



AGREEMENT

between

Bosnia and Herzegovina

and

the European Union

**on the participation of Bosnia and Herzegovina in the
Union Programme "Competitiveness of Enterprises and
Small and Medium-sized Enterprises (COSME)
(2014-2020)"**

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between Bosnia and Herzegovina and the European Union on the participation of Bosnia and Herzegovina in the Union Programme "Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME) (2014-2020)"

BOSNIA AND HERZEGOVINA,

of the one part, and

THE EUROPEAN COMMISSION, hereinafter referred to as "the Commission", on behalf of the European Union,

of the other part,

Whereas:

- (1) A Framework Agreement has been signed on 22 November 2004 between the European Community and Bosnia and Herzegovina¹ which establishes the general principles for the participation of Bosnia and Herzegovina in Union programmes. Article 5 of the Framework Agreement provides that the specific terms and conditions, including financial contribution, with regard to the participation of Bosnia and Herzegovina in each particular programme will be determined by the competent authorities of Bosnia and Herzegovina and the Commission.
- (2) The Programme for the Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME) was established by Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013².
- (3) Pursuant to Article 6(1) (b) of Regulation (EU) No 1287/2013, acceding countries, candidate countries and potential candidates may participate in accordance with the general principles and general terms and conditions for the participation of those countries in Union's programmes established in the respective Framework Agreements and Association Council Decisions, or similar arrangements.
- (4) Entities established in Bosnia and Herzegovina should be entitled to participate in recurrent activities which need to start before the entry into force of this Agreement. As a consequence, costs incurred for such activities, the implementation of which starts in 2016, may be considered eligible under the same conditions as those applicable to costs incurred by entities established in Member States provided that this Agreement enters into force before the end of the action concerned.

HAVE AGREED AS FOLLOWS:

¹ OJ L 192, 22.7.2005, p. 9.

² OJ L 347, 20.12.2013, p. 33.

Article 1

Programme

Bosnia and Herzegovina shall participate in the Programme for the Competitiveness of Enterprises and Medium and Small Enterprises (hereinafter called "The Programme"), in accordance with the conditions laid down in the Framework Agreement of 22 November 2004 between the European Community and Bosnia and Herzegovina on the general principles for the participation of Bosnia and Herzegovina in Union programmes, and under the terms and conditions referred to in this Agreement.

Article 2

Terms and conditions with respect to participation in the Programme

1. Bosnia and Herzegovina shall participate in the activities of the Programme in conformity with the objectives, criteria, procedures and deadlines as defined in Regulation (EU) No 1287/2013, and according to the following:
2. The terms and conditions applicable to the submission, assessment and selection of applications and for implementation of the actions by eligible institutions, organisations and individuals of Bosnia and Herzegovina shall be the same as those applicable to eligible institutions, organisations and individuals of the Member States.
3. To participate in the Programme, Bosnia and Herzegovina shall pay every year a financial contribution to the General Budget of the European Union in accordance with Article 3 below.
4. The financial contribution of Bosnia and Herzegovina in respect of its participation and implementation of the programme shall be added to the amount earmarked each year in the General Budget of the European Union for commitment appropriations to meet the financial obligations arising out of different forms of measures necessary for the execution, management and operation of the programme.
5. One of the official languages of the EU, in this case English, shall be used for the procedures related to requests, contracts and reports, as well as for other administrative aspects of the Programme.

Article 3

Financial contribution

The rules governing the financial contribution of Bosnia and Herzegovina are set out in Annex I.

Article 4

Reporting and evaluation

Without prejudice to the responsibilities of the Commission and the European Court of Auditors in relation to the monitoring and evaluation of the programme, the participation of Bosnia and Herzegovina in the Programme shall be continuously monitored on a partnership basis involving Bosnia and Herzegovina and the Commission. Bosnia and Herzegovina shall

submit to the Commission relevant reports and take part in other specific activities provided for by the EU in that context.

Reporting and evaluation shall be done according to the rules indicated in Annex II.

Article 5

Final provisions

1. This Agreement shall apply for the duration of the Programme, starting on 1 January 2016. Nevertheless, should the European Union decide to extend the duration without any substantial change within the Programme, this Agreement would also be extended correspondingly and automatically if no party denounces it within one month following the extension decision.
2. This Agreement can be terminated by the Parties at any time during the duration of the Programme by a written notice informing of the intent to terminate participation in the Programme. Subject to the provisions hereunder, termination shall take effect three calendar months after the date at which the written notice reaches its addressee.
3. Projects and activities in progress at the time of termination shall continue until their completion under the conditions laid down in this Agreement, as well as the contractual arrangements applying to these projects and activities and the provisions of Annex II.
4. The Annexes form an integral part of this Agreement.
5. This Agreement may only be amended in writing by common consent of the Parties.

Article 6

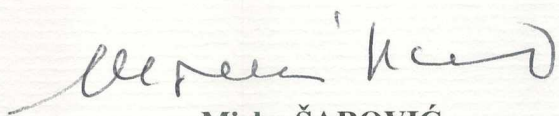
Entry into force

This Agreement shall enter into force on the date on which Bosnia and Herzegovina notifies the Commission through diplomatic channels that its internal legal requirements for its entry into force have been completed.


Done at Brussels, on 2 June 2016, in duplicate in the English language.

**FOR THE COUNCIL OF MINISTERS
OF BOSNIA AND HERZEGOVINA**

**FOR THE EUROPEAN COMMISSION
ON BEHALF OF THE EUROPEAN UNION**



Mirko ŠAROVIĆ
Minister of Foreign Trade and Economic
Relations



Elżbieta BIĘŃKOWSKA
Commissioner for Internal Market,
Industry, Entrepreneurship and SMEs

Annex I

Rules governing the financial contribution of Bosnia and Herzegovina to the Union Programme "Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME)

1. CALCULATION OF BOSNIA AND HERZEGOVINA'S FINANCIAL CONTRIBUTION

1. The financial contribution to be paid by Bosnia and Herzegovina to the General Budget of the European Union to participate in the Programme shall be established in proportion to, and in addition to, the annual allocation in the General Budget of the European Union for commitment appropriations needed for the implementation, management and operation of the Programme.
2. This financial contribution will be calculated by applying a proportionality factor to the average annual budget of the Programme.
3. The proportionality factor governing the contribution of Bosnia and Herzegovina has been obtained by establishing the ratio between the gross domestic product of Bosnia and Herzegovina at market prices, and the sum of gross domestic products, at market prices, of the European Union and Bosnia and Herzegovina.

$(\text{GDP at market prices for Bosnia and Herzegovina}) / (\text{GDP at market prices for EU 28+ Bosnia and Herzegovina}) = \text{proportionality factor}$

$(\text{Proportionality factor}) \times \text{the annual average budget of the programme} = \text{Bosnia and Herzegovina annual contribution to COSME.}$

Annual average budget = multiannual budget adopted by Regulation (EU) No 1287/2013 (2298.243 Mio€ / 7 = (328.32 Mio€)

4. This ratio has been calculated on the basis of the latest statistical data pertaining to the same year from the Statistical Office of the European Communities (Eurostat), available at the time of the negotiation of this Agreement.
5. The present annex includes the fixed amounts for the first two years of participation in the Programme (2016-2017).
6. For the remainder of the Programme (2018-2020), the annual financial contribution shall be calculated in the course of 2017, using the same formula, taking into account the latest statistical data and any changes in the total budget of the programme.
7. The annual financial contributions to be paid by Bosnia and Herzegovina to the budget of the European Union to participate in all activities of the programme for the period 2016-2017 will be as follows: € 331,701.
8. The contribution of Bosnia and Herzegovina shall cover costs related to the development and execution of the actions foreseen in the Programme.
9. Travel costs and subsistence costs incurred by representatives and experts of Bosnia and Herzegovina for the purposes of taking part as observers in the work of the Committee referred to in Article 21 of Regulation (EU) No 1287/2013 establishing the Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME) (the COSME Management Committee), or other meetings related to the implementation of the Programme shall be reimbursed by the Commission on the

same basis as and in accordance with the procedures currently in force for representatives of the Member States of the European Union.

10. The Financial Regulation applicable to the General Budget of the European Union shall apply to the management of the contribution of Bosnia and Herzegovina.

2. PAYMENT OF BOSNIA AND HERZEGOVINA'S FINANCIAL CONTRIBUTION

1. After this Agreement has entered into force and at the beginning of each subsequent budgetary year, the Commission shall send to Bosnia and Herzegovina a call for funds corresponding to its contribution of the costs covered by this Agreement.
2. That contribution shall be paid in Euro to a Euro denominated bank account of the Commission.
3. Bosnia and Herzegovina shall pay its contribution to the annual costs in accordance with the call for funds no later than three months after the date of the call. Any delay in the payment of the contribution shall give rise to the payment of default interest by Bosnia and Herzegovina on the outstanding amount from the due date. The interest rate shall be the rate applied by the European Central Bank to its main refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the deadline falls, increased by 3.5 percentage points.
4. In case the delay in the payment of the contribution is such that it may significantly jeopardise the implementation and management of the Programme, and in the absence of payment 20 working days after a formal letter of reminder has been sent by the Commission to Bosnia and Herzegovina, participation of Bosnia and Herzegovina in the programme for the concerned year will be suspended.

Annex II

FINANCIAL CONTROL, RECOVERY AND OTHER ANTI-FRAUD MEASURES

1. CONTROLS AND ANTI-FRAUD MEASURES BY THE UNION

1. In accordance with the financial regulation applicable to the General Budget of the European Union and with the other rules referred to in this Agreement, the contracts and grant agreements concluded with contractors and beneficiaries of the Programmes established in Bosnia and Herzegovina shall provide for financial or other audits to be conducted at any time by Commission agents or by other persons mandated by the Commission during the implementation of the contract or the grant agreement and for a period of 5 years starting from the date of payment of the balance. These financial or other audits shall be conducted on the premises of the contractors and their subcontractors and on the premises of the beneficiaries and their contractors and subcontractors.
2. Commission agents and other persons mandated by the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts and grant agreements concluded to implement the instruments referred to in this Agreement. The European Court of Auditors shall have the same rights as the Commission.
3. Within the framework of this Agreement, the Commission (OLAF) may carry out investigations, including on-the-spot checks and inspections, on the territory of Bosnia and Herzegovina, in accordance with the terms and conditions laid down in Council Regulation (Euratom, EC) No 2185/96³ and Regulation (EU, Euratom) N° 883/2013⁴ of the European Parliament and of the Council with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union and/or of Euratom.
4. These checks and inspections shall be prepared and conducted in close collaboration with the competent authorities of Bosnia and Herzegovina, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help.
5. If the authorities of Bosnia and Herzegovina concerned so wish, the on-the-spot checks and inspections may be carried out jointly with them.
6. Where the participants in the Programmes resist an on-the-spot check or inspection, the authorities of Bosnia and Herzegovina, 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.
7. Commission (OLAF) shall report as soon as possible to the authorities of Bosnia and Herzegovina any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event Commission (OLAF) shall be required to inform the above-mentioned authority of the result of such checks and inspections.

³ OJ L 292, 15.1.1996, p. 2.

⁴ OJ L 248, 18.9.2013, p. 1.

2. INFORMATION AND CONSULTATION

1. For the purposes of proper implementation of this Annex, the competent authorities of Bosnia and Herzegovina and of the EU shall regularly exchange information and, at the request of one of the Parties, shall conduct consultations.
2. The competent authorities of Bosnia and Herzegovina shall inform the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts concluded in application of the instruments referred to in this Agreement.

3. ADMINISTRATIVE MEASURES AND PENALTIES

Without prejudice to the application of criminal law of Bosnia and Herzegovina, administrative measures and penalties may be imposed by the Commission in accordance with the financial regulation applicable to the General Budget of the European Union.

4. RECOVERY

Decisions taken by the Commission within the scope of this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in Bosnia and Herzegovina.

The enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of Bosnia and Herzegovina shall designate for this purpose and shall make known to the Commission.

When these formalities have been completed on application by the Commission, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority. The legality of the Commission decision shall be subject to control by the Court of Justice of the European Union.

Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause in a contract and a grant agreement within the scope of this Agreement shall be enforceable on the same terms.