Article and the national legislation of the IPA II beneficiary, the provisions of this Agreement shall prevail. In the event of accession to the Union, the IPA II beneficiary will continue to apply the provisions in articles 27 and 28 except where these are incompatible with its obligations under the relevant Union acquis.

SECTION V RULES ON FINANCIAL MANAGEMENT OF IPA II ASSISTANCE

TITLE I GENERAL PROVISIONS

Article 29 Eligibility of expenditure

- (1) An expenditure item financed under the IPA II Regulation shall not be subject to any other financing under the Union budget.
- (2) Prior to the conclusion of the relevant Financing Agreement contracts and addenda signed, expenditure incurred by the recipients and payments made by the IPA II beneficiary shall not be eligible for funding under the IPA II Regulation.
- (3) The following expenditure shall not be eligible for funding under the IPA II Regulation:
 - (a) purchase of land and existing buildings, except where justified by the nature of the action in the financing decision;
 - (b) other expenditure as may be provided for in the Sectoral or Financing Agreements.
- (4) The final date for the eligibility of expenditure shall be laid down in the Financing Agreements.

Article 30 Aid intensities and rate of Union contribution

- (1) IPA II assistance shall support the implementation of the IPA II beneficiary' reform efforts as referred to in Article 1 of the IPA II Regulation. Specific programmes and stand-alone actions may require both IPA II beneficiary' and Union financial contributions.
- (2) Where both IPA II beneficiary' and Union financial contributions are required, the Union contribution shall be calculated in relation to the eligible expenditure, as defined in the Sectoral or Financing Agreements.

TITLE II RULES RELATING TO INDIRECT MANAGEMENT BY THE IPA II BENEFICIARY

Article 31 Eligibility of expenditure under indirect management

- (1) Under rural development programmes in the policy area agriculture and rural development the following specific provisions shall apply:
 - (a) Expenditure for technical assistance to support the preparation of rural development programmes and the setting up of management and control systems may be eligible before the date of adoption of the Commission decision for the approval of the rural development programme, but not earlier than 1 January 2014;

- (b) Investment projects under rural development programmes shall remain eligible for Union financing provided they do not, within five years from the final payment by the operating structure, undergo a substantial modification;
- (c) In case of standard unit costs, lump sums not exceeding EUR 100 000 of public contribution and flat-rate financing, determined by the application of a percentage to one or several defined categories of costs, the EU is covering only the amounts as laid down for each measure in the programmes and as defined by the respective IPARD Agency in advance of the call for applications.

Article 32 Audit trail

The NAO shall ensure that all relevant information is available to ensure a sufficiently detailed audit trail. This information shall include documentary evidence of the authorisation of payment requests, of the accounting and payment of such requests, and of the treatment of advances, guarantees and debts.

Article 33 Payments of the Union contribution

- (1) Payment of the Union contribution shall be made within the limits of the funds available.
- (2) Payments shall take the form of pre-financing, interim payments and settlement of the final balance. In case of specific programmes and stand-alone actions, where contributions are required from both the Union and the IPA II beneficiary payments of the Union contribution to the financing of the actions concerned shall be calculated by applying the co-financing rate laid down in the financing decision to the eligible expenditure certified in accordance with point (a) of Clause 2(4) of Annex A to this Agreement subject to the maximum amount of the Union contribution set out in the financing decision.
- (3) By 15 January and 15 July each year, the IPA II beneficiary shall send to the Commission a forecast of its likely payment request for the financial year concerned and for the subsequent financial year, in relation to all IPA II policy areas and programmes. The Commission may ask for an update of the forecast as appropriate.
- (4) Payments by the Commission to the National Fund shall be made within 90 days after the conditions of Articles 34, 35 or 37 are met. This time limit for payment requests may be interrupted by the Commission in order to request all underlying documents necessary to clarify any elements relevant to the statement of expenditure, including information on the reporting of irregularities in accordance with Article 51(2) and Annex H to this Agreement.
- (5) Amounts set out in the programmes submitted by the IPA II beneficiary, in statements of expenditure, in payment requests and in expenditure mentioned in the implementation reports shall be denominated in euro. The IPA II beneficiary shall ensure that for the treasury flows between the Commission and the IPA II beneficiary the rate recorded for conversion between euro and national currency is the monthly accounting rate of the euro established by the Commission for the month during which the expenditure paid was recorded in the accounts of the National Fund or the operating structure concerned specified in the relevant Financing Agreement.

- (6) Payments by the Commission to the National Fund shall be made, subject to availability of budget appropriations, in euro to the euro account, in accordance with the provisions laid down in Articles 34, 35 and 37 and Sectoral or Financing Agreements. A euro account shall be opened for each programme and shall be used exclusively for transactions relating to that programme.
- (7) The IPA II beneficiary shall ensure that recipients receive the total amount of the public contribution in due time and in full. No specific charge or other charge with equivalent effect shall be levied which would reduce these amounts for recipients and the public contribution and assets thus financed shall not be subject to any administrative or judicial confiscation, seizure or similar deductions.
- (8) In cases where the balance on the euro account referred to in paragraph 6 is insufficient to cover the payment requests submitted by the recipients pending the receipt of payment from the Commission, the IPA II beneficiary shall use national funds to pre-finance the Union contribution. In these cases the national funds shall be treated as Union funds and paragraph 6 shall apply at the moment when the full payment of the national contribution, if any, and the Union contribution pre-financed from national funds is recorded in the accounts of the National Fund.
- (9) The IPA II assistance may only cover expenditure incurred and paid by the IPA II beneficiary in accordance with the eligibility rules as provided for by the Financial Regulation, its Rules of Application, the Common Implementing Regulation, the IPA II Implementing Regulation and Articles 29, 30 and 31 and as laid down in the Sectoral or financing agreements if applicable.
- (10) The exchange of information concerning financial transactions between the Commission and the structures and authorities referred to in Article 10 shall, where appropriate, be made by electronic means, using procedures agreed upon between the Commission and the IPA II beneficiary.

Article 34 Pre-financing

- (1) The minimum requirements for a pre-financing payment request are the following:
 - (a) the NAO has notified to the Commission the opening of the euro account concerned;
 - (b) the relevant Financing Agreement has been concluded and is in force.
- (2) The detailed provisions concerning the calculation of pre-financing payments for annual and multi-annual programmes shall be set in the Sectoral and/or Financing Agreements.
- (3) The total pre-financing amount shall be cleared at the latest when the programme is closed unless otherwise specified in the Sectoral or Financing Agreement.

Article 35 Interim payments

- (1) The minimum requirements for an interim payment are the following:
 - (a) the NAO has sent to the Commission a payment request including a statement of expenditure detailing incurred and paid costs and including information, where relevant, on pre-financing. The payment request shall also include

- relevant information on implementation as detailed in the Sectoral or Financing Agreement;
- (b) the ceilings for the Union contribution, as laid down in the financing decision, have been respected;
 - (c) the NIPAC has sent to the Commission the annual report on implementation in accordance with Article 59(1), including the most recent one;
 - (d) the audit authority has sent to the Commission, in accordance with point (b) of Clause 5(3) of Annex A to this Agreement, the most recent annual audit opinion and annual audit activity report;
 - (e) the relevant Financing Agreement is in force;
 - (f) any information requested by the Commission has been provided.
- (2) Without prejudice to the annual audit opinion and examination and acceptance of accounts decision, if it appears that the applicable rules have not been complied with, or funds have not been properly used, the payments can be suspended or interrupted in accordance with Article 60(4) of the Financial Regulation and the procedure laid down in the Articles 39 and 40.

Article 36 Examination and acceptance of accounts procedures

- (1) The purpose of the examination and acceptance of accounts procedure shall be to ensure that the expenditure incurred and paid by the IPA II beneficiary in the context of indirect management and which may be chargeable to the Union budget is compliant with the applicable Union rules and that the accounts are complete, accurate and true.
- (2) The examination and acceptance of accounts procedure shall consist of:
 - (a) the analysis of the statement of expenditure as submitted by the NAO;
 - (b) the analysis of the final report on implementation in accordance with Article 59(4);
 - (c) the analysis of the opinion sent by the audit authority on the statement of expenditure supported, where appropriate, by an audit activity report;
 - (d) the analysis of relevant documents as referred to in the Sectoral or Financing Agreement and, where appropriate, on-the-spot checks by the Commission, subject to no limitations or restrictions, on the content of those financial reports or statements and on the underlying transactions, including checks made with recipients;
 - (e) establishment by the Commission of the amount of expenditure recognised as accepted to the Union budget, following, where necessary, a contradictory procedure and after the IPA II beneficiary has been notified;
 - (f) calculation of the financial correction arising from the difference between declared expenditure and expenditure recognised as accepted to the Union budget;
 - (g) recovery or repayment by the Commission of the balance arising from the difference between accepted expenditure to the Union budget and the sums already paid to the IPA II beneficiary.

- (3) The examination and acceptance of accounts procedure referred to in paragraph 2 is without prejudice to the possibility for the Commission to recover non eligible expenditure at a later stage on the basis of audits or inspections carried out during or after the implementation of the programme.

Article 37 Settlement of the final balance

- (1) The minimum requirements for settlement of the final balance are the following:
- (a) the NAO has sent to the Commission a final payment application, if applicable, and a final statement of expenditure;
 - (b) the NIPAC has sent to the Commission the final report on implementation in accordance with Article 59(4);
 - (c) the audit authority has sent to the Commission, in accordance with point (iii) of Clause 5(3)(b) of Annex A to this Agreement, an opinion on the final statement of expenditure, supported where appropriate by a final audit activity report;
 - (d) the relevant Financing Agreement is in force;
 - (e) the Commission has completed the examination and acceptance of accounts procedure as foreseen in Article 36.
- (2) Where no request for final payment is made, the NAO has to provide a final financial declaration to the Commission.

Article 38 De-commitment of unused funds in case of multi-annual programmes with split commitments

- (1) The Commission shall automatically de-commit any portion of a budgetary commitment for a programme that, by 31 December of the fifth year following that of the budgetary commitment, has not been used for the purpose of pre-financing or making interim payments or for which the NAO has not presented any certified statement of expenditure or any payment application. An earlier deadline may be specified in a Sectoral or Financing Agreement.
- (2) The Commission shall inform the NAO in good time whenever there is a risk of de-commitment as referred to in paragraph 1.

Article 39 Interruption of payments

- (1) Notwithstanding the time limit[s] for payments set out in Article 33(4), the Commission may interrupt payments to the IPA II beneficiary fully or partially for the purpose of carrying out further checks where:
- (a) reliable information comes to the notice of the Commission indicating a significant deficiency in the functioning of the internal control system or that the expenditure certified by the entity concerned is linked to a serious irregularity and has not been corrected;
 - (b) the interruption is necessary to prevent significant damage to the financial interests of the Union.

- (2) The Commission may limit the interruption to the part of the expenditure covered by the payment claim affected by the elements referred to in paragraph 1. The Commission shall inform the IPA II beneficiary immediately of the reason of interruption and shall ask for its immediate observations and to remedy the situation if necessary. The interruption shall be ended by the Commission as soon as the necessary measures have been taken.

Article 40 Suspension of payments

- (1) The Commission may suspend payments to the IPA II beneficiary, in particular when systemic errors are detected which call into question the reliability of the internal control systems of the entity concerned or the legality and regularity of the underlying transactions.
- (2) The IPA II beneficiary shall be given the opportunity to present its observations within a period of two months before the Commission decides on a suspension in accordance with paragraph 1.
- (3) The Commission shall end the suspension when the IPA II beneficiary has taken the necessary measures to remedy the systemic errors.

If the IPA II beneficiary has not taken such measures, the Commission may decide to cancel all or part of the IPA II contribution to the programme in accordance with Article 43.

Article 41 Recovery of funds

- (1) Any situation as defined in Article 51(5) occurring at any time during the implementation of IPA II assistance or being the result of an audit may lead to the recovery of the funds by the Commission from the IPA II beneficiary.
- (2) The NAO shall recover the Union contribution paid to the IPA II beneficiary from those who were in any situation defined in Article 51(5) or benefited from it, in accordance with national recovery procedures for public funds. The fact that the NAO does not succeed in recovering all or part of the funds shall not prevent the Commission from recovering the funds from the IPA II beneficiary.

Article 42 Financial adjustments by the IPA II beneficiary

The NAO shall make financial adjustments where any situation defined in Article 51(5) is detected in actions or programmes, by cancelling all or part of the Union contribution to the actions or programmes concerned. The NAO shall take into account the nature and gravity of the irregularities and the financial loss to the Union contribution.

Article 43 Financial corrections by the Commission

- (1) In order to ensure that the IPA II funds have been used in accordance with the applicable rules, the Commission shall apply the examination and acceptance of accounts procedures as specified in Article 36 and financial correction mechanisms in accordance with Article 17 of the IPA II Implementing Regulation and as detailed in Sectoral or Financing Agreements.

- (2) A financial correction may arise from the following:
 - (a) identification of any situation defined under Article 51(5); or
 - (b) identification of a weakness or deficiency in the management and control systems of the IPA II beneficiary;
 - (c) follow up by the Commission on the reports and opinions of the audit authority.
- (3) If the Commission finds that expenditure under the programmes covered by IPA II has been incurred and paid in a way that has infringed applicable rules, it shall decide what amounts are to be excluded from Union financing.
- (4) The calculation and establishment of any such corrections, as well as the related recoveries, shall be made by the Commission, following the criteria and procedures provided for in paragraphs 5 to 7 of this Article and Articles 36 and 44.
- (5) Financial corrections shall be made as appropriate by compensation, in the situations referred to in paragraph 2.
- (6) The Commission shall apply the financial corrections on the basis of identification of the amounts unduly spent and on the financial implications for the budget. Where such amounts cannot be identified precisely in order to apply individual corrections, the Commission may apply flat-rate corrections or corrections based on an extrapolation of the findings.
- (7) When deciding the amount of a correction, the Commission shall take into account the nature and gravity of any situation defined in Article 51(5) and/or the extent and financial implications of the weaknesses or the deficiencies found in the management and control system in the programme concerned.

Article 44 Procedure for financial corrections and acceptance of accounts

- (1) Before taking a decision on a financial correction, including the ones taken on the basis of the examination and acceptance of accounts procedure, the Commission shall inform the NAO of its provisional conclusions and request his/her comments within two months.

Where the Commission proposes a financial correction based on an extrapolation of the findings or at a flat rate pursuant to Article 43(6), the IPA II beneficiary shall be given the opportunity to provide information which would allow the Commission to establish the actual extent of any situation defined in Article 51(5), through an examination of the documentation concerned. In agreement with the Commission, the IPA II beneficiary may limit the scope of this examination to a proportion or sample of the documentation concerned. Save for duly justified cases, the time allowed for this examination shall not exceed a period of two months after the two-month period referred to in the first subparagraph. Further details may be set out in the Sectoral or Financing Agreement.

- (2) The Commission shall take a decision after taking into account any evidence supplied by the IPA II beneficiary.

Article 45 Re-use of the Union contribution

- (1) The resources cancelled from the Union contribution following financial corrections pursuant to Article 43 shall be paid to the Union budget.
- (2) The contribution cancelled or recovered by the IPA II beneficiary in accordance with Article 42 may not be re-used for the activity or activities that were the subject of the recovery or the adjustment, nor, where the recovery or adjustment follows a systemic irregularity, for on-going activities within the whole or part of the programme or action in which the systemic irregularity occurred.

Article 46 Repayment

- (1) The IPA II beneficiary shall make any repayment to the general budget of the Union before the due date indicated in the recovery order drawn up in accordance with Article 79 of the Financial Regulation. The due date shall be the last day of the second month following the issuing of the order.
- (2) Any delay in repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

TITLE III CLOSURE OF A PROGRAMME

Article 47 Closure of a programme under indirect management by the IPA II beneficiary

- (1) The Commission shall notify in writing the closure of a programme to the IPA II beneficiary.
- (2) The Commission shall not close a programme and shall not settle the final balance to the IPA II beneficiary without prior examination and acceptance of the accounts as provided for in Article 36.
- (3) The closure of a programme is without prejudice to the right of the Commission to undertake financial corrections at a later stage.
- (4) More detailed rules on the closure of programmes may be set out in Sectoral or Financing Agreements.

Article 48 Closure of a programme under direct management and indirect management with entities other than the IPA II beneficiary

- (1) A programme is closed when all the contracts and grants funded by this programme have been closed.
- (2) The Commission shall notify in writing the closure of a programme to the IPA II beneficiary.
- (3) The closure of a contract or grant is without prejudice to the right of the Commission to undertake financial corrections at a later stage.

- (4) More detailed rules on the closure of programmes may be set out in Sectoral or Financing Agreements.

Article 49 Retention of documents

The IPA II beneficiary shall retain for six years from the final date for operational implementation of a financing agreement, all documents relevant for the procurement and grant award procedures, contracts, addendum, relevant correspondence and all relevant documents relating to payments and recoveries.

The time period referred to in the first subparagraph shall be interrupted either in case of legal proceedings or by a duly justified request of the Commission.

TITLE IV SUPERVISION, CONTROL AND AUDIT AND PROTECTION OF FINANCIAL INTERESTS

Article 50 Supervision, control and audit by the Commission and the European Court of Auditors

- (1) All Financing Agreements as well as all resulting programmes, actions and subsequent contracts shall be subject to supervision, control and audit by the Commission, including the European Anti-Fraud Office (OLAF), and audits by the European Court of Auditors.

Under indirect management by the IPA II beneficiary, this also includes the right of the Commission and the Union Delegation in the Republic of Albania to, as appropriate, carry out measures such as:

- (a) ex-ante verification of tendering and contracting carried out by the related operating structures;
- (b) ex-post controls of tendering, contracting, contract execution, including financial management thereof and programme activities carried out by the related operating structures;
- (c) supervision concerning the functioning of the underlying management and control systems.

The duly authorised agents or representatives of the Commission and of OLAF shall have the right to carry out any technical and financial verification that the Commission or OLAF may consider necessary to follow the implementation of a programme, action or contract including visits of sites and premises at which IPA II funded activities are implemented. The Commission shall give the national authorities concerned advance notice of such missions.

- (2) The IPA II beneficiary shall designate a service (an Anti-fraud coordination service)¹⁷, to facilitate effective cooperation and exchange of information, including information of an operational nature, with OLAF.

¹⁷ This service does not form part of the structures referred to in Article 10 and its establishment is thus not a pre-requisite for entrusting budget implementation tasks.

The service shall under indirect management be tasked with coordinating administrative and operational obligations and activities and propose amendments to national legislation as appropriate in order to protect the financial interests of the Union. The service shall, inter alia, lead the creation/implementation of national strategies to protect the financial interests of the Union, identify possible weaknesses in national systems for managing Union funds including disbursed IPA II assistance, ensure sufficient human resources capacity for these tasks, including training of fraud-prevention staff, support cooperation between national administrations, prosecution authorities and OLAF, share information on irregularities and suspected fraud cases with national administrations and OLAF and ensure the fulfilment of all the obligations under Regulation (EC, Euratom) No 883/2013 of the European Parliament and of the Council¹⁸, Council Regulation (Euratom, EC) No 2988/1995¹⁹ and Council Regulation (EC, Euratom) No 2185/1996²⁰.

- (3) The IPA II beneficiary shall supply all requested information and documents including any computerised data and take all suitable measures to facilitate the work of the persons instructed to carry out audits or inspections.
- (4) The IPA II beneficiary shall maintain records and accounts adequate to identify the services, supplies, works and grants financed under the related Financing Agreement. The IPA II beneficiary shall also ensure that the agents or representatives of the Commission, including OLAF, have the right to inspect all relevant documentation and accounts pertaining to items financed under the related Financing Agreement and assist the European Court of Auditors to carry out audits relating to the use of IPA II assistance.
- (5) In order to ensure the efficient protection of the financial interests of the Union, the Commission, including OLAF, may also conduct documentary and on-the-spot checks and inspections in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (EC, Euratom) No 2185/1996. These checks and inspections shall be prepared and conducted in close collaboration with the IPA II beneficiary, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that it can provide all the requisite help. The IPA II beneficiary shall identify a service which will assist at OLAF's request in conducting investigations in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (EC, Euratom) No 2185/1996. The service referred to in paragraph 2 can fulfil this task if it has administrative and criminal investigative powers. If the IPA II beneficiary wishes, the on-the-spot checks and inspections may be carried out jointly. Where the participants in IPA II funded activities resist an on-the-spot check or inspection, the IPA II beneficiary, acting in accordance with national rules, shall give Commission/OLAF inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

¹⁸ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, (OJ L 248, 18 September 2013, p.1).

¹⁹ Council Regulation (EC, Euratom) No 2988/1995 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23 December 1995, p.1).

²⁰ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities financial interests against fraud and other irregularities, (OJ L 292, 15 November 1996, p. 2).

The Commission/OLAF shall report as soon as possible to the IPA II beneficiary any evidence or suspicion relating to a fraud or irregularities which has come to its knowledge in the course of an on-the-spot check or inspection. In any event, the Commission/OLAF shall be required to inform the above-mentioned authority of the result of such checks and inspections.

- (6) The controls and audits described above are applicable to all recipients and sub-contractors who have received IPA II assistance, including all related information to be found in the documents of the responsible authority in the IPA II beneficiary concerning the national contribution, if any.
- (7) Without prejudice to the responsibilities of the Commission and the European Court of Auditors, under indirect management, the accounts and operations of the National Fund and, where applicable, operating structures may be checked at the discretion of the Commission by the Commission itself or by an external auditor assigned by the Commission.

Article 51 Protection of the financial interests of the Union

- (1) In accordance with Article 60(3) of the Financial Regulation, the IPA II beneficiary entrusted with budget implementation tasks of IPA II assistance shall prevent, detect and correct irregularities and fraud when executing those tasks. To this end, the IPA II beneficiary shall carry out, in accordance with the principle of proportionality, ex ante and ex post controls including, on-the-spot checks on representative and/or risk-based samples of transactions, to ensure that the actions financed from the budget are effectively carried out and are implemented correctly. The IPA II beneficiary shall also recover funds unduly paid and bring legal proceedings where necessary in this regard.
- (2) The IPA II beneficiary shall ensure investigation and effective treatment of suspected cases of fraud, conflict of interest and irregularities and shall under indirect management ensure the functioning of a control and reporting mechanism as referred to in Article 16 of the IPA II Implementing Regulation. The IPA II beneficiary shall report suspected fraud and other irregularities which have been the subject of a primary administrative or judicial finding, without delay to the Commission and keep the latter informed of the progress of administrative and legal proceedings. Reporting shall be done by electronic means using the module provided by the Commission for this purpose. In addition to the reporting provisions set in Annex H to this Agreement, further details may be laid down in the Sectoral or Financing Agreement.
- (3) Furthermore, the IPA II beneficiary shall under indirect management, take any appropriate measure to prevent and counter any active or passive corruption practices at any stage of the procurement procedure or grant award procedure or during the implementation of the corresponding contracts.
- (4) The IPA II beneficiary, including the personnel responsible for the programming and implementation of the tasks of the IPA II funded activities, shall take whatever precautions necessary to avoid any risk of conflict of interests and shall inform the Commission immediately of any such conflict of interest or any situation likely to give rise to any such conflict.
- (5) For the purpose of this article the following definitions shall apply:

- (a) *Error* means non-deliberate clerical and technical errors committed by the IPA II beneficiary or a recipient of IPA II assistance;
- (b) *Irregularity* means any infringement of a provision of applicable rules and contracts resulting from an act or an omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Union by charging an unjustified item of expenditure to the general budget;
- (c) *Economic operator* means any natural or legal person or other entity taking part in the implementation of IPA II assistance;
- (d) *Systemic irregularity* means any irregularity that may be of a recurring nature, with a high probability of occurrence in similar types of operations, which result from a serious deficiency in the effective functioning of the management and control systems, including a failure to establish appropriate procedures in accordance with applicable rules;
- (e) *Fraud* means any intentional act or omission relating to: the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the Union or budgets managed by, or on behalf of, the European Union, non-disclosure of information in violation of a specific obligation with the same effect or the misapplication of such funds for purposes other than those for which they were originally granted;
- (f) *Suspected fraud* means an irregularity giving rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, as referred to above;
- (g) *Active corruption* means the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the financial interests of the Union;
- (h) *Passive corruption* means the deliberate action of a civil servant, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the financial interests of the Union;
- (i) *Conflict of interests* means where the impartial and objective exercise of the functions of a financial actor or other person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a recipient;
- (j) *Primary administrative or judicial finding* means a first written assessment by a competent authority, either administrative or judicial, concluding on the basis of specific facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be revised or withdrawn as a result of developments in the course of the administrative or judicial procedure.

The definitions listed in this article shall not be construed as introducing new types of crime to the Republic of Albania penal code or changes there to.

SECTION VI MONITORING, EVALUATION AND REPORTING

TITLE I MONITORING

Article 52 IPA monitoring committee

- (1) The Commission and the IPA II beneficiary shall set up an IPA monitoring committee no later than six months after the entry into force of the first Financing Agreement. This committee shall also fulfil the responsibilities of the IPA monitoring committee under Regulation (EC) No 1085/2006.
- (2) The IPA monitoring committee shall review the overall effectiveness, efficiency, quality, coherence, coordination and compliance of the implementation of all actions towards meeting the objectives set out in the Financing Agreements and the country strategy papers. For this purpose, it shall, where relevant, base itself on the information provided by the sectoral monitoring committees.
- (3) The IPA monitoring committee may make proposals to the Commission, the NIPAC and the NAO for ensuring better coherence and coordination of IPA II assistance as provided for in the country strategy papers and, if relevant, the multi-country strategy papers or in the IPA II Regulation, and to enhance the overall efficiency, effectiveness, impact and sustainability of such assistance. It may also make recommendations for corrective actions to the relevant sectoral monitoring committee(s) in order to ensure the achievement of IPA II objectives and enhance the efficiency and effectiveness of the IPA II assistance. For this purpose, it shall, where relevant, take into account the conclusions and recommendations drawn in monitoring and evaluations launched by either the Commission and/or the IPA II beneficiary.
- (4) The IPA monitoring committee shall adopt its rules of procedure in agreement with the NIPAC, the NAO and the Commission.
- (5) The IPA monitoring committee shall be composed of representatives of the Commission, the NIPAC and other relevant national authorities and bodies of the IPA II beneficiary and, where relevant, international organisations, including international financial institutions and other stakeholders, such as civil society and private sector organisations. The representatives of stakeholders shall be chosen according to rules and criteria defined in the rules of procedure of the IPA monitoring committee and in agreement with the Commission. A representative of the Commission and the NIPAC shall co-chair the IPA monitoring committee meetings.
- (6) The IPA monitoring committee shall meet at least once a year. Ad hoc meetings may also be convened at the initiative of the Commission or of the IPA II beneficiary, in particular on a thematic basis.
- (7) Where under direct management sectoral monitoring committees, as referred to in Article 53, are not set up, the IPA monitoring committee shall fulfil the functions listed in paragraph 3 of that Article.

Article 53 Sectoral monitoring committee

- (1) Under indirect management by the IPA II beneficiary, sectoral monitoring committees shall be set up by the IPA II beneficiary by policy area or by programme, including at sector level where appropriate, no later than six months after the entry into force of the first Financing Agreement related to the respective policy area or programme following the consultation with the Commission. When appropriate, sectoral monitoring committees may be set up on an ad hoc basis under other implementation methods.
- (2) Each sectoral monitoring committee shall review the effectiveness, efficiency, quality, coherence, coordination and compliance of the implementation of the actions in the policy area or programme and their consistency with the relevant national and, whenever relevant, regional sector strategies. It shall measure progress in relation to achieving the objectives of the actions and their expected outputs, results and impact by means of indicators related to a baseline situation, as well as progress with regard to financial execution.
- (3) Supported by the reports provided by the operating structure(s), the sectoral monitoring committees shall in particular:
 - (a) review the progress towards meeting the objectives, achieving the planned outputs and results, and assessing the impact and sustainability of the on-going programmes and actions while ensuring coherence with the on-going policy dialogue, the related national and regional sector strategies and multi-country and/or regional activities in the country;
 - (b) review annual implementation reports, including financial execution of the actions;
 - (c) examine relevant findings and conclusions as well as proposals for remedial follow-up actions stemming from the on-the-spot checks, monitoring and evaluations if available;
 - (d) discuss any relevant aspects of the functioning of the management and control systems;
 - (e) discuss any problematic issues and actions;
 - (f) if necessary, consider or make proposals to amend programmes and any other corrective action to ensure the achievement of the objectives of the actions and enhance the efficiency, effectiveness, impact and sustainability of IPA II assistance;
 - (g) review information, publicity, transparency, visibility and communication measures taken, in accordance with Articles 23 and 24.

Other specific provisions may be laid down in the Sectoral or Financing Agreements.

- (4) Operational conclusions, including any recommendations, will be drawn at the end of the sectoral monitoring committees meetings. These conclusions shall be subject to adequate follow-up and a review in the following committee meetings and shall be the basis for reporting to the IPA monitoring committee on progress made in accordance with Article 52(2).
- (5) Each sectoral monitoring committee shall adopt its rules of procedure, to be drawn up in consultation with the operating structure, the NIPAC and the Commission.

- (6) The sectoral monitoring committee shall be composed of representatives of relevant national authorities and bodies, other stakeholders such as economic, social and environmental partners and, where relevant, international organisations, including international financial institutions and civil society. The Commission shall participate in the work of the committee. The representatives of the stakeholders shall be chosen according to the rules and criteria defined in the rules of procedure. A senior representative of the IPA II beneficiary shall chair the sectoral monitoring committee meetings. Depending on the policy area or programme, the Commission may co-chair the committee meetings.
- (7) The sectoral monitoring committees shall meet at least twice a year. Ad hoc meetings may also be convened.
- (8) During the implementation of programmes and actions pursuant to Regulation (EC) No 1085/2006 and to the IPA II Regulation, sectoral monitoring committees established pursuant to Article 19 of the IPA II Implementing Regulation shall also consider the work undertaken by sectoral monitoring committees established pursuant to Regulation (EC) No 1085/2006, in particular regarding programmes and actions in the relevant IPA component or policy area or sector.

Article 54 Other monitoring activities

- (1) The IPA II beneficiary shall apply transparent, non-discriminatory and effective review procedures concerning the actual implementation of the tasks entrusted including regular, systematic and properly planned ex-post monitoring reviews to assess the relevance, efficiency, effectiveness, impact and sustainability of the IPA II assistance.
- (2) Other monitoring platforms may be set up where appropriate. Their activities and outcomes shall be reported to the IPA monitoring committee.

TITLE II EVALUATION

Article 55 General principles of evaluation of IPA II Assistance

- (1) IPA II assistance shall be subject to evaluations, in accordance with Article 30(4) of the Financial Regulation, with the aim of improving its relevance, coherence, quality, efficiency, effectiveness, Union added value, consistency and synergy with the relevant policy dialogue.
- (2) The objectives of evaluation shall include:
 - (a) assessing the conditions for the implementation of the assistance, its performance, both prospective and actual, and its consistency with the policy objectives set out in view of achieving long-term, impacts and objectives;
 - (b) assessing the relevance of agreed result and impact indicators to achieve long-term, global impacts and objectives;
 - (c) assessing the programming process and monitoring system and, where appropriate, implementation arrangements;
 - (d) achieving accountability of the assistance to the institutions of the EU and to the public with respect to the value for money and the use of funds;

- (e) drawing useful lessons aiming at improving the quality and design of future policies and interventions.

For these purposes, evaluations shall be completed in a timely manner and their findings shall be taken into account in the following programming and implementation cycle, as well as in the decision on resource allocation.

- (3) Evaluations may be carried out at policy, strategic, thematic, sectoral, programme and operational level as well as at country or regional level.
- (4) *Ex-ante* evaluations may be carried out. These evaluations shall aim to optimise the allocation of budgetary resources under programmes and improve programming quality. They shall identify and appraise the disparities, gaps and potential for development, the goals to be achieved, the results expected, the quantified targets, the coherence, if necessary, of the strategy proposed and the quality of the procedures for implementation, monitoring, evaluation and financial management.
- (5) *Interim* evaluations shall be carried out where appropriate, in accordance with Article 18 of the Rules of Application of the Financial Regulation. The interim evaluation shall assess the performance of the assistance and results obtained and lessons learned in terms of the human and financial resources allocated in order to verify that they are consistent with the objectives set. In addition, the Commission may carry out evaluations of the strategy papers at country or regional level.
- (6) *Ex-post* evaluations shall assess the relevance, Union added value, efficiency, effectiveness, impact and sustainability of IPA II assistance in view of achieving the set objectives.
- (7) Evaluations shall take into account the objective of sustainable development and the relevant Union legislation. The longer-term impacts and the sustainability of effects of the IPA II assistance shall be evaluated in accordance with the rules and procedures applicable at that time.
- (8) The results of evaluations shall be taken into account by the IPA monitoring committee and the sectoral monitoring committees.
- (9) The Commission shall develop evaluation methods, including quality standards and objective and measurable indicators. The IPA II beneficiary shall follow such methods when carrying out the evaluations.

Article 56 Evaluations by the Commission

- (1) When the Commission undertakes evaluations in accordance with Article 12 and 17 of the Common Implementing Regulation, the IPA II beneficiary shall support the Commission in providing all the data and information necessary, in line with the international commitments on aid effectiveness, to permit the monitoring and evaluation of the actions concerned, including indicators to measure progress on a country level as provided for in the country strategy papers.

Article 57 Evaluations by the IPA II beneficiary under indirect management

- (1) An IPA II beneficiary which has been entrusted budget implementation tasks of IPA II assistance shall be responsible for conducting, evaluations of the programmes it manages, in accordance with Article 55.

- (2) The IPA II beneficiary shall, in consultation with the Commission, draw up an evaluation plan presenting the evaluation activities which it intends to carry out in the different phases of the implementation.

TITLE III REPORTING

Article 58 General reporting requirements to the Commission

By 15 February of the following financial year, the NIPAC shall provide the Commission with an annual report on the implementation of IPA II assistance. The report shall follow the model attached to the Financing Agreement and shall include in particular:

- (a) involvement of the IPA II beneficiary in programming, monitoring and evaluation, communication and visibility efforts;
- (b) problems encountered in meeting the required conditionalities and in ensuring sustainability, related measures taken/planned, main horizontal problems encountered and mitigating measures taken, problems encountered during implementation of activities;
- (c) information on the indicators set up in the country strategy papers and in the programming documents specified in Section III of this Framework Agreement.

Any other reporting requirements may be set out in the Sectoral or Financing Agreements.

Article 59 Reporting requirements to the Commission under indirect management by the IPA II beneficiary in accordance with Article 60(5) of the Financial Regulation

- (1) In addition to the requirements referred to in Article 58, the NIPAC shall, with copy to the NAO and the audit authority provide the Commission with an annual report on the implementation of the entrusted budget implementation tasks by 15 February of the following financial year. The report shall be based on information provided by the operating structures, shall follow the model attached to the Financing Agreement and shall include in particular:
- (a) a summary of main achievements;
 - (b) a summary of any significant problems encountered in implementing the budget implementation tasks entrusted and any subsequent measures taken;
 - (c) quantitative and qualitative information on the progress made in implementing the objectives, results, indicators set up in the country strategy papers and programming documents specified in Section III;
 - (d) recommendations for corrective/further actions.
- (2) By 15 February of the following financial year, the NAO shall, with copy to the NIPAC and the audit authority, provide the Commission with:
- (a) annual financial reports or statements on accrual basis as specified in the Financing Agreement, drawn up in accordance with the format of the annual financial reports or statements attached to the Financing Agreement, which clearly distinguishes costs accepted and payments made.

- (b) an annual management declaration per programme drawn up in accordance with Annex C to this Agreement and covering:
 - (i) the overall responsibility for the financial management of EU funds in the Republic of Albania and for the legality and regularity of the underlying transactions;
 - (ii) the responsibility for the effective functioning of the management and internal control systems under IPA II;

If the confirmations required in accordance with Annex C to this Agreement, are not available, the NAO shall inform the Commission of the reasons and the potential consequences along with the actions taken or being planned to remedy the situation and to protect the interests of the European Union; and

- (c) a summary of the reports on the internal audits and of controls carried out by the management structure, providing a sound basis for the management declaration. Such summary shall include an analysis of the nature and extent of errors and weaknesses identified in systems, corrective action taken or planned as well as follow-up given to the reports issued by the audit authority.
- (3) By 15 March of the following financial year, the audit authority shall submit an audit opinion to the Commission and the Government of the Republic of Albania with a copy to the NIPAC and the NAO, accompanied by the annual activity report of the audit authority, as detailed in point (ii) of Clause (5)(3)(b) of Annex A and in Annexes D and E to this Agreement.
 - (4) At the end of the implementation of each programme and by the deadline set in the Financing Agreement, the NIPAC shall - based on the reports from the operating structures referred to in Article 60(1) - submit a final report which shall cover the whole period of implementation and may include the last annual report.
 - (5) The NIPAC shall submit a final report on the implementation of IPA II assistance which shall cover the whole period of implementation of the programmes adopted from 1 January 2014 to 31 December 2020.
 - (6) The NAO shall report regularly on the data concerning the financial implementation using the electronic transmission of data. The detailed provision on the frequency, format and type of data transmitted shall be determined in the Financing Agreements.

Article 60 Reports by the operating structures under indirect management by the IPA II beneficiary

- (1) The operating structures shall deliver all the necessary information to the NIPAC and the NAO for the purposes of the reports referred to in Articles 58 and 59.
- (2) Depending on the action or programme under its responsibility, the operating structure may be required to draw up a comprehensive annual report covering the full financial year, to be submitted by the NIPAC to the Commission, after examination by the responsible sectoral monitoring committee. Any reporting requirements additional to those set in paragraph 1 shall be set out in the Sectoral or Financing Agreements.

Article 61 Language

All reports, assessments and any other documents relating to the preparation or implementation of IPA II programmes to be provided to the Commission shall be drafted in English.

SECTION VII PROVISIONS ON MULTI-ANNUAL ACTION PROGRAMMES WITH SPLIT COMMITMENTS

Article 62 Implementation principles for multi-annual action programmes with split commitments implemented under indirect management by the IPA II beneficiary

- (1) IPA II assistance may be implemented under indirect management through multi-annual action programmes with split commitments as referred to in Article 189(3) of the Financial Regulation and Article 6(3) of the Common Implementing Regulation. Such programmes shall be prepared by the Commission on the basis of sector operational programme(s) or action documents as appropriate, drafted by the relevant operating structures. The sector operational programmes or action documents shall be established in close consultation with the Commission and the relevant stakeholders.

The sector operational programmes shall contain all the information required by the related Commission instructions, including inter alia:

- (a) an assessment of medium term needs and objectives;
 - (b) an overview of the consultation of the relevant stakeholders;
 - (c) a description of the chosen strategic actions;
 - (d) a financial table specifying, for each year, for each action and, in an indicative way, for each related activity the total amount of the Union contribution;
 - (e) the proposed evaluation and monitoring modalities;
 - (f) an indicative list of major projects, if any;
 - (g) where relevant, a description of the national structures and authorities for the management and control of the operational programme, in accordance with Article 10 and Annex A to this Agreement.
- (2) As part of a multi-annual action programme with split commitments referred to under paragraph 1 assistance may finance major projects. For the purpose of this Article, a "*major project*" means a project comprising of a series of works, activities or services which is intended, in itself, to accomplish a definite and indivisible task of a precise economic or technical nature, which has clearly identified goals and whose total cost exceeds EUR 10 million.
- (3) Major projects shall be submitted to the Commission for approval by the IPA II beneficiary. The decision approving the project shall define the physical object and the eligible expenditure. It shall be followed by a bilateral agreement with the IPA II beneficiary, laying down those elements.

- (4) When submitting a major project to the Commission, the IPA II beneficiary shall provide all the information required by the related Commission instructions, including inter alia:
- (a) information on the entity responsible for implementation;
 - (b) information on the nature of the investment;
 - (c) a timetable for the implementation;
 - (d) an assessment of the overall socio-economic balance of the operation;
 - (e) an analysis of the environmental impact and
 - (f) a financing plan.
- (5) For the purposes of this Article "*activity*" means a component of an action which can be clearly identified by its costs and EU contribution, as well as type of financing (e.g. procurement, grant, etc.) selected by the operating structures of the programmes concerned, or under their responsibility, that contributes to the objectives of an action. In the context of financial instruments, an activity is constituted by the financial contributions from a programme to financial instruments and the subsequent financial support provided by those financial instruments.
- (6) In case of major projects as referred to in paragraph 3, expenditure shall not be eligible before the Commission Decision approving the major project has been adopted.
- (7) In the framework of multi-annual programmes with split commitments, the Commission shall be entitled to request the prior submission of proposals also for activities that do not fall under the definition of major projects. Concerning these activities, expenditure shall not be eligible before the Commission has communicated formally to the IPA II beneficiary that the activity has been approved.
- (8) As regards the activities to be funded under IPA II assistance under multi-annual action programmes with split commitments as referred to in paragraph 1 which generate net revenue after their completion, the eligible expenditure shall be reduced in advance taking into account the potential of the activity to generate net revenue over a specific reference period that covers both implementation of the activity and the period after its completion.

For the purposes of this paragraph "*net revenue*" means cash in-flows directly paid by users for the goods or services provided by the activity, such as charges borne directly by users for the use of infrastructure, sale or rent of land or buildings, or payments for services less any operating costs and replacement costs of short-life equipment incurred during the corresponding period. Operating cost-savings generated by the activity shall be treated as net revenue unless they are offset by an equal reduction in operating. Where not all the investment cost directly related and necessary for the activity are eligible for funding under IPA II assistance, the net revenue shall be allocated pro rata to the eligible and non-eligible parts of the investment cost. The detailed provisions for calculation of the net revenue shall be set in the respective Financing Agreement.

- (9) This Article does not apply to multi-annual rural development programmes with split commitments.

SECTION VIII PROVISIONS ON CROSS-BORDER COOPERATION PROGRAMMES

TITLE I GENERAL PROVISIONS

Article 63 Forms of cross-border cooperation

- (1) Assistance under this Section shall aim at promoting good neighbourly relations, fostering Union integration and promoting socio-economic development through joint local and regional initiatives.
- (2) Cross-border cooperation shall provide assistance to the following:
 - (a) Cross-border cooperation between one or more Member States and one or more IPA II beneficiaries;
 - (b) Cross-border cooperation between two or more IPA II beneficiaries;
 - (c) Cross-border cooperation where countries eligible under the European Neighbourhood Instrument participate in IPA II Cross-border cooperation programmes.
- (3) This Section shall apply to cross-border cooperation referred to in points (b) and (c) of paragraph 2. The rules applicable to cross-border cooperation referred to in point (a) of paragraph 2 shall be set up in the financing agreements to be concluded pursuant to Article 8 of this Agreement.

Article 64 Additional definitions for cross-border cooperation

- (1) For the purposes of this Section the following definitions shall apply:
 - (a) "operation" means a project, contract, action or group of projects selected by the contracting authority of the programme concerned, or under its responsibility, contributing to the objectives of a thematic priority or thematic priorities to which it relates;
 - (b) "beneficiary" means a public or private body responsible for initiating or initiating and implementing operations;
 - (c) "public expenditure" means any public contribution to the financing of operations the source of which is the budget of national, regional or local public authorities, the budget of the Union related to IPA II assistance, the budget of associations of public authorities or public law bodies with a public service mission.

Article 65 Aid intensity and rate of IPA II assistance

- (1) The Commission decision adopting a cross-border cooperation programme shall fix the co-financing rate and the maximum amount of IPA II assistance, based either on:
 - (a) total eligible expenditure, including public and private expenditure, or
 - (b) public eligible expenditure

- (2) The Union co-financing rate at the level of each thematic priority shall not be less than 20% and not higher than 85% of the eligible expenditure. The co-financing rate for technical assistance referred to in Article 72 will be 100%.

TITLE II RULES FOR PROGRAMMING

Article 66 Thematic priorities and concentration of IPA II cross-border cooperation

- (1) A maximum of four thematic priorities as listed in Annex J to this Agreement shall be selected by the participating countries for each cross-border cooperation programme.
- (2) The cross-border cooperation programmes shall also include a specific budget allocation for technical assistance operations as indicated in Article 72.

Article 67 Geographical coverage

The participating countries and the Commission shall agree on the list of eligible regions which shall be included in the relevant cross-border cooperation programme.

Article 68 Preparation, assessment, approval and amendment of cross-border cooperation programmes

- (1) Cross-border cooperation programmes shall be drawn up in accordance with the model programme provided by the Commission and shall be prepared jointly by the participating countries.
- (2) For each selected thematic priority, the participating countries shall agree on the specific objectives, expected results, targets and indicators and the types of activities to be supported including the identification of the main target groups and beneficiaries.
- (3) The cross-border cooperation programme shall be submitted to the Commission for approval by electronic means, by the IPA II beneficiary where the contracting authority is located.
- (4) The Commission shall assess the consistency of cross-border cooperation programmes with the IPA II Implementing Regulation and their effective contribution to the selected thematic priorities defined in Annex J to this Agreement, and the objectives set out in the strategy papers.
- (5) The Commission shall make observations within three months of the date of submission of the cross-border cooperation programme. The participating countries shall provide to the Commission all necessary additional information and, where appropriate, revise the proposed cross-border cooperation programme.
- (6) When approving the cross-border cooperation programme following its formal submission, the Commission has to ensure that any of its observations have been adequately taken into account.
- (7) At the initiative of the participating countries or of the Commission in agreement with the participating countries cross-border cooperation programmes may be amended.

- (8) Requests for amendment of cross-border cooperation programmes submitted by the participating countries shall be duly substantiated and shall in particular set out the expected impact of the changes to the cross-border cooperation programme on achieving its objectives. These requests shall be accompanied by the revised programme. Paragraphs (3) to (6) shall apply to amendments of cross-border cooperation programmes.

Amendments can be requested in one or more of the following cases:

- (a) following the mid-term review of the strategy papers leading to changes in the strategies affecting substantially the cross border cooperation programmes, including changes in the location of the contracting authority or the financial plan;
- (b) following significant socio-economic changes in the programme area;
- (c) in order to take account of major changes in Union, national or regional priorities;
- (d) following the results of the evaluations referred to in Article 55.

Article 69 Bilateral Arrangements between participating countries for the management of cross-border cooperation programmes implemented under indirect management

- (1) Under indirect management the participating countries shall conclude for the whole duration of the cross-border cooperation programme a bilateral arrangement setting out their respective responsibilities for implementing the relevant cross-border cooperation programme. The bilateral arrangement shall include inter alia:
- (a) description of the main implementation structures and their roles and responsibilities;
 - (b) description of the management, financial, control and audit arrangements for the cross-border cooperation programme;
 - (c) arrangements concerning the main implementation procedures including process for the selection of operations and the arrangements for cross-border cooperation programme and operations level monitoring;
 - (d) arrangements for ensuring the legality and regularity of the expenditure incurred by the beneficiaries, and for ensuring that the verifications referred to in Clause 4(3)(b)(x) of Annex A to this Agreement are carried out;
 - (e) remedial measures in case of implementation difficulties;
 - (f) arrangements for guaranteeing the sound financial management of the funds allocated to the cross-border cooperation programme, including recovery of amounts unduly paid;
 - (g) arrangements for exemption of taxes referred to in Article 28.

TITLE III OPERATIONS

Article 70 Selection of operations

- (1) Operations selected under a cross-border cooperation programme shall deliver clear cross-border impacts and benefits.
- (2) Operations under cross-border cooperation programmes shall be selected by the contracting authority through calls for proposals covering the whole eligible area.
- (3) Participating countries may also identify operations outside call for proposals. In that event, the operations shall be specifically mentioned in the cross-border cooperation programme referred to in Article 68.
- (4) Operations selected for cross-border cooperation shall involve beneficiaries from at least two participating countries. Beneficiaries shall cooperate in the development and implementation of operations. In addition, they shall cooperate in either the staffing or the financing of operations or both.
- (5) An operation may be implemented in a single participating country, provided that cross-border impacts and benefits are identified.

Article 71 Beneficiaries

- (1) For cross-border cooperation programmes referred to in point (b) of Article 63(2), the beneficiaries shall be established in an IPA II beneficiary participating in the programme. For cross-border cooperation programmes referred to in point (c) of Article 63(2), the beneficiaries shall be established in an IPA II beneficiary or in a country under the European Neighbourhood Instrument participating in the programme.
- (2) One of the beneficiaries of an operation in a cross-border cooperation programme shall be designated by all the grant beneficiaries as the lead beneficiary.
- (3) The lead beneficiary shall assume responsibility for ensuring the financial implementation of the entire operation, monitor that the operation is implemented in accordance with the conditions set out in the contract and lay down the arrangements with other beneficiaries to guarantee the sound financial management of the funds allocated to the operation, including the arrangements for recovering amounts unduly paid.

Article 72 Technical assistance

- (1) Each cross-border cooperation programme shall include a specific budget allocation for technical assistance operations.
- (2) The amount of IPA II assistance to be allocated to technical assistance shall be limited to 10% of the total amount allocated to the cross-border cooperation programme.
- (3) Technical assistance operations may include inter alia:
 - (a) preparation, management, monitoring, evaluation, information, communication, networking, complaint resolution, control and audit activities related to the implementation of the cross-border cooperation programme;

- (b) activities to reinforce the administrative capacity for implementing the cross-border cooperation programme;
- (c) actions for the reduction of the administrative burden for beneficiaries, including electronic data exchange system, and actions to reinforce the capacity of, and exchange best practices between, authorities in the participating countries and of beneficiaries to administer and use IPA II assistance.

These actions may concern preceding and subsequent programming periods.

- (4) By way of derogation from Article 31(1), the expenditure for technical assistance to support the preparation of a cross-border cooperation programme and the setting up of management and control systems may be eligible before the date of adoption of the Commission decision for the approval of the cross-border cooperation programme, but not earlier than 1 January 2014.

TITLE IV IMPLEMENTATION

Article 73 Implementation Modes

- (1) Cross-border cooperation programmes shall be implemented under direct or indirect management.
- (2) Cross-border cooperation programmes shall be managed by one contracting authority as defined in the Commission decision approving the relevant cross-border cooperation programme.

TITLE V PROGRAMME STRUCTURES AND AUTHORITIES AND THEIR RESPONSIBILITIES

Article 74 Structures and authorities for CBC management

- (1) The following structures referred to in Article 10 shall be involved in the management of cross-border cooperation programmes in IPA II beneficiaries:
 - (a) NIPACs of the countries participating in the cross-border cooperation programme and, where applicable, the territorial cooperation coordinators;
 - (b) the NAO and the management structure of the participating IPA II beneficiary in which the contracting authority is located when the cross-border programme is implemented in indirect management;
 - (c) the operating structures in all the participating countries which shall cooperate closely in the programming and implementation of the relevant cross-border cooperation programme. In case of indirect management the operating structure shall include a contracting authority;
 - (d) the audit authority when the cross-border programme is implemented in indirect management.

- (2) The participating countries shall establish a Joint Monitoring Committee (hereinafter referred to as 'JMC') which shall also fulfil the role of the sectoral monitoring committee referred to in Article 53.
- (3) A Joint Technical Secretariat (hereinafter referred to as 'JTS') shall be set up to assist the Commission, the operating structures and the JMC.

Article 75 NIPAC

The NIPACs of the participating countries are jointly responsible for ensuring that the objectives set out in the proposed cross-border cooperation programmes are consistent with the objectives in the IPA II strategy papers.

Article 76 Operating structures

- (1) Operating structure(s) shall be established within the administration of each participating country to prepare, implement and manage the cross-border cooperation programmes. The same operating structure may be used for more than one cross-border cooperation programme.
- (2) In indirect management, the operating structure of the country entrusted with budget implementation tasks for a given cross-border cooperation programme shall also include a contracting authority.
- (3) The operating structures of the participating countries shall co-operate closely in tasks of mutual interest. They shall jointly fulfil the following functions and assume the following responsibilities:
 - (a) prepare the cross-border cooperation programmes in accordance with Article 68, or revisions thereof;
 - (b) prepare a bilateral arrangement in accordance with Article 69 in case of indirect management and ensure its implementation;
 - (c) cooperate in ensuring that the tasks referred to in paragraphs 4 and 5 of this Article are fulfilled;
 - (d) ensure participation to JMC meetings and other bilateral meetings;
 - (e) nominate their representative(s) to the JMC;
 - (f) set up the Joint Technical Secretariat (JTS) and ensure that it is adequately staffed;
 - (g) prepare and implement the strategic decisions of the JMC;
 - (h) support the work of the JMC and provide it with the information required to carry out its tasks, in particular data relating to the progress of the operational programme in achieving the specific objectives and targets per thematic priority as set up in the cross-border cooperation programme;
 - (i) establish a system to gather reliable information on the cross-border cooperation programme's implementation;
 - (j) draw up the annual and final implementation reports as referred to in Article 80;
 - (k) prepare and implement a coherent plan on communication and visibility;

- (1) draw up an annual work plan for the JTS, to be approved by the JMC;
- (4) If the cross-border cooperation programme is implemented under indirect management, the operating structure of the IPA II beneficiary where the contracting authority is located shall, in addition to the provisions in Clause 4 of Annex A to this Agreement:
 - (a) nominate the evaluation committee members and ensure that the evaluation committee includes one more voting member from the country where the contracting authority is not located, while the contracting authority will nominate, as it is its prerogative, the chair and the secretary of the committee;
 - (b) carry out operational follow-up and management of the operations in close cooperation with the other participating country;
- (5) If the operating structure of the IPA II beneficiary where the contracting authority is located cannot carry out the verifications as set out in Clause 4(3)(b)(x) of Annex A to this Agreement throughout the programme area, the participating countries shall agree on how such management verification functions shall be carried out. The arrangements for conducting such verifications shall be spelled out in the bilateral arrangement referred to in Article 69.

Article 77 Audit Authority

- (1) The audit authority for the cross border cooperation programme shall be the one from the country where the contracting authority is located.
- (2) The functions of the audit authority shall be those referred to in Clause 5 of Annex A to this Agreement.
- (3) Where the audit authority referred to in paragraph 1 does not have the authorisation to directly carry out its functions in the whole territory covered by the cross-border cooperation programme, it shall be assisted by a group of auditors comprising a representative of each country participating in the cross-border cooperation programme. The group of auditors shall be chaired by the audit authority of the IPA II beneficiary where the contracting authority for the cross-border cooperation programme is located. The specific arrangements for conducting such functions shall be spelled out in the bilateral arrangement referred to in Article 69.

Article 78 Joint Monitoring Committee (JMC)

- (1) The participating countries shall establish a JMC no later than six months from the entry into force of the first Financing Agreement.
- (2) Each participating country shall appoint its representatives to the JMC.
- (3) The JMC shall be composed of representatives of, the NIPACs or the territorial cooperation coordinators as appropriate, and representatives of the participating countries (national, regional, local authorities) including the cross-border cooperation operating structures, and where relevant other stakeholders such as civil society organisations. The Commission shall participate in the work of the JMC in an advisory capacity.

- (4) The participating country in which the contracting authority is not located shall chair the JMC.
- (5) The JMC shall meet at least twice a year. Ad-hoc meetings may also be convened at the initiative of the participating countries or the Commission.
- (6) The JMC shall adopt its rules of procedure to be drawn up in consultation with the operating structures and the Commission.
- (7) Each participating country has equal voting rights regardless of the number of representatives it has appointed.
- (8) The JMC shall:
 - (a) be responsible for identifying the thematic priorities, specific objectives, target beneficiaries and specific focus of each call for proposals which shall be endorsed by the Commission;
 - (b) examine and provide an advisory opinion on the list of operations selected through calls for proposals before the grant award decision. The contracting authority shall adopt the final decision on the award of grants;
 - (c) review the progress made in relation to achieving the specific objectives, expected results and targets per thematic priority as set out in the cross-border cooperation programme, on the basis of the information provided by the operating structures of the participating countries. Progress shall be monitored against the indicators set up in the cross-border cooperation programme;
 - (d) examine relevant findings and conclusions as well as proposals for remedial follow-up actions stemming from the on-the-spot checks, monitoring and evaluations if available;
 - (e) approve any proposal to revise the cross-border cooperation programme. Whenever needed, it can make proposals to amend the cross-border cooperation programme as referred to in Article 68, to ensure the achievement of the objectives of the cross-border cooperation programme and enhance the efficiency effectiveness, impact and sustainability of the IPA II assistance. The JMC can also make recommendations as to how to improve the implementation of the cross-border cooperation programme;
 - (f) examine and approve the communication and visibility plan for the cross-border cooperation programme;
 - (g) examine and approve the evaluation plan referred to in Article 57(2);
 - (h) examine and approve the annual and final reports on implementation referred to in Article 80;
 - (i) examine and approve the annual work plan of the Joint Technical Secretariat.
- (9) The JMC shall report to the IPA Monitoring Committee of the country where the contracting authority is located.

Article 79 Joint Technical Secretariat (JTS)

- (1) A JTS for each cross border cooperation programme shall be set up to assist the Commission, the operating structures and the JMC. It shall be located in the country in

which the contracting authority is located. The JTS may have an antenna office in the other participating country.

- (2) The operation of the JTS shall be financed from the technical assistance budget.
- (3) The JTS shall be staffed with nationals from both countries participating in the cross-border cooperation programme.
- (4) The JTS shall be managed by the operating structure where the contracting authority is located.
- (5) Each year a work plan for the JTS shall be prepared by the operating structures and sent to the JMC for examination and approval.
- (6) The JTS may be responsible, inter alia, for the following tasks:
 - (a) organise meetings of the JMC, including draft and distribute minutes;
 - (b) assist potential applicants in partner search and project development, organising information days and workshops; develop and maintain a network of stakeholders;
 - (c) advise grant beneficiaries in project implementation;
 - (d) support the work of the evaluation committees;
 - (e) prepare, conduct and report on monitoring visits to cross-border cooperation operations;
 - (f) establish a system for gathering reliable information on the cross-border cooperation programme implementation;
 - (g) provide inputs to annual and final implementation reports on the cross-border programme;
 - (h) plan and implement information campaigns and other activities related to raising public awareness on the cross-border cooperation programme including the publication of publicity material on the cross-border programme and maintenance of the cross-border cooperation programme website.

TITLE VI REPORTING

Article 80 Annual and final implementation reports

- (1) In accordance with Article 60, the operating structures shall prepare an annual- and a final implementation report for each cross-border cooperation programme for the purposes of the reporting requirements in Articles 58 and 59. The final report may include the last annual report. The report shall follow the model attached to the Financing Agreement and shall include inter alia:
 - (a) the progress made in implementing the cross-border programme and in particular in achieving the specific objectives per thematic priorities, including quantitative and qualitative elements indicating progress in relation to targets;
 - (b) information on the steps taken to ensure the quality and effectiveness of implementation, in particular:

- (i) monitoring measures, including data collection arrangements, and where applicable evaluation measures;
 - (ii) a summary of any significant problems encountered in implementing the cross-border programme and any corrective actions taken;
 - (iii) recommendations for corrective actions;
- (c) measures taken to ensure visibility of and publicise the cross-border programme;
 - (d) detailed information about the financial execution of the cross-border programme.

The information referred to in point (d) shall be provided by the contracting authority of the programme and be included in the reports only under indirect management.

- (2) After examination and approval of the JMC, the reports shall be sent to the NIPAC and the NAO as appropriate, of the participating IPA II beneficiary where the contracting authority is located, for submission to the NIPAC of the other participating countries and to the Commission in the framework of the reporting requirements as set out in Articles 58 and 59.

SECTION IX FINAL PROVISIONS

Article 81 Communication

Exchange of information and documents between the Commission and the IPA II beneficiary concerning programmes, action documents, and their amendments as well as documentation relating to implementation of actions shall to the extent possible be made by electronic means. The arrangements concerning the exchange of data shall be agreed between the Commission and the IPA II beneficiary and set out in the Sectoral or Financing Agreement.

Article 82 Consultation

- (1) Any question relating to the execution or interpretation of this Agreement shall be subject to consultation between the Parties to this Agreement leading, where necessary, to an amendment of this Agreement.
- (2) Where there is a failure to carry out an obligation set out in this Agreement which has not been the subject of remedial measures taken in due time, the Commission may suspend the financing of activities under IPA II.
- (3) The IPA II beneficiary may renounce in whole or in part the implementation of IPA II assistance. To this aim, the IPA II beneficiary shall provide advance notice of at least 6 months. The Parties to this Agreement shall set out the details of the said renunciation in an exchange of letters or by amending the relevant Financing Agreement, as the case may be.

Article 83 Settlement of differences, arbitration

- (1) Differences arising out of the interpretation or execution of this Framework Agreement shall be settled amicably through consultation as provided for under Article 82. The Parties shall communicate their positions and any solution that they consider possible in writing. A Party shall reply to a request sent by the other Party for an amicable settlement within 30 days. Upon expiry of this period, or if an attempt to reach an amicable settlement has not led to an agreement within 60 days since the first request, any of the Parties may notify the other one that it considers the procedure of amicable settlement have failed.
- (2) Where no amicable settlement can be reached, either Party may refer the matter to arbitration by the Permanent Court of Arbitration pursuant to the Permanent Court of Arbitration Arbitration Rules 2012 in force at the date of entry into force of this Agreement.
- (3) The language to be used in the arbitration proceedings shall be English. The appointing authority shall be the Secretary-General of the Permanent Court of Arbitration following a written request submitted by either Party. The parties agree to abide by the arbitration award. The Arbitrator's decision shall be binding on all Parties and there shall be no appeal.

Article 84 Disputes with third parties

- (1) Without prejudice to the jurisdiction of any court designated in an IPA II-funded contract as the competent court for disputes arising out of a contract between the parties to it, the Union shall enjoy in the territory of the Republic of Albania immunity from suit, including arbitration except as provided for in Article 83 of this Agreement, and legal process with respect to any dispute between the European Commission and/or the IPA II beneficiary and a third party, or between third parties, which directly or indirectly relates to the provision of IPA II assistance to the IPA II beneficiary under this Agreement, except where the Union has expressly waived its immunity.
- (2) The IPA II beneficiary shall in any legal or administrative proceedings before a court, tribunal or administrative instance in the Republic of Albania uphold this immunity and take a position which fully considers the interests of the Union. Where necessary, the IPA II beneficiary and the Commission shall proceed with advance consultations on the position to take.

Article 85 Notices

- (1) Any communication in connection with this Agreement shall be made in writing and in the English language. Every communication shall be signed and be supplied as an original document, or scanned original document.

- (2) Any communication in connection with this Agreement shall be sent to the following addresses:

For the Commission:

European Commission
DG Enlargement /C
Rue de la Loi 15
B-1049 Brussels, Belgium
Fax: +32 229 68727
e-mail: elarg-c@ec.europa.eu

For the IPA II beneficiary:

Ms Klajda Gjoshaj
Minister of European Integration
National IPA Coordinator
Bul. Deshmoret e Kombit
Tirana, Albania
Fax +355 4256267
e-mail: info@integrimi.gov.al

Article 86 Annexes

The Annexes to this Agreement shall be an integral part of this Framework Agreement.

Article 87 Entry into force

This Agreement shall enter into force on the day on which the last of the Parties informs the other one in writing of its approval in accordance with the national legislation or procedure of the Party.

Article 88 Applicability of the Framework Agreement for IPA

Framework Agreements signed between the Commission and [IPA II beneficiary] shall remain applicable to assistance adopted under previous pre-accession instruments, until such assistance is completed in accordance with the terms of the relevant Framework Agreements.

Article 89 Amendment

Any amendment agreed to by the Parties shall be in writing and will form part of this Agreement. Such amendment shall come into effect in accordance with the procedure set out in paragraph 1 of Article 87.

Article 90 Termination

- (1) This Agreement shall be in force for an indefinite period unless terminated by written notification by either of the Parties. Termination shall take effect 3 months after the date of written notification.
- (2) On termination of this Agreement, any assistance still in the course of execution shall be terminated except for the respect of acquired rights under specific IPA funded contracts.

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

Signed, for and on behalf of the Government of the Republic of Albania, in Tirana on

by.....

Ms Klajda Gjoshaj
Minister of European Integration and
National IPA Coordinator
Tirana, Albania

Signed, for and on behalf of the Commission, in Brussels on

by.....

Mr Jean-Eric Paquet
Director

ANNEX A

Functions and responsibilities of the structures, authorities and bodies in accordance with Article 10 of this Framework Agreement

Preliminary remark:

This list shows the main functions and common responsibilities of the structures, authorities and bodies concerned. It is not to be considered exhaustive. It supplements the core part of this Agreement.

Clause 1 The National IPA Coordinator (NIPAC)

The NIPAC shall be established by the IPA II beneficiary. The NIPAC shall be a high-ranking representative of the government or the state administration of the IPA II beneficiary with the appropriate authority. In addition to the functions and responsibilities under Articles 6(2), 16(2), 59 and 75 of this Agreement, where budget implementation tasks are entrusted to the IPA II beneficiary, the NIPAC shall:

- (a) take measures to ensure that the objectives set out in the actions or programmes for which budget implementation tasks have been entrusted are appropriately addressed during the implementation of IPA II assistance.
- (b) In accordance with Article 57 of this Agreement, coordinate the drawing up of an evaluation plan in consultation with the Commission presenting the evaluation activities to be carried out in the different phases of the implementation as per provisions of Article 55 of this Agreement.

Clause 2 The National Authorising Officer (NAO)

- (1) The NAO shall be established by the IPA II beneficiary. The NAO shall be a high-ranking representative of the government or the national administration of the IPA II beneficiary with the appropriate authority.
- (2) The NAO shall bear the overall responsibility for the financial management of IPA II assistance in the Republic of Albania and for ensuring the legality and regularity of expenditure. The NAO shall in particular be responsible for:
 - (a) the management of IPA II accounts and financial operations;
 - (b) the effective functioning of the internal control systems for the implementation of IPA II assistance in accordance with Annex B to this Agreement.

While carrying out these functions the NAO may carry out on the spot verifications.

- (3) For the purpose of paragraph 2(a), the NAO, supported by the National Fund, shall in particular fulfil the following tasks:
 - (a) draw up and submit to the Commission statements of expenditure detailing:
 - (i) incurred and paid costs;
 - (ii) and where applicable, include information on pre-financing in the payment requests, and certify that these result from reliable accrual based accounting systems as established in compliance with point (b), are

accurate and based on verifiable supporting documents, and have been subject to verifications by the operating structures and by the management structure. At the closure of a programme, the NAO shall provide a final statement of expenditure;

- (b) ensure that there is an accrual based accounting system which records and stores, in computerised form, accounting records for each action/activity/operation and which supports all the data required for drawing up payment requests and annual financial reports or statements. Such system shall provide accurate, complete and reliable information in a timely manner and shall also include records of amounts recoverable, amounts recovered and amounts withdrawn following cancellation of all or part of the IPA II assistance for a programme or action or programme;
 - (c) ensure the transfer of funds to the operating structures or recipients;
 - (d) verify, where applicable, the existence and correctness of the co-financing elements and ensure the existence of sufficient resources in the National Fund to cope with possible shortages due to late transfer of funds from the Commission or recovery orders issued by it;
 - (e) make financial adjustments required in connection with irregularities according to Article 51, in accordance with Article 17 of the IPA II Implementing Regulation and Article 42 of this Agreement and recover the Union contribution paid to the recipient in accordance with national recovery procedures in case of situations referred to in Article 51(5) and, as provided for in Article 41 of this Agreement;
 - (f) take account, when drawing up and submitting financial reports or statements and payment requests as referred to above under point (a) of paragraph (3), of the results of all audits carried out by or under the responsibility of the audit authority;
 - (g) be the contact point for the flow of financial information between the Commission and the IPA II beneficiary and for any questions in connection with the financial provisions of this Agreement.
- (4) For the purpose of paragraph 2(b), the NAO, supported by the NAO support office, shall in particular fulfil the following tasks:
- (a) provide assurance about the legality and regularity of underlying transactions;
 - (b) put into place effective and proportionate anti-fraud measures taking into account the risks identified and ensure reporting in accordance with Article 51(2) while keeping the Anti-fraud coordination service referred to in Article 50(2) informed of such reporting;
 - (c) be responsible for monitoring the continuous fulfilment by the management structure and the operating structures of the applicable requirements set out in points (a), (b) and (d) of Article 12(3) and Annex B to this Agreement and in case of failure to satisfy these requirements for informing the Commission without delay and taking any appropriate safeguard measures regarding payments made or contracts signed;
 - (d) ensure the existence as well as effective functioning of the internal control systems for the implementation of IPA II assistance;

- (e) ensure reporting on the management and control systems and review the programming and implementation capacities of staff within operating structures involved in the programming and implementation of the actions;
 - (f) ensure that a reporting and information system is put in place and functioning;
 - (g) follow-up the findings of audit reports from the audit authority, drawn up in accordance with Clause 5(2) of Annex A of this Agreement. While doing so the NAO shall:
 - (i) decide whether any improvements to the management and internal control systems are required, record the decisions in that respect and ensure the timely implementation of those improvements;
 - (ii) make adjustments to the payment requests to the Commission, if necessary;
 - (h) take account, when drawing up the management declaration as referred to in point (b) of Article 59(2), of the results of all audits carried out by or under the responsibility of the audit authority;
 - (i) immediately notify the Commission of any substantial change concerning the management and control systems for examination and approval in advance of their implementation;
 - (j) coordinate, whenever relevant, the preparation of consolidated action plans addressing any outstanding weaknesses detected in the management and control systems.
- (5) The NAO shall draw up and submit to the Commission, by 15 February of the following financial year the documents provided for in Article 59(2) of this Framework Agreement.

Clause 3 The management structure

- (1) The management structure shall be composed of a National Fund and a support office for the NAO. The tasks and responsibilities of the National Fund and the support office shall be adequately segregated.
- (2) The National Fund shall be accountable to the NAO and shall be located in a national level ministry of the IPA II beneficiary with central budgetary competence and shall act as central treasury entity. It shall support the NAO in fulfilling his/her tasks, in particular those of management of IPA II accounts and financial operations referred to under Clause 2(3) of this Annex and shall be in charge of tasks of financial management of IPA II assistance, under the responsibility of the NAO.
- (3) The National Fund shall in particular be in charge of:
 - (a) holding and organising the central IPA bank accounts;
 - (b) requesting funds and receiving all payments from the Union budget;
 - (c) authorising the transfer of such payments to the operating structures or to the recipients;
 - (d) returning funds to the Union budget following recovery orders issued by the Commission;
 - (e) support NAO in preparing financial reporting to the Commission;

- (f) operating computer based accrual accounting system that provides accurate, complete and reliable information in a timely manner.
- (4) Where appropriate, exchange of information with the Commission concerning financial transactions shall be made by electronic means, using procedures agreed upon between the Commission and the IPA II beneficiary.
- (5) The NAO support office shall be accountable to the NAO and shall assist the NAO in fulfilling the tasks referred to under Clause 2(4) and (5) of this Annex.

Clause 4 The operating structure(s)

- (1) Operating structure(s) shall be established, within the administration of the IPA II beneficiary to prepare, implement and manage the IPA II assistance.
- (2) The operating structure shall be responsible for preparation, implementation, information and visibility referred to in Articles 23 and 24 of this Agreement, monitoring and reporting of programmes, and evaluation thereof whenever relevant, in accordance with the principle of sound financial management. It shall be responsible for ensuring the legality and regularity of the expenditure incurred in the implementation of the programmes under its responsibility.
- (3) The operating structure shall fulfil the following functions and assume the following responsibilities:
 - (a) As regards the management of a programme, the operating structure shall:
 - (i) monitor the implementation of the programme, propose amendments, as needed, and provide to the sectoral monitoring committee information on the progress of the programme in achieving its objectives, in particular being based on set milestones and related indicators (targets), as well as financial data;
 - (ii) deliver all the necessary information for the purposes of the reports drawn up by the NIPAC and the NAO and submitted to the Commission as provided for in Article 59 of this Agreement. It may be required to draw up a comprehensive annual report covering the full financial year, to be submitted by the NIPAC to the Commission, after examination by the responsible sectoral monitoring committee;
 - (iii) share within the operating structure any information that is relevant to the execution of the tasks allocated and to the implementation of actions;
 - (iv) be responsible for drawing up an evaluation plan and conducting, as appropriate, *ex-ante*, interim and *ex-post* evaluations of the programmes it manages, following the provisions of Article 55 of this Agreement.
 - (b) As regards the selection and control of actions and financial management, the operating structure shall in accordance with the relevant Articles of this Agreement:
 - (i) ensure that actions are selected for funding and approved in accordance with the procedures and criteria applicable to the policy area or programme;
 - (ii) arrange for procurement and grant award procedures and contracting;

- (iii) set up procedures to ensure retention of all documents regarding procurement, grant award, contracting, financial management, controls and audits required to ensure an adequate audit trail;
- (iv) make payments to, and recovery from, the recipients of IPA II assistance;
- (v) ensure that all bodies within the operating structure involved in the implementation of actions maintain either a separate accounting system or an adequate accounting codification for all transactions relating to an action;
- (vi) ensure that the NAO receives all necessary information on the procedures and management verifications carried out in relation to expenditure;
- (vii) set up an accrual based accounting system which records and stores, in computerised form, accounting records for each action/ activity and which supports all the data required for drawing up payment request and annual financial report or statement and making commitments and payments and monitoring the implementation of the action;
- (viii) set up a system for timely reporting of irregularities and for effective and proportionate anti-fraud measures, taking into account the risks identified;
- (ix) set up a system for the recognition of all amounts due and for the recording in a debtors' ledger of all such debts, including irregularities, prior to their receipt.
- (x) verify that the expenditure incurred, paid and declared to the NAO complies with applicable Union and national law, the programme, the conditions for support of the action and the conditions of the contract, the goods or services have been delivered, and the payment requests by the recipient are correct.

These management verifications shall cover administrative, financial, technical and physical aspects of each action and shall include:

- full administrative verification of the supporting documents in respect of each commitment and payment;
 - physical on-the-spot verifications, the frequency and scope of which shall take into account, *inter alia*, the type of action, the amount of public expenditure involved and the level of risk identified;
- (xi) ensure internal audit of the bodies within the operating structure;
 - (xii) ensure compliance with information, publicity, transparency, visibility and communication requirements as provided for in Articles 23 and 24 of this Framework Agreement;
- (c) The bodies within the operating structure shall record arrangements between them formally in writing. The heads of these bodies shall be clearly designated and shall be responsible for the assigned tasks. The IPA II beneficiary shall enable them to exercise their duties and responsibilities. They shall be accountable to the head of the operating structure, where applicable.

Clause 5 The Audit Authority

- (1) The IPA II beneficiary shall provide for an audit authority which shall be independent from the NIPAC, the NAO, the management structure and the operating structure(s) and be ensured the necessary financial autonomy. It shall comply with internationally accepted auditing standards. A head of the audit authority shall be appointed by the IPA II beneficiary. S/he shall possess adequate competence, knowledge and experience in the field of audit to carry out the required tasks.
- (2) The audit authority shall carry out audits on the management and control system(s), on actions, transactions and on the annual accounts in line with internationally accepted auditing standards and in accordance with an audit strategy. Further guidance and definitions from the Commission may complement those standards.
- (3) Under the responsibility of its head, the audit authority shall in particular fulfil the following functions and assume the following responsibilities:
 - (a) prepare an audit strategy on a tri-annual basis, following the model in Annex G to this Agreement, which will be up-dated annually. The audit strategy shall set out the audit methodology, the sampling methods for audits of actions and transactions and the planning of audits. The audits shall aim at verifying:
 - (i) the completeness, accuracy and veracity of the annual financial reports or statements and the underlying annual accounts;
 - (ii) the efficient and effective functioning of the management, control and supervision systems;
 - (iii) the legality and regularity of the underlying transactions.

The audit authority shall submit the audit strategy for the following three years by end of November each year to the Commission with a copy to the NAO. Where a common management and control system applies to more than one programme, a single audit strategy may be prepared for the programmes or actions concerned.
 - (b) draw up and submit to the Commission and the Government of the Republic of Albania, with a copy to the NIPAC and the NAO reports and opinions as follows:
 - (i) by 15 March each year, an **annual audit opinion** in accordance with the second subparagraph of Article 60(5) of the Financial Regulation and following the model set out in Annex E to this Agreement, on the annual financial reports or statements and the underlying annual accounts for the preceding financial year, covering their completeness, accuracy and veracity and on the functioning of the management, control and supervision system and the legality and regularity of the underlying transactions;
 - (ii) by 15 March each year, together with the annual audit opinion, an **annual audit activity report** following the model in Annex D to this Agreement and setting out the findings from the audits carried out in accordance with the audit strategy during the period concerned and supporting the annual audit opinion. The annual audit activity report shall set out, inter alia, any deficiencies found in the management, control and

supervision systems and any corrective measures taken or planned by the NAO, National Fund and/or the operating structures concerned;

- (iii) an **opinion on any final statement of expenditure** that the NAO has submitted to the Commission for the closure of any programme or of any part thereof. Such opinion shall address the validity of the final payment application and the accuracy of the financial information. Where appropriate, a final audit activity report shall support the opinion. The opinion on any final statement of expenditure shall follow the model provided in Annex F to this Agreement. The audit authority shall send the opinion within three months of the submission of the relevant final statement of expenditure by the NAO.
- (c) Further specific requirements for the audit strategy and/or the reports and opinions mentioned under point b) may be set out in the Sectoral or Financing Agreements.

ANNEX B

INTERNAL CONTROL FRAMEWORK

Standard list of areas and related requirements as referred to in point (a) of Article 12(3)

1. Control environment

(a) Ethics and integrity policies

- demonstrating commitment by the organization to integrity and ethical values
- ensuring the culture for the organisation required by top management is understood throughout the organisation
- ensuring that procedures exist to identify and avoid conflicts of interests

(b) Supervision by management of tasks delegated to subordinates

- ensuring that oversight procedures and structures are developed, including reporting from subordinate actors
- ensuring that accountability is supported by proactive and continued supervision

(c) Establishment of structures, reporting lines, and authorities and responsibilities

- ensuring that structures are defined and established at all levels in a way to enable achievement of assigned objectives and that tasks and functions to entities are allocated respectively
- ensuring that all entities and individuals have proper legal bases and full legal authority to carry out their assigned tasks and functions
- ensuring that reporting lines are designed within and between the entities to guarantee necessary flow of information to manage the activities of each entity and to enable accountability over all levels of organisation
- ensuring that authority and the level of responsibility is defined and assigned based on demonstrated competence and allocated tasks:
 - (i) Senior management – retains authority over significant decisions, reviews management's assignments, establishes directives, guidance and control to enable management and other staff to understand and carry out their internal control responsibilities
 - (ii) Management – guides and facilitates the execution of senior management directives and instructions at their respective entity level
 - (iii) Personnel – understands the entity's standards of conduct, assessed risks to objectives, and the related control activities at their respective levels, the expected information and communication flow, and monitoring activities relevant to their achievement of the objectives

- (iv) Outsourced service providers – adhere to management's definition of the scope of authority and responsibility for all non-employees engaged
- (d) Staff planning, recruitment, retention, training and appraisal
 - ensuring that adequate numbers and quality of staff are in place at all levels to reach the objectives
 - ensuring that no member of staff is in doubt as to the extent of their responsibilities with the view of achieving the set objectives
 - ensuring that mission statements, job descriptions, etc. are up to date and known to all staff
 - ensuring that staff in "sensitive posts" are identified and that appropriate controls (including, where appropriate, rotation policies) are applied to "sensitive posts"
- (e) Accountability for allocated tasks and responsibilities
 - establishing performance measures, incentives, and other rewards appropriate at all levels considering the achievement of objectives
 - ensuring regular performance evaluation of staff at all levels and exercising appropriate follow-up, for example in terms of reward or disciplinary actions
 - ensuring that pressure is applied in the organisation positively to ensure achievement of objectives and negative pressures, for example in terms of unrealistic performance targets or conflicting objectives, are avoided

2. Risk management

- (a) Objective setting
 - ensuring that objectives are set at all levels with sufficient clarity to enable identification and assessment of risks relating to objectives
 - ensuring that *operational objectives* provide a clear focus to allow allocation of required resources to attain desired performance goals
 - ensuring that *external and internal reporting objectives* encompass aspects of reliability, timeliness and transparency of reports
 - ensuring that *compliance objectives* reflect that all activities are carried out in line with applicable rules and regulations
- (b) Risk identification, assessment and response
 - ensuring that risks are identified comprehensively at all levels and that risk identification encompasses all significant internal and external factors to the entity
 - ensuring that adequate risk assessment is carried out, after risk identification, including an estimation of likelihood and impact of identified risks
 - ensuring that management defines and implements adequate risk response to identified and assessed risks to mitigate any negative impact on reaching the objectives

(c) Fraud risk

- ensuring that potential for fraud and irregularities is considered when assessing risks to the achievement of objectives
- ensuring that irregularities noted lower down in the organisation are reported appropriately and followed-up, including protection for "whistle-blowers"

(d) Identification and assessment of changes affecting the system of internal controls

- ensuring that management identifies and assesses important changes, both internal and external, that can affect the effectiveness of internal controls and have impact on the organisation's achievement of objectives

3. Control activities

(a) Selection and development of control activities

- ensuring that control activities that contribute to the mitigation of risks to the achievement of objectives are identified and developed at all levels of the organisation
- ensuring that a single manager is accountable for all aspects of the transaction in cases of commitments or payments engaged to third parties
- ensuring that the control activities include, *inter alia*, the following:
 - (i) Before a transaction is authorised, the aspects of this transaction have to be verified by at least one member of staff other than the one(s) who initiated the transaction. For the same file the same person cannot do initiation and verification (four eyes principle).
 - (ii) Rules for each type of procurement and grant calls ensuring appropriate legal framework for all such commitment processes
 - (iii) Procedures, including checklists, for each step of procurement and grant calls (e.g. technical specifications, evaluation committees, reporting of exceptions etc.) ensuring each member of staff is clear as to their responsibilities in these areas
 - (iv) Publicity rules and procedures ensuring that the legislative requirements are fulfilled
 - (v) Payment procedures, including procedures for confirmation of output delivery, and/or eligibility conditions, 'on-the-spot' where necessary, ensuring that payments are made only for justified payment requests, which fulfil all contractual requirements
 - (vi) Procedures for monitoring delivery of co-financing ensuring that the legal requirements are fulfilled
 - (vii) Budgetary procedures to ensure availability of funds in all cases guaranteeing that the organisation can fulfil its contractual commitments
 - (viii) Procedures for continuity of operations ensuring that significant risks to continuity (e.g. concerning loss of data, absence of individuals etc.) are identified and contingency plans put in place
 - (ix) Accounting procedures ensuring complete, accurate and transparent accounting following internationally accepted accounting principles

- (x) Reconciliation procedures ensuring that wherever required accounting balances are reconciled against third-party information
 - (xi) Reporting of exceptions, *inter alia*, exceptions to normal procedures approved at appropriate level, unapproved exceptions and control failures whenever identified ensuring variations to normal practices are always recorded and logged and reviewed at appropriate levels
 - (xii) Archiving procedures ensuring that documents will be available for review throughout the required periods for which they must be kept
 - (xiii) Segregation of duties ensuring that different tasks in the life of the same operation are allocated to different staff to ensure automatic cross-checking controls
- (b) Security control activities
- ensuring adequate security procedures (IT and otherwise) that assets and data are kept secure from unauthorized interference and physical damage
 - ensuring that appropriate access rights are in place both in terms of physical access and electronic access at all levels
- (c) Policies and procedures related to control activities
- ensuring that written policies and procedures exist establishing what is expected at all levels and specifying detailed actions
 - ensuring that clear responsibility and accountability exists for the execution of control activities
 - ensuring that policies and procedures include the timing when a control activity, and any corrective activity, is to be performed
 - ensuring that in conducting a control activity, matters identified for follow-up are properly investigated and required corrective action is taken
 - ensuring that control activity is carried out by competent personnel and with a continued focus on the risks which are to be mitigated by the activity
 - ensuring that the management and senior management, where appropriate, periodically reassess policies and procedures and related control activities for continued relevance and effectiveness

4. Information and communication

- (a) Information to support functioning of internal controls
- ensuring that processes are in place at all levels to identify the information required and expected to support the functioning of the other components of internal control and the achievement of the organisation's objectives
 - ensuring that information is obtained from all relevant sources including both internal and external sources
 - ensuring that information is captured from relevant sources and processed into meaningful, actionable information to meet defined information requirements

- ensuring that produced information is timely, current, accurate, valid, complete, sufficient, accessible, protected, and verifiable and retained in order to be used in assessment of internal controls and achievement of objectives

(b) Internal communication

- ensuring that processes are in place to communicate required information to enable all staff, including management, to understand and carry out their internal control responsibilities
- ensuring that communication exists between senior management and other levels of the organisation so that senior management have the information needed to fulfil its role with respect to the organisation's objectives
- ensuring that separate communication channels, such as "whistle-blower" hotlines, are in place and serve as fail-safe mechanism to enable anonymous or confidential communication when normal channels are inoperative or ineffective
- ensuring that the chosen method of communication considers the timing, recipient, and nature of information

(c) External communication

- ensuring that processes are in place to communicate required information in a relevant format and timely to external parties, including the European Commission, the European Court of Auditors, etc.
- ensuring inbound communication channels to allow input from external parties providing all levels of organisation, including the senior management, with relevant information
- ensuring that relevant information from external parties, including the European Commission, the European Court of Auditors, etc., reaches the relevant levels of the organisation, including the senior management
- ensuring that separate communication channels, e.g. in case of denunciations or "whistle-blowing", are in place and enable anonymous or confidential communication up to the level of senior management
- ensuring that the method of communication considers the timing, recipient, and nature of communication as well as legislative and regulatory requirements and expectations.

5. Monitoring of internal control framework¹

(a) On-going and specific monitoring

- ensuring that on-going and specific monitoring is developed and performed to ascertain that the components of internal control are present and functioning at all levels

¹ Monitoring activity assesses whether controls within each of the five components of internal control are present and operating as intended, whereas control activity responds to specific risks. Within an organisation, supervision by line management could be considered as control activity and review by, for example, quality control function as monitoring activity.

- ensuring that senior management is provided with results of the functioning of their systems at subordinate levels
- ensuring that on-going monitoring is carried out by the responsible management at the level of each entity in the organisation
- ensuring that regular specific monitoring is carried out by internal audit function to provide higher management with independent review of the subordinate systems

(b) Assessment, recording and communication of internal control deficiencies

- ensuring that responsible management and senior management, as appropriate, assess the results of on-going and specific monitoring
- ensuring that deficiencies are communicated to parties responsible for taking corrective action and to senior management, as appropriate
- ensuring that management and senior management, as appropriate, tracks whether deficiencies are remedied adequately and within established deadlines.

ANNEX C

Model Management Declaration¹

I, the undersigned (*name, first name, title or function*), National Authorising Officer of the Republic of Albania, for the programme (*name of the programme, CCI*) based on the implementation of the (*name of programme*) during the year (*year*), based on my own judgment and on all information available to me, including the results from my direct supervision and the work of the internal audit. Also from audits and controls in relation to the expenditure included in the payment applications submitted to the Commission during the year (*year*) , and taking into account my obligations under Commission Implementing Regulation (EU) No 447/2014 and in particular Article 9 thereof

hereby declare that:

- the information in the annual financial reports or statements is properly presented, complete and accurate in accordance with Article 23(1)(b) of Commission Implementing Regulation (EU) No 447/2014;
- the expenditure entered in the annual financial reports or statements was used for its intended purpose, in accordance with Commission Implementing Regulation (EU) No 447/2014, and the principle of sound financial management²;
- the management and control system³ put in place for the programme gives the necessary guarantees concerning the legality and regularity of the underlying transactions.
- I have supervised the operation of the internal control system⁴ relating to the implementation of IPA II assistance and related to the Financing Agreement [ref. of the FA].

I confirm that irregularities identified in final audit or control reports in relation to the financial year in accordance with Clause 5(2) of Annex A of the Framework Agreement, have been appropriately treated in accordance with Clause 2(4)(g) of the Framework Agreement. Where necessary, adequate follow-up was given to deficiencies in the management and

¹ Pursuant to Article 9(4) of Commission Implementing Regulation (EU) No 447/2014

² The principle of sound financial management comprises the principles of economy, efficiency and effectiveness. The principle of economy requires that the resources used shall be made available in due time, in appropriate quantity and quality and at the best price. The principle of efficiency concerns the best relationship between resources employed and results achieved. The principle of effectiveness concerns the attainment of the specific objectives set and the achievement of the intended results. (Article 30 of Regulation (EU, EURATOM) No 966/2012)

³ The structures and authorities referred to in Article 7(1) of Commission Implementing Regulation (EU) No 447/2014 established by the IPA II beneficiary and the management structure referred to in Article 7(2) of Commission Implementing Regulation (EU) No 447/2014 established by the NAO.

⁴ The operating structure and the management structure

control system reported in those reports or is on-going as regards the following required remedial actions: (if appropriate indicate which remedial actions are still on-going, at the date of signing the declaration).

I also confirm that expenditure which is subject to an ongoing assessment of its legality and regularity has been excluded from the declaration of expenditure and financial statements pending conclusion of the assessment, for possible inclusion in a payment request in a subsequent year.

Furthermore, I confirm that effective and proportionate anti-fraud measures are in place and take account of the risks identified and that I am not aware of any undisclosed matter related to the implementation of the programme which could be damaging to the reputation or the financial interest of the Union.

(Place and date of issue)

Signature

(Name and official title or function of the National Authorising Officer)

ANNEX D

Model Annual Audit Activity Report¹

addressed to

- the European Commission, Directorate-General
- the Government of the Republic of Albania
- copy to the National IPA Coordinator (NIPAC) of the Republic of Albania and
- copy to the National Authorising Officer (NAO) of the Republic of Albania

1. INTRODUCTION

1.1 Details of the responsible audit authority and other bodies that have been involved in preparing the report.

1.2 Reference period (i.e. the year) and the scope of the audits (including the expenditure declared to the Commission for the year concerned).

1.3 Identification of the sector/policy area(s) covered by the report and of its/their operating structure and management structure.

1.4 Description of the steps taken to prepare the report and to draw the audit opinion.

2. SUBSTANTIAL CHANGES IN MANAGEMENT AND CONTROL SYSTEMS

2.1 Details of any substantial changes in the management and control systems, and confirmation of its compliance with Article 7 of Commission Implementing Regulation (EU) No 447/2014 based on the audit work carried out by the audit authority under Article 12 of Commission Implementing Regulation (EU) No 447/2014.

2.2 The dates from which these changes apply, the dates of notification of the changes to the audit authority, as well as the impact of these changes on the audit work are to be indicated.

3. CHANGES TO THE AUDIT STRATEGY

3.1 Details of any changes that have been made to the audit strategy or are proposed, and of the reasons for them. In particular, indicate any change to the sampling method used for the audit of operations (see paragraph 5 below).

3.2 The audit authority differentiates between the changes made or proposed at a late stage, which do not affect the work done during the reference period and the changes made during the reference period, that affect the audit work and results.

Only the changes compared to the previous version of the audit strategy are included.

4. SYSTEMS AUDITS

4.1 Details of the bodies that have carried out systems audits, including the audit authority itself.

¹ Pursuant to Article 12(3) of Commission Implementing Regulation (EU) No 447/2014

4.2 Summary table of the audits carried out, with the indication of the authorities/bodies audited, the assessment of the key requirements for each authority/body, issues covered² and a comparison to the audit planning. The summary includes the programme (name and CCI), the authority/body that has carried out the system audits, the date of the audit, the scope of audit including scope limitations and the authorities/bodies audited. Horizontal thematic audits are also reported in this section.

Audit period	1. Programme (CCI and title)	2. Audit Body³	3. Audited Body(ies)	4. Date of the audit⁴	5. Scope of the audit⁵	6. Principal findings and conclusions	7. Problems of systemic character and measures taken	8. Estimated financial impact (if applicable)	9. State of follow-up (closed/or not)

4.3 Description of the basis for selection of the audits in the context of the audit strategy. A reference is made to the audit strategy applicable, more particularly to the risk assessment methodology and the results that led to establishing the specific systems audit plan. In case an update of the risk assessment has been done, this is described in point 3 above covering the changes of the audit strategy.

4.4 If needed the following section can contain further details in addition to the table above concerning:

4.4.1 Description of the principal findings and conclusions drawn from the audit work for the management and control systems and their functioning, including the sufficiency of management checks, certification procedures and the audit trail, adequate separation of functions and compliance with Union requirements and policies, and

4.4.2 Details of whether any problems identified were considered to be of a systemic character, and of the measures taken, including a quantification of the irregular expenditure and any related financial corrections.,

4.5 Description (where applicable) of specific deficiencies related to the management of financial instruments, detected during systems audits and of the follow-up given by the national authorities to remedy these shortcomings.

4.6 Level of assurance obtained following the system audits (low/average/high) and justification.

² The issues should correspond to the ones indicated in the audit strategy (but not exclusively), such as quality of management verifications, including in relation to the respect of public procurement rules, State aid rules, environmental requirements, equal opportunities, implementation of financial engineering instruments, the effectiveness of IT systems, reporting of withdrawals and recoveries, the implementation of fraud risk assessment; the reliability of data relating to indicators and milestones and on the progress of the programme in achieving its objectives.

³ Indication of the bodies that have carried out the system audits, including the audit authority itself.

⁴ Date of audit fieldwork.

⁵ Authorities audited, horizontal thematic audited, scope limitations, ...

5. AUDITS OF SAMPLES OF TRANSACTIONS

5.1 Authorities/bodies that carried out the sample audits, including the audit authority.

5.2 Description of the sampling methodology applied and information whether the methodology is in accordance with the audit strategy.

5.3 Indication of the parameters used for statistical sampling, materiality level, the confidence level, the expected error rate applied, calculation of the required sample and the interval, sampling unit, number of sampling units in the population, number of sampling units actually audited.

5.4 Reconciliation of the expenditure declared to the Commission in the financial year to the sampled expenditure. Reconciling items include negative items where financial corrections have been made in the financial year, as well as differences between amounts declared in euro and amounts in national currency, where relevant.

5.5 Where there are negative items, confirmation that they have been treated as a separate population.

5.6 In case of the use of non-statistical sampling, indicate the reasons for using the method in line with Article 12 (2) of Commission Implementing Regulation (EU) No 447/2014, the percentage of actions/operations / expenditure covered through audits, the steps taken to ensure randomness of the sample (and its representativeness) and to ensure a sufficient size of the sample enabling the audit authority to draw up a valid audit opinion. A projected error rate is calculated also in case of non-statistical sampling.

5.7 Summary table (see below), broken down where applicable by programme indicating the eligible expenditure declared to the Commission during the year, the amount of expenditure audited, and the percentage of expenditure audited in relation to total eligible expenditure declared to the Commission for the last year, as well as the total number of sampling units in the population and the number of sampling units actually audited for the random sample.

Information relating to the random statistical sample is distinguished from that related to other samples if applicable (e.g. risk-based complementary samples).

5.8 Analysis of the principal results of the audits (sample items selected and audited, together with the respective amount and types⁶ of error by operation) as well as the nature⁷ of errors found, root causes and corrective measures proposed, including mitigating these errors in the future.

5.9 Details of the most likely error rate (total error rate⁸) and, in case of statistical sampling method, the upper limit of the error rate as a result of the audits of operations, and the amount of irregular expenditure detected and the error rate resulting from the random sample audited.

5.10 Compare the total error rate with the set materiality level, in order to ascertain if the population is materially misstated or not. If so, analyse the significance of the total error rate for the audit opinion and report the recommended corrective measures.

⁶ Random, systemic, anomalous

⁷ For instance: eligibility, public procurement, state aid

⁸ As defined in Article 28(14) of Commission Delegated Regulation (EU) No 480/2014.

5.11 Corrections relating to the current year implemented by the operating structure/management structure before submitting the final declaration of expenditure and financial statements to the Commission, and resulting from the audits of operations⁹, including flat rate or extrapolated corrections.

5.12 Residual total error rate¹⁰ following the implementation of the above-mentioned corrections and significance for the audit opinion.

5.13 Information on the results of the audit of the complementary (e.g. risk based) sample, if any.

5.14 Information on the follow-up of irregularities, including revision of previously reported residual error rates, as a result of all subsequent corrective actions.

5.15 Details of whether any problems identified were considered to be systemic in nature, and the measures taken, including a quantification of the irregular expenditure and any related financial corrections.

5.16 Description (where applicable) of specific deficiencies or irregularities related with financial instruments. Where applicable, indication of the sample error rate concerning the audited financial instruments.

5.17 Analysis of the principal results of the audits of negative items, including conclusions as to whether the negative items audited correspond to the decisions of the country or of the Commission, and reconcile with the amounts included in the accounts on amounts withdrawn and recovered during the year and amounts to be recovered at the end of the year.

5.18 Conclusions drawn from the results of the audits with regard to the effectiveness of the management and control system.

6. AUDITS OF THE ANNUAL FINANCIAL REPORTS OR STATEMENTS/ANNUAL ACCOUNTS

6.1 Indication of the authorities/bodies that have carried out audits of the annual financial reports or statements/annual accounts.

6.2 Description of audit approach used to verify the elements of the annual financial reports or statements/annual accounts defined in Article 12(2) and Article 23(1)(b) of Commission Implementing Regulation (EU) No 447/2014.

6.3 Indication of the conclusions drawn from the results of the audits in regard to the completeness, accuracy and veracity of the declaration of expenditure and financial statements, including an indication on the financial corrections made and reflected in the declaration of expenditure and financial statements as a follow-up to the results of the audit on transactions/operations.

6.4 Indication of whether any problems identified were considered to be systemic in nature, and the measures taken.

⁹ This concerns both corrections on the audited sample units and corrections implemented as a result of the total error rate.

¹⁰ Total errors minus corrections referred to in paragraph 5.11, divided by the total population.

7. FOLLOW-UP OF PREVIOUS YEARS' AUDIT ACTIVITY

7.1 Information on the follow-up of outstanding audit recommendations and on the follow-up of results of systems audits and audits of transactions/operations (including the audits done in regard to the complementary sample) from earlier years.

7.2 Subsequent events affecting the previous opinion and the previous annual audit activity report under Article 12(3) of Commission Implementing Regulation (EU) No 447/2014.

8. OTHER INFORMATION

8.1 Information on reported fraud and suspicions of fraud, together with the measures taken.

8.2 Subsequent events occurred after the submission of the declaration of expenditure and financial statements and before the transmission of the annual audit activity report under Art. 12 (3) of Commission Implementing Regulation (EU) No 447/2014 to the Commission and considered when establishing the level of assurance and opinion by the audit authority.

8.3 Any other information that the audit authority considers relevant and important to communicate to the Commission, in particular to justify the audit opinion, is reported in this section.

9. OVERALL LEVEL OF ASSURANCE

9.1 Explanation on how the overall level of assurance on the proper functioning of the management and control system is obtained from the combination of the results of the system audits and audits of operations.

9.2 Where the total error rate relating to the expenditure declared in the payment claims in a year is above the materiality level, analyse its significance and assess whether this indicates a serious deficiency(ies) in the functioning of the relevant management and control system during the year. Where relevant, take also account of the results of other national or Union audit work carried out in relation to the year.

9.3 Assessment of the corrective action necessary both from a system and financial perspective.

9.4 Assessment of any relevant subsequent adjustments made and corrective actions taken such as financial corrections included in the declaration of expenditure and financial statements and assess the residual error rate and the need for any additional corrective measures necessary both from a system and financial perspective.

10. TABLE FOR DECLARED EXPENDITURE AND SAMPLE AUDITS

			A	B		C	D	E		F	G	H=F-G	GI	JH
Fund	Reference (CCI)	Programme	Expenditure declared to the Commission in reference to the year ¹	Expenditure in reference to the financial year audited for the random sample		Total number of units in the population	Number of sampling units for the random sample	Amount and percentage (error rate) of irregular expenditure in random sample ²		Total projected error rate	Corrections implemented as a result of the total error rate	Residual total error rate	Other expenditure audited ³	Amount of irregular expenditure in other expenditure sample
				Amount ⁴	% ⁵			Amount	%	%				

¹ This column corresponds to "the total amount of eligible expenditure entered into the accounting systems of the management structure which has been included in payment requests submitted to the Commission. This expenditure should correspond to the gross expenditure included in the payment claims declared in respect of the year, before any corrections made as a result of the audit authority work for the same year.

² Where the random sample covers more than one Fund or programme, the information on the amount and percentage (error rate) of irregular expenditure is provided for the whole sample and cannot be provided on programme/fund level.

³ Expenditure from complementary sample and expenditure for random sample not in the reference year (amount).

⁴ Amount of expenditure audited.

⁵ Percentage of expenditure audited in relation to expenditure declared to the Commission in the reference year.

ANNEX E

Model Annual Audit Opinion¹

addressed to

- the European Commission, Directorate-General
- the Government of the Republic of Albania
- copy to the National IPA Coordinator (NIPAC) of the Republic of Albania and
- copy to the National Authorising Officer (NAO) of the Republic of Albania

INTRODUCTION

I, the undersigned, Head of the Audit Authority of the Republic of Albania, independent in the sense of Article 12(1) of Commission Implementing Regulation (EU) No 447/2014, have carried out audit procedures on the functioning of the management and control system, on a sample of declared expenditure and on the accounts drawn-up by and under the responsibility of the National Authorising Officer (NAO) in accordance with Articles 7(2) and 11 of Commission Implementing Regulation (EU) No 447/2014, in relation to the programme [name of programme, CCI number] (hereafter "the programme"), in order to issue an audit opinion in accordance with Articles 12(3) and 23(2) of Commission Implementing Regulation (EU) No 447/2014. This audit opinion is in accordance with the following standards[quote the international auditing standards followed].

I have also assessed the consistency of the management declaration drawn-up by the National Authorising Officer (NAO) under Article 9(4) of Commission Implementing Regulation (EU) No 447/2014 with this audit work.

AUDIT SCOPE

The audit in respect of the programme was carried out in accordance with the audit strategy and taking into account internationally accepted auditing standards, with reference to the year (*year*), and reported in the attached annual audit activity report pursuant to Article 12(3) of Commission Implementing Regulation (EU) No 447/2014.

Either

There were no limitations on the audit scope.

Or

The audit scope was limited by the following factors:

- (a) ...
- (b) ...
- (c) etc.

¹ Pursuant to Article 12(3) of Commission Implementing Regulation (EU) No 447/2014

[Indicate any limitation on the audit scope, for example any lack of supporting documentation, cases under legal proceedings, and estimate under section Qualified opinion below, the amounts of expenditure and the Union contribution affected and the impact of the scope limitation on the audit opinion.]

OPINION

RELIABILITY OF THE ANNUAL FINANCIAL REPORTS OR STATEMENTS/ANNUAL ACCOUNTS

Either

(Unqualified opinion)

Based on the audit procedures referred to above and with regard to the programme, I have reasonable assurance that:

- the declaration of expenditure and financial statements give a true and fair view,

In my opinion, the audit work carried out does not put in doubt the assertions made in the management declaration.

Or

(Qualified opinion)

Based on the audit procedures referred to above and with regard to the programme, I have reasonable assurance that:

- the declaration of expenditure and financial statements give a true and fair view, except in the following respects:².

Therefore I estimate that the impact of the qualification(s) is [limited] / [significant].

This impact corresponds to [amount in EUR and %] of the total expenditure declared. The Community contribution affected is thus ... [amount in EUR].

In my opinion, the audit work carried out does not put in doubt the assertions made in the management declaration, or

In my opinion the audit work carried out puts in doubt the assertions made in the management declaration for the following aspects:

Or

(Adverse opinion)

Based on the audit procedures referred to above and with regard to the programme, I have reasonable assurance that:

- the declaration of expenditure and financial statements give not a true and fair view,

This adverse opinion is based on³

² In case the management and control systems are affected, indicate the body or bodies and the aspect(s) of their systems that did not comply with requirements and/or did not operate effectively.

³ In case the management and control systems are affected, indicate for each body and each aspect the reasons for the adverse opinion.

In my opinion the audit work carried out puts in doubt the assertions made in the management declaration for the following aspects:

[The audit authority may also include emphasis of matter, not affecting its opinion, as established by internationally accepted auditing standards. A disclaimer of opinion can be foreseen in exceptional cases⁴.]

LEGALITY AND REGULARITY OF EXPENDITURE AND FUNCTIONING OF MANAGEMENT AND CONTROL SYSTEMS

Either

(Unqualified opinion)

Based on the audit procedures referred to above and with regard to the programme, I have reasonable assurance that:

- the expenditure for which reimbursement has been requested from the Commission is legal and regular,
- the management and control systems put in place function properly.

In my opinion, the audit work carried out does not put in doubt the assertions made in the management declaration.

Or

(Qualified opinion)

Based on the audit procedures referred to above and with regard to the programme, I have reasonable assurance that:

- the expenditure for which reimbursement has been requested from the Commission is legal and regular,
- the management and control systems put in place function properly,

except in the following respects (clarify which aspects above is / are concerned): ...
.....⁵.

Therefore I estimate that the impact of the qualification(s) is [limited] / [significant].

This impact corresponds to [amount in EUR and %] of the total expenditure declared. The Community contribution affected is thus ... [amount in EUR].

In my opinion, the audit work carried out does not put in doubt the assertions made in the management declaration, or

In my opinion the audit work carried out puts in doubt the assertions made in the management declaration for the following aspects:

Or

(Adverse opinion)

⁴ These exceptional cases should be related to unforeseeable, external factors outside the remit of the audit authority.

⁵ In case the management and control systems are affected, indicate the body or bodies and the aspect(s) of their systems that did not comply with requirements and/or did not operate effectively.

Based on the audit procedures referred to above and with regard to the programme, I have reasonable assurance that:

- the expenditure for which reimbursement has been requested from the Commission is not legal and regular,
- the management and control systems put in place does not function properly.

This adverse opinion is based on ...⁶

In my opinion the audit work carried out puts in doubt the assertions made in the management declaration for the following aspects:

[The audit authority may also include an emphasis of matter, not affecting its opinion, as established by internationally accepted auditing standards. A disclaimer of opinion can be foreseen in exceptional cases⁷.]

(Place and date of issue)

Signature

(Name and official title or function of the Head of the Audit Authority designated)

⁶ In case the management and control systems are affected, indicate for each body and each aspect the reasons for the adverse opinion.

⁷ These exceptional cases should be related to unforeseeable, external factors outside the remit of the audit authority.

ANNEX F

Model Audit Opinion on the final statement of expenditure¹

addressed to

- the European Commission, Directorate-General
- the Government of the Republic of Albania
- copy to the National IPA Coordinator (NIPAC) of the Republic of Albania and
- copy to the National Authorising Officer (NAO) of the Republic of Albania

INTRODUCTION

I, the undersigned, Head of the Audit Authority of the Republic of Albania, functionally independent in the sense of Article 12(1) of Commission Implementing Regulation (EU) No 447/2014, have carried out an audit on the final statement of expenditure for the programme (indicate programme - title, component, period, reference (CCI) number) drawn-up under the responsibility of the National Authorising Officer (NAO) in accordance with Article 9(4) of Commission Implementing Regulation (EU) No 447/2014 in order to issue an audit opinion in accordance with Article 12(4) of Commission Implementing Regulation (EU) No 447/2014. This audit opinion is in accordance with the following standards....[quote the international auditing standards followed].

I believe that the audit work carried out provides a reasonable basis for my opinion.

AUDIT SCOPE

The audit was carried out in accordance with Article 17(1) of the Framework Agreement (FWA).

Either

There were no limitations on the audit scope.

Or

The audit scope was limited by the following factors:

- (a) ...
- (b) ...
- (c) etc.

[Indicate any limitation on the audit scope, for example any lack of supporting documentation, cases under legal proceedings, and estimate under section Qualified opinion below, the amounts of expenditure and the Union contribution affected and the impact of the scope limitation on the audit opinion.]

¹ Pursuant to Article 12(4) of Commission Implementing Regulation (EU) No 447/2014

OPINION

Either

(Unqualified opinion)

Based on the audit referred to above and with regard to the programme, I have reasonable assurance that:

- the amounts stated in the final statement of expenditure and in the final request for payment, in which the statement is included, are valid and eligible,
- the financial information presented is accurate and,
- the expenditure included in the final statement of expenditure is legal and regular

Or

(Qualified opinion)

Based on the audit referred to above and with regard to the programme, I have reasonable assurance that:

- the amounts stated in the final statement of expenditure and in the final request for payment, in which the statement is included, are valid and eligible,
- the financial information presented is accurate and,
- the expenditure included in the final statement of expenditure is legal and regular except in the following respects:².

Therefore, I estimate that the impact of the qualification(s) is [limited] / [significant].

This impact corresponds to [amount in EUR and %] of the total expenditure declared.

The Community contribution affected is thus ... [amount in EUR].

Or

(Adverse opinion)

Based on the audit referred to above and with regard to the programme, I have reasonable assurance that:

- the amounts stated in the final statement of expenditure and in the final application for payment, in which the statement is included, are not valid and/or eligible,
- the financial information presented is not accurate and /or.
- the expenditure included in the final statement of expenditure is not legal and regular

This adverse opinion is based on³

² In case the management and control systems are affected, indicate the body or bodies and the aspect(s) of their systems that did not comply with requirements and/or did not operate effectively.

³ In case the management and control systems are affected, indicate for each body and each aspect the reasons for the adverse opinion.

[The audit authority may also include emphasis of matter, not affecting its opinion, as established by internationally accepted auditing standards. A disclaimer of opinion can be foreseen in exceptional cases⁴.]

(Place and date of issue)

Signature

(Name and official title or function of the Head of the Audit Authority designated)

⁴

These exceptional cases should be related to unforeseeable, external factors outside the remit of the audit authority.

ANNEX G

Model Audit Strategy¹

1. INTRODUCTION

- 1.1 Identification of the programmes (name and CCI) covered by the audit strategy.
- 1.2 Identification of the audit authority responsible for drawing up, monitoring and updating the audit strategy and of any other bodies that have contributed.
- 1.3 Explanation of the procedure followed for drawing up, monitoring and updating the audit strategy.
- 1.4 Specification of the overall objectives of the audit strategy and the steps taken to ensure the alignment of the objectives with all the audit bodies.
- 1.5 Explanation of all the functions and responsibilities of the audit authority, with reference to the mission statement, audit charter or national legislation, where applicable.
- 1.6 Confirmation by the audit authority of its independence, in accordance with Article 12(1) of Commission Implementing Regulation (EU) No 447/2014 and its necessary financial autonomy, in accordance with Clause 5(1) of Annex A of the Framework Agreement.

2. LEGAL BASIS AND SCOPE

- 2.1 Indication of any national regulatory framework that affects the audit authority and its functions.
- 2.2 Confirmation that the strategy covers the next year and the two subsequent financial years.

3. RISK ASSESSMENT

- 3.1 Explanation of the overall risk assessment method followed, including: an indication of the risk factors taken into account including those for the specific thematic areas described under paragraph 4.2.3 below [together with the targeted processes and assessment of procedural and organisation changes, inter alia], risk scoring used, the extent to which the results of previous audits of the bodies and systems have been taken into account, covering operating structure and management structure.
- 3.2 Identify the controls including their design, implementation and operation at three levels:
 - the first level of controls exercised by the IPA administrative structures,
 - the second level of controls exercised on the one hand, through the internal control system and on the other hand, through the internal audit function and

¹ Pursuant to Article 12(2) of Commission Implementing Regulation (EU) No 447/2014

- the high level monitoring, exercised through the assurance function by the NAO.

3.3 Procedures for updating the risk assessment.

4. METHODOLOGY

4.1 Brief description of the audit methodology

Short description of the main steps of the audit work such as: planning and design of audits² objectives to be achieved, performing the audits and gathering evidence, evaluating evidence and forming conclusions, reporting³, follow-up processes⁴ and quality control arrangements for the work of the audit authority.

Reference to existing audit manuals or procedures, where those steps can be described in more detail.

Reference to the internationally accepted audit standards that the audit authority intends to use.

Reference to the procedures in place for drawing up the annual audit activity report and audit opinion to be submitted to the Commission in accordance with Article 12(3) of Commission Implementing Regulation (EU) No 447/2014.

4.2 For system audits:

4.2.1 Specification of the bodies to be audited and the related key control elements.

4.2.2 Indication of any system audits relating to key control elements targeted to specific thematic areas, such as:

- the quality of management verifications, including in relation to the respect of public procurement rules, environmental requirements, equal opportunities;
- the quality of project selection and management verifications related to the implementation of financial engineering instruments;
- the functioning and security of IT systems, and their connection with the Commission IT system(s);
- the reliability of data relating to indicators, milestones reached and the progress of the programme in achieving its objectives provided by the operating structure;
- the reporting of withdrawals and recoveries;
- the implementation of effective and proportionate anti-fraud measures underpinned by a fraud risk assessment.

4.3 For audits of transactions/operations:

² Including a reference to materiality thresholds and other quantitative and qualitative factors to consider when assessing the materiality of audit findings for the main types of audits described in sections 4.2, 4.3 and 4.4. of this strategy.

³ This means reference to the different phases of reporting (such as draft audit reports, contradictory procedure with the auditee and final audit reports), deadlines for reporting, follow-up processes.

⁴ Including reference to procedures for monitoring the implementation of recommendations and corrective measures resulting from audit reports.

4.3.1 Specification of the sampling methodology to be used in line with Article 12(2) Commission Implementing Regulation (EU) No 447/2014, including the procedures for its revision when necessary.

4.3.2 Where applicable, a description of the approach of non-statistical sampling enabling the audit authority to draw up a valid audit opinion, as provided for in Article 12(2) Commission Implementing Regulation (EU) No 447/2014.

4.3.3 Description of the procedure for recommending appropriate steps to be taken by the concerned authorities where errors are detected (or reference to the audit manuals or procedures where this matter is set out).

4.3.4 Description of the procedures in place for the classification and treatment of the errors detected (or reference to the audit manuals or procedures where this matter is set out).

4.3.5 Specific aspects related to the audits of financial instruments, if applicable.

4.3.6 Specific aspects related to the audits of simplified cost options, in accordance with Article 31(c) of the FWA, if applicable.

4.4 For audits of the annual financial reports or statements/annual accounts:

Indication of the audit approach for the audit of the annual financial reports or statements/annual accounts, the procedure for recommending appropriate steps to be taken by the concerned authorities where errors are detected.

The audit approach should take into account the results of the systems audits and audits on transactions/operations carried out in the management structure and operating structure, and the management verifications foreseen in Clause 4(3)(b)(x) of Annex A to this Agreement,.

4.5 Procedures to enable the audit authority to determine whether the audit work puts in doubt the assertions made or the absence of reservations in the management declaration, in accordance with Article 9(4) of Commission Implementing Regulation (EU) No 447/2014.

5. AUDIT WORK PLANNED

5.1 Indication and justification of the priorities and specific objectives in relation to the next year and the two subsequent years, together with an explanation of the linkage of the risk assessment results to the audit work planned.

5.2 Planned monitoring activities and follow up of previous audit findings.

5.3 An indicative schedule of audit assignments in relation to the next year and the two subsequent years for systems and thematic audits, as follows:

Authorities/Bodies or specific thematic areas to be audited	CCI	Programme Name	Result of risk assessment	20xx Audit objective and scope	20xx Audit objective and scope	20xx Audit objective and scope

6. PLANNED RESOURCES

6.1 Provide the organisation chart of the audit authority.

6.2 Indication of planned resources to be allocated in relation to the next year and the two subsequent years.

6.3 Indication of the qualifications and experience required for the staff performing audits, and training requirements, where applicable.

ANNEX H

Reporting on suspected fraud and other irregularities concerning the Instrument for Pre-accession Assistance (IPA II)

Clause 1 Definitions

For the purposes of the reporting of suspected fraud and other irregularities the definitions laid down in Article 51 of this Agreement, on the protection of the financial interest of the Union, shall apply.

Clause 2 Initial reporting

- (1) The IPA II beneficiary shall report any suspected fraud and other irregularities which have been the subject of a primary administrative or judicial finding without delay to the Commission and keep the latter informed of the progress of administrative and legal proceedings.

In that report the IPA II beneficiary shall in all cases give details concerning the following:

- (a) the IPA II Instrument and the policy area concerned, the name and the number of the programme and the action or operation concerned;
- (b) the identity of the natural and legal persons involved or of any other participating entities and their role, except where this information is irrelevant for the purposes of combating irregularities, given the nature of the irregularity concerned;
- (c) the identification of the region or area where the operation has been carried out using the appropriate information such as NUTS¹ level;
- (d) the provision(s) which have been infringed;
- (e) the date and source of the first information leading to suspicion that an irregularity has been committed;
- (f) the practices employed in committing the irregularity;
- (g) where appropriate, whether the practice gives rise to a suspicion of fraud;
- (h) the manner in which the irregularity was discovered;
- (i) where appropriate, the IPA II beneficiary and Member States and/or third countries involved;
- (j) the period during which, or the moment at which, the irregularity was committed;

¹ Nomenclature of Territorial Units for Statistics

- (k) the date on which the primary administrative or judicial finding on the irregularity was established;
 - (l) the total amount of eligible expenditure specified by Union contribution, national contribution and private contribution;
 - (m) the expenditure affected by the irregularity specified by Union contribution and National contribution;
 - (n) the amount which would have been unduly paid had the irregularity not been identified according to Union contribution and national contribution;
 - (o) the nature of the irregular expenditure;
 - (p) the suspension of payments, where applicable, and the possibility of recovery.
- (2) Where some of the information referred to in paragraph 1, and in particular information concerning the practices employed in committing the irregularity and the manner in which it was discovered, is not available or needs to be rectified, the IPA II beneficiary shall as far as possible supply the missing or correct information to the Commission without delay.
- (3) If national provisions provide for the confidentiality of investigations, communication of the information shall be subject to the authorisation of the competent tribunal or court.

Clause 3 Urgent cases

Each IPA II beneficiary shall immediately report to the Commission and, where necessary, to the Member States or other IPA II beneficiaries concerned, any irregularities discovered or supposed to have occurred, where it is feared that they may very quickly have repercussions outside its territory.

Clause 4 Follow-up reporting

- (1) In addition to the information referred to in Clause 2, the IPA II beneficiary shall provide the Commission without delay with reference to any previous report made pursuant to that Clause, with details concerning the initiation, conclusion or abandonment of any procedures for imposing administrative or criminal penalties related to the reported irregularities as well as of the outcome of such procedures.

With regard to irregularities for which penalties have been imposed, the IPA II beneficiary shall also indicate the following:

- (a) whether the penalties are of an administrative or a criminal nature;
 - (b) whether the penalties result from a breach of Union or national law;
 - (c) the provisions in which the penalties are laid down;
 - (d) the reasons for any abandonment of recovery procedures;
 - (e) whether fraud was established.
- (2) At the written request of the Commission, the IPA II beneficiary shall provide additional information in relation to a specific irregularity or group of irregularities.

Clause 5 Electronic transmission

The information referred to in Clause 2, 3 and 4(1) shall be sent in the English language, by electronic means, using the module provided by the Commission for this purpose via a secure connection.

Clause 6 Use of information

The Commission may use any information of a general or operational nature communicated by IPA II beneficiaries under these provisions to perform risk analyses and may, on the basis of the information obtained, produce reports and develop early-warning systems serving to identify risks more effectively.

Clause 7 Use of the euro

The euro shall be used as currency for reporting of irregularities. The IPA II beneficiary shall convert the amounts of expenditure incurred in national currency into euro. Those amounts shall be converted into euro using the monthly accounting exchange rate of the Commission in the month during which the expenditure was registered in the accounts of the operating structure of the programme or action concerned. The exchange rate shall be published electronically by the Commission each month

Where the amounts relate to expenditure registered in the accounts of the national authority during a period of more than one month, the exchange rate in the month during which expenditure was last registered may be used. Where the expenditure has not been registered in the accounts of the national authority, the most recent accounting exchange rate published electronically by the Commission shall be used.

Clause 8 Protection of personal data

- (1) The IPA II beneficiaries and the Commission shall take all necessary measures to prevent any unauthorised disclosure of, or access to, the information referred to in Clause 2, 3 and 4 (1) .
- (2) The information referred to in Clauses 2, 3 and 4 (1) may not be sent to persons other than those in the IPA II beneficiary or within the Union institutions whose duties require that they have access to it, unless the IPA II beneficiary supplying such information has expressly so agreed.
- (3) Any personal data included in the information referred to in Clauses 2, 3 and 4 (1) shall be processed only for the purpose specified in that provisions.

ANNEX I

Thematic priorities for assistance

Assistance may, as appropriate, address the following thematic priorities:

(a) Compliance with the principle of good public administration and economic governance. Interventions in this area shall aim at: strengthening public administration, including professionalisation and de-politicisation of the civil service, embedding meritocratic principles and ensuring adequate administrative procedures; enhancing the capacity to strengthen macroeconomic stability and supporting progress towards becoming both a functioning market economy and a more competitive economy; supporting participation in the multilateral fiscal surveillance mechanism of the Union and systematic cooperation with international financial institutions on fundamentals of economic policy, as well as strengthening public financial management.

(b) Establishing and promoting from an early stage the proper functioning of the institutions necessary in order to secure the rule of law. Interventions in this area shall aim at: establishing independent, accountable and efficient judicial systems, including transparent and merit-based recruitment, evaluation and promotion systems and effective disciplinary procedures in cases of wrongdoing; ensuring the establishment of robust systems to protect the borders, manage migration flows and provide asylum to those in need; developing effective tools to prevent and fight organised crime and corruption; promoting and protecting human rights, rights of persons belonging to minorities – including Roma as well as lesbian, gay, bisexual, transgender and intersex persons – and fundamental freedoms, including freedom of the media.

(c) Strengthening the capacities of civil society organisations and social partners' organisations, including professional associations, in beneficiaries listed in Annex I of the IPA II Regulation and encouraging networking at all levels among Union-based organisations and those of beneficiaries listed in Annex I of the IPA II Regulation, enabling them to engage in an effective dialogue with public and private actors.

(d) Investment in education, skills and lifelong learning. Interventions in this area shall aim at: promoting equal access to quality early-childhood, primary and secondary education; reducing early school-leaving; adapting vocational education and training (VET) systems to labour market demands; improving the quality and relevance of higher education; enhancing access to lifelong learning and supporting investment in education and training infrastructure; particularly with a view to reducing territorial disparities and fostering non-segregated education.

(e) Fostering employment and supporting labour mobility. Interventions in this area shall aim at: sustainable integration of young people not in employment, education or training (NEET) into the labour market, including through measures stimulating investment in quality job creation; supporting integration of the unemployed; and encouraging higher participation in the labour market of all under-represented groups. Other key areas of intervention shall be to support gender equality, the adaptation of workers and enterprises to change, the establishment of a sustainable social dialogue and the modernisation and strengthening of labour market institutions.

- (f) Promoting social inclusion and combating poverty. Interventions in this area shall aim at: integrating marginalised communities such as the Roma; combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation; and enhancing access to affordable, sustainable and high quality services, such as health care and social services of general interest, including through the modernisation of social protection systems.
- (g) Promoting sustainable transport and removing bottlenecks in key network infrastructures, in particular by investing in projects with high European added value. The identified investments should be prioritised according to their contribution to mobility, sustainability, reduced greenhouse gas emissions, relevance to connections with Member States, and coherence with the Single European Transport Area.
- (h) Improving the private-sector environment and competitiveness of enterprises, including smart specialisation, as key drivers of growth, job creation and cohesion. Priority shall be given to projects which improve the business environment.
- (i) Strengthening research, technological development and innovation, in particular through improving the research infrastructure, an enabling environment and promotion of networking and collaboration.
- (j) Contributing to the security and safety of food supply and the maintenance of diversified and viable farming systems in vibrant rural communities and the countryside.
- (k) Increasing the ability of the agri-food sector to cope with competitive pressure and market forces as well as to progressively align with the Union rules and standards, while pursuing economic, social and environmental goals in balanced territorial development of rural areas.
- (l) Protecting and improving the quality of the environment, contributing to the reduction of greenhouse gas emissions, increasing resilience to climate change and promoting climate action governance and information. IPA II funding shall promote policies to support the shift towards a resource-efficient, safe and sustainable low-carbon economy.
- (m) Promoting reconciliation, peace-building and confidence-building measures.

ANNEX J

Thematic priorities for assistance for territorial cooperation

Assistance for cross-border cooperation may, as appropriate, address the following thematic priorities:

- (a) promoting employment, labour mobility and social and cultural inclusion across borders through, inter alia: integrating cross-border labour markets, including cross-border mobility; joint local employment initiatives; information and advisory services and joint training; gender equality; equal opportunities; integration of immigrants' communities and vulnerable groups; investment in public employment services; and supporting investment in public health and social services;
- (b) protecting the environment and promoting climate change adaptation and mitigation, risk prevention and management through, inter alia: joint actions for environmental protection; promoting sustainable use of natural resources, resource efficiency, renewable energy sources and the shift towards a safe and sustainable low-carbon economy; promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems and emergency preparedness;
- (c) promoting sustainable transport and improving public infrastructures by, inter alia, reducing isolation through improved access to transport, information and communication networks and services and investing in cross-border water, waste and energy systems and facilities;
- (d) encouraging tourism and cultural and natural heritage;
- (e) investing in youth, education and skills through, inter alia, developing and implementing joint education, vocational training, training schemes and infrastructure supporting joint youth activities;
- (f) promoting local and regional governance and enhancing the planning and administrative capacity of local and regional authorities;
- (g) enhancing competitiveness, the business environment and the development of small and medium-sized enterprises, trade and investment through, inter alia, promotion and support to entrepreneurship, in particular small and medium-sized enterprises, and development of local cross-border markets and internationalisation;
- (h) strengthening research, technological development, innovation and information and communication technologies through, inter alia, promoting the sharing of human resources and facilities for research and technology development.