

Italian-Albanian Debt for Development Swap Agreement - IADSA

PROJECT AND FINANCING CONTRACT

Ref. No. IADSA/2016/____

(thereinafter referred to as the “Contract”)

Between

The Management Committee of the IADSA

Represented by

The Minister of Finance of the Republic of Albania, and

The Ambassador of Italy to Albania

(thereinafter referred to as the “IADSA MC”)

and

<Full official name as mentioned in the Grant Application Form>

<Full official address>

[NIPT number],

Represented by

<Full name, [<title (individual)>]>

Department / Directorate (whenever relevant)

<Full official address>

(thereinafter referred to as the “Executing Entity”)

both hereinafter referred to as the “Parties”

WHEREAS

- i. In the framework of the «Italian-Albanian Debt-for-Development Swap Agreement», hereinafter referred to as «IADSA», signed in Tirana on the 24th of August 2011 by the Government of the Italian Republic and the Council of Ministers of the Republic of Albania, and in compliance with the Operational Manual of the IADSA, adopted by the Management Committee (IADSA MC) on the 7th of September 2012, the Projects shall be selected through Call for Proposals, periodically launched by the Technical Support Unit established to assist the IADSA MC (hereinafter referred to as the «TSU»), to which all Albanian Public Institutions are entitled to apply;
- ii. The Executing Entity has submitted a Proposal for the financing of the Project « » (hereinafter referred to as the «Project»), in response to the fifth Call for Proposals launched on September 20, 2016 and the terms of which were closed on November 21, 2016;
- iii. On the basis of the final scores awarded to the Project Proposals deemed eligible among those submitted, at the completion of the joint screening and evaluation procedure, the IADSA MC has approved the financing of the Project on the meeting held in Tirana on ;

NOW THEREFORE the Parties hereby agree as follows:

General Provisions

Article 1 – Structure of the Contract

- 1.1. This Contract refers to the financing and implementation of the Project and it consists of the present Text, and the following Annexes:
 - 1.1.1. the Guidelines for the Project Implementation (hereinafter referred to as the «GPI»), hereto attached in Annex 1;
 - 1.1.2. The Project full description is included in the approved Project Proposal and its annexes hereto attached in Annex 2 (Grant Application Form, Logical Framework, Budget, Action Plan, Legal Entity Form and Partnership Statement/s, if any), submitted by the Executing Entity in partnership with:
(List of partner/s, if any)
 - 1.1.3. The format for the Technical and Financial Progress and Final Reports and the Standard request of transfer of instalments, included in Annex 3.
 - 1.1.4. The Partnership Agreement submitted in connection with the approved Project Proposal in Annex 2 and already undersigned by the Executing Entity with the above mentioned partner/s (whenever applicable) in Annex 4.
- 1.2. All the Annexes above listed and attached hereto, constitute an integral part of this Contract, and any modification is subject to the prior approval of the IADSA MC.

Article 2ô Purpose of this Contract

- 2.1 The IADSA provides, subject to the terms and conditions set out in this Contract, financial resources up to a ceiling of [REDACTED] Albanian LEKí [REDACTED] (in figures and letters) in grant (hereinafter referred to as the Grantö). The above-mentioned amount shall only be used to finance activities related to the execution of the Project, in accordance with the provisions of this Contract and its Annexes.
- 2.2. The Contract is aimed at:
- establish the mutual obligations of the Parties concerning the financing and implementation of the Project;
 - defining transferring, disbursement, procurement, monitoring, evaluation, auditing and reporting procedures.
- 2.3. Liability of any problem arising from the partnership and/or co-financing will not be responsibility of the IADSA MC.

Article 3 ô Procedures for transfer of the Grant

- 3.1 Upon the entry into force of the present Contract, a bank account in the name of the Project will be open, dedicated exclusively to the IADSA Grant and operated by the Executing Entity (hereinafter referred as the öProject Bank Accountö) for the execution of the Project.
- 3.2. The transfer of the Grant to the Project Account will be settled by instalments in Albanian LEK by the IADSA MC through the TSU, as specified in the following Articles 3.3. to 3.5.
- 3.3. The first instalment equal to 25% of the total Grant, amounting to Albanian LEK [REDACTED] (in figures and letters), will be transferred to the Project Account within ten (10) working days from its opening.
- 3.4. For the purposes of transferring of the first instalment, the signed Contracts serve as payment request.
- 3.5. The release of further instalments of equal amount of financing, each one amounting to Albanian LEK [REDACTED] (in figures and letters), will be transferred to the Project Account within ten (10) working days from the approval by the IADSA MC of the full technical and financial progress reports submitted by the Executing Entity to the TSU, accompanied by a written request of transfer of instalments subsequent to the first one.

Project Implementation

Article 4 ô Implementation period of the Project

- 4.1 The implementation of the Project shall begin on the day after this Contract will enter into force as per Article 16 hereto.
- 4.2 The implementation period of the Project, as laid down in Annex 2 hereto, is <number of months>.
- 4.3 The Project shall terminate when the IADSA MC will approve the final technical and financial report submitted by the Executing Entity to the TSU at the latest 3 months after the end of the implementation period as stipulated in Article 4.2. hereto.
- 4.4 At the termination of the Project, any unspent balance and every submitted expenses not being approved by the IADSA MC, shall be refunded by the Executing Entity to the IADSA and transferred to the Project Channelling Bank Account of the IADSA within thirty (30) days from the termination of the Project.

Article 5 ô Implementation of the Project's activities and Procurement Procedures

- 5.1. The Executing Entity shall implement the Project with the required care, efficiency, transparency and diligence, in line with the principle of sound financial management and with the best practices in the sector and area of intervention.
- 5.2. The procedures to comply with during the Project implementation for the recruitment, procurement and tendering shall be pursued under the responsibility of the Executing Entity in accordance with the modalities defined in the GPI annexed hereto (Annex 1) and for what not specified in the GPI, the Albanian Law and regulations should be applied.
- 5.2. Advertising for recruitment, procurement and tendering shall be carried out by the Executing Entity with announcements on the Albanian press and by sending the relevant documentation to the TSU.
- 5.3. The IADSA MC cannot - under any circumstances or for any reason whatsoever - be held liable for any sort of action carried out by third parties in connection to the implementation of the Project. The IADSA MC cannot therefore accept any claim for compensation or increases in Project's financing in connection with delays or any other actions.

Article 6 ô Visibility Procedures

- 6.1. The Italian-Albanian Debt for Development Swap Agreement (IADSA), as funding instrument, is entitled to receive adequate visibility and acknowledgment for its support to the projects. Therefore, the Executing Entity and its Partner/s (if any) shall take all appropriate measures to publicize the fact that projects are funded through the Italian-Albanian Debt for Development Swap Agreement (IADSA), according to the visibility guidelines described in the GPI annexed hereto (Annex 1).

Article 7ô Budget reallocations

- 7.1. The Grant will be managed according to the Budget breakdown annexed in the Project Proposal attached hereto (Annex 2).
- 7.2. Budget items reallocations are allowed within the limits and subject to the conditions established in Sub-articles 7.3. and 7.4. hereto. Requests for reallocation will be submitted by the Executing Entity to the TSU in written and explained with appropriate justifications, in order to be considered for approval by the IADSA MC. The TSU is allowed to approve reallocations which do not require this Contract to be amended as per next sub-article 7.3..
- 7.3. Budget items reallocations up to a maximum of +/- 10% of the original agreed amount of each budget heading within the total Grant are allowed and will not require any amendment to the present Contract. The TSU shall approve the requested reallocation by means of written communication.
- 7.4. Budget items reallocations exceeding the 10% of the original budget heading amount and within the total Grant shall be handled by amending the present Contract according to the provision in Article 17 hereto.
- 7.5. All budget item reallocations shall be carefully reflected in the Project reporting documents mentioned in Article 8 hereto.

Article 8 ô Reporting requirements

- 8.1. The Executing Entity shall prepare Technical and Financial Progress Reports (according to the format hereto attached in Annex 3), to be submitted to the TSU in connection with the request of transfer of each instalment and, in any case, no later than the end of each semester starting from the date of the transferring of the first instalment.
- 8.2. The Technical and Financial Progress Reports shall indicate in detail the updated progress of the Project towards results, the activities performed and the relevant expenditures of the period, as indicated in the approved Project Proposal and its annexes hereto attached in Annex 2 to guarantee that approved budgetary items and headings are not exceeded.
- 8.3. The Financial Progress and Final Reports shall be in Albanian LEK, only. Whether the Executing Entity, directly or through its Partners, would adopt currency other than the Albanian LEK, these expenditures shall be reported in Albanian LEK as indicated in Clause 15.5 of the GPI.
- 8.4. The Financial Reports must include bank statements and proofs of expenditures in original or conformed copies.
- 8.5. Based on TSU assessments or external audit reports, the IADSA MC has the right to reject any submitted expenses that does not match with the approved plan. Submitted expenses not being approved will not be considered as part of the overall project expenditure and shall be deducted from the next instalment of the Grant or, whereas deemed necessary, refunded back either to the Project Channelling Bank Account of the IADSA or Project Bank Account as specifically agreed among the Parties.
- 8.6. Should the Technical and Financial Progress Report not being approved by the IADSA MC or not submitted in due time, the next instalment will not be paid until the Report will be submitted and approved.

- 8.7. Within three months from the end date of the implementation period specified in Article 4.2. hereto, the Executing Entity shall submit a Final Technical and Financial Report according to the format provided in Annex 3 hereto. Before the final approval, the IADSA MC through the TSU may request further information and clarifications.
- 8.8. Any technical or financial modification to the Project Proposal herewith attached (Annex 2), duly approved as per Articles 7 and 17.2. hereto, should be clearly indicated in the above mentioned reports.

Article 9 ô Monitoring and Evaluation

- 9.1. The TSU assists the IADSA MC in monitoring the implementation of the Project and verifying the achievements through field visits. In addition, projects financed by the IADSA may be subject to ongoing or final evaluations. The entire IADSA Programme will be evaluated at the conclusion of the Debt Swap operations. The costs of these monitoring and evaluation activities will be borne by the IADSA.
- 9.2. Under the above circumstances, the Executing Entity shall provide any document or information needed for the evaluation and monitoring activities and visits, and grant the access rights described in the GPI annexed herewith.
- 9.3. The Italian and Albanian sides through the IADSA MC reserve the right to inspect the progress of the Project on the spot whenever deemed necessary.

Article 10 ô Audit

- 10.1. An annual Audit for the utilisation of the funds for IADSA projects and activities will be carried out by an International Auditing Company within the frame of the Audit procedure already in place for the IADSA.
- 10.2. The Executing Entity shall provide any document or information needed for the audit procedure.

Final provisions

Article 11 ô Interests accrued

- 11.1. Upon approval of a specific request submitted to the IADSA MC in writing, any interest generated in the Project Bank Account might be used for the same purpose and with the same procedures outlined in this Contract only.

Article 12 ô Handing over

- 12.1. If not differently agreed in written by the Parties all purchased goods, equipment and vehicles drawn from the Grant in the framework of the Project will be handed over to the final beneficiary institution(s) (e.g. the health centre, school, day care centre / institute municipality, consortium of producers, no profit associations and any other public service

providers, etc.) at the end of the Project. In the case of no profit associations, decision must be taken based on the approval of the IADSA MC

Article 13 ô Prevention of Abuse and Illegal Use of the Grant

- 13.1. The Executing Entity shall ensure that the Grant provided by the IADSA will be used strictly in accordance with the provision of this Contract and its Annexes for the implementation of the Project. The Executing Entity commits itself to take all reasonable measures to ensure an efficient administration of the aforementioned Grant and prevent any abuse and illegal use thereof.

Article 14 ô Force Majeure: Suspension or Termination

- 14.1. The term "force majeure", as used herein covers any unforeseeable events, not within the control of either party to this Contract.
- 14.2. In case of impediments to implement the Project due to case of force majeure such as wars whether declared or not, insurrections, riots, explosions, epidemics, landslides, floods, storms, earthquakes, civil disturbances, unexpected transportation difficulties and other cases which will be recognized by both Parties upon agreement as force majeure according to practice or in case of unsafe conditions for the Project's personnel, the following provisions shall apply:
- 14.2.1. In case that the duration of the impediment to the implementation of the Project is less than six months, the IADSA MC may extend accordingly the implementation period of the Project upon written request of the Executing Entity;
- 14.2.2. In case the duration of the impediment to the implementation of the Project is greater than six months and less than twelve, the Project shall be officially suspended and, consequently, the use of the funds shall be suspended until the IADSA MC authorizes resumption of activities;
- 14.2.3. In case the impediment to the implementation of the Project is greater than twelve months, the Parties shall discuss on the continuation of the Project and define an agreed course of actions. In case the continuation of the Project is not feasible, the Parties shall agree on the termination of the Project as regulated by Articles 16.2. and 16.3. hereto.

Article 15 ô Resolution of this Contract

- 15.1 In case of severe fault by the Executing Entity, the IADSA MC shall notify the event in writing to the Executing Entity, inviting it to take care of the remedies necessary to fix the consequences of the fault within maximum thirty (30) days from the date of the notification. Passed this time limit and in any case, the IADSA MC reserves itself the right to terminate immediately this Contract under the following circumstances:
- 15.1.1. Failure of the Executing Entity to reach the objectives and expected results of the Project within the end of the implementation period or to produce the pertinent reporting as per Article 8 above and documentation requested for the transfer of the instalments subsequent to the first one;

- 15.1.2. The Executing Entity fails, without justification, to start the implementation of the Project within six (6) months from the day after this Contract will enter into force as per Article 16.1. hereto;
 - 15.1.3. The use of the Grant for reasons different than those included in this Contract and its Annexes or its amendments;
 - 15.1.4. The Executing Entity fails, without justification, to fulfil any substantial obligation incumbent on them individually or collectively by this Contract and, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within thirty (30) days of receipt of the letter;
 - 15.1.5. The Executing Entity is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, is the subject of proceedings concerning those matters or is in any analogous situation arising from a similar procedure provided for the Albanian legislation or regulations;
 - 15.1.6. The Executing Entity, or any related entity or person, have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in implementing the Project, or are involved in a criminal organisation, money laundering or any other illegal activity;
 - 15.1.7. The IADSA MC has evidence that the Executing Entity, or any related entity or person, has committed substantial errors or irregularities in the implementation of the Project;
 - 15.1.8. The IADSA MC has evidence that the Executing Entity has committed systemic or recurrent errors or irregularities, fraud, or serious breach of obligations under other grants financed by the IADSA or the Government of the Italian Republic, provided that those errors, irregularities, fraud or serious breach of obligations have a material impact on this Grant.
- 15.2. Whenever the IADSA MC terminates this Contract under the circumstances listed in Article 15.1. above, the Executing Entity shall returned to the Project Channelling Bank Account of the IADSA Programme the funds already transferred in the Project Bank Account.
- 15.3. The Executing Entity responsible for the aforesaid mismanagement shall no longer be eligible for executing further Projects funded by the IADSA

Article 16 ô Entry into Force and Termination

- 16.1. This Contract shall enter into force on the date when the second of the two Parties signs and the IADSA MC receives by the Executing Entity the specimen signature for its authorised representative(s). The Contract shall remain in force for a period of () months.
- 16.2. In case of impediment or force majeure, the Parties may agree on the termination of the Project as regulated by Article 16.3. below.
- 16.3. If, for any reason, the execution of the Project cannot be completed in conformity with the provision of this Contract, the Parties shall consult each other on the matter. The funds already credited on the Project Bank Account shall be utilized only upon a specific agreement between the Parties, otherwise they shall be returned to the Project Channelling Bank Account of the IADSA Programme.

Article 17 ô Amendments

- 17.1. This Contract and its Annexes constitute the entire agreement between the Parties and may be altered or varied only by prior written consent of the Parties under the provision of Article 17.2. below.
- 17.2. The Parties may amend this Contract at any time by means of exchange of letters between the Parties.

Article 18 ô Settlement of Disputes

- 18.1. Any dispute between the Parties relating to the interpretation or application of the provisions of the present Contract shall be settled through mutual and amicable consultation between the Parties or through diplomatic channels, whenever applicable. Should the above actions fail; the IADSA MC will decide appropriate actions to be taken.

Article 19 ô Language and contact addresses

- 19.1. The Contract has to be executed in English, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of the Contract and its Annexes.
- 19.2. Any communication relating to the Contract shall be in writing, state the reference number of the Contract and title of the Project and be sent to the following addresses:

For the IADSA MC

Technical Support Unit (TSU)
IADSA
at the Ministry of Finance (4th floor)
Boulevard Deshmoret e Kombit
Tirane, Albania
E-mail: tsu@iadsa.info

For the Executing Entity

<Full name, [<title (individual)>]
[<Directorate / Unit>] /
<Address for correspondence>
E-mail

19.3. Either the IADSA MC or the Executing Entity may change its address for communication by giving the other Party notice in writing of such change to the addresses specified hereto.

Done in English in three originals: two originals being for the IADSA MC - one original being for the Ministry of Finance of the Republic of Albania and one original for the Embassy of the Italian Republic in Albania - the third original being for the Executing Entity.

Date í í í í í2016

**THE MANAGEMENT COMMITTEE
ITALIAN ALBANIAN DEBT-FOR-DEVELOPMENT
SWAP AGREEMENT (IADSA):**

THE EXECUTING ENTITY:

Full name of the Municipality

**The Minister of Finance of the Republic of
Albania**

í í í í í í í í í í í ..
(Name of the Mayor)

í í í í í í í í í í í ..
(Signature and stamp)

í í í í í í í í í í í ..
(Signature and stamp)

The Ambassador of Italy to Albania

í í í í í í í í í í í ..
(Signature and stamp)