**ANNEX X –** **IPA III - GRANTING OF FACILITIES AND TAXATION**

**Article 27 and 28 from the Financial Framework Partnership Agreement[[1]](#footnote-1) signed on 17th of October 2022**

The contract is, as a rule, exempt from all taxes and duties, including value added tax (VAT) and Special Consumption Tax (SCT), Motor vehicle tax, Special communication tax, and/or taxes of equivalent effect, stamp or registration duties, special charges or any other charge having equivalent effect, pursuant to the provisions of Articles set out in the Financial Framework Partnership Agreementsigned between the Republic of Türkiye (hereinafter will be referred "Türkiye") and the EU in 2022, extract of Article 27 & 28 of which are provided below.

The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and/or services and/or works and/or grant activities required for performance of the Contract are exempt from taxes, customs, import duties, levies and/or taxes of equivalent effect, and stamp or registration duties or special charges or any other charge having equivalent effect in accordance with the rules that are set out below. Any matter not covered by the below provisions on tax and customs arrangements shall remain subject to the national legislation of Türkiye.

The relevant provisions of the Financial Framework Partnership Agreement (the FFPA) are as follows:

**Granting of facilities for the implementation of programmes and execution of contracts**

(1) In order to ensure the effective implementation of programmes financed in whole or partly from any other Union instrument, the IPA III beneficiary shall take all necessary measures to ensure:

(a) that, in case of service, supplies or works tender procedures as well as calls for proposals for grants and twinnings, natural or legal persons eligible to participate in award procedures pursuant to Article 19 shall be entitled to a 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 Resident Twinning Advisors (RTA), needed to carry out studies and other preparatory measures to the drawing up of tenders/applications/proposals. The right of unsuccessful tenderers/candidates/applicants for a temporary installation shall expire one month after notification of the contract award decision;

(b) that tenderers and applicants can submit their tenders/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 Decision adopted by the Commission;

(c) that personnel taking part in the implementation of programmes financed in whole or partly from any other Union instrument and members of their immediate family are accorded no less favorable benefits, privileges and exemptions than those usually granted to other international or expatriate staff employed in Türkiye, under any other bilateral or multilateral agreement or arrangements for assistance and technical co-operation;

(d) that personnel taking part in the implementation of programmes financed in whole or partly from any other Union instrument and members of their immediate family are allowed to enter Türkiye, to establish themselves in Türkiye, to work there and to leave Türkiye, 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 III beneficiary*;*

(f) that imports carried out under programmes financed in whole or partly from IPA III or any other Union instrument will be exempted from all import 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 repatriation of funds received in respect of the action under programmes financed in whole or partly from any other Union instrument.

(j) that transactions necessary for carrying out contracts under programmes financed in whole or partly from any other Union instrument will be exempted from procedures requiring the transfer of the payment for goods or services to their contractors abroad through banks or financial institutions operating in Türkiye.

(2) The IPA III beneficiary shall ensure full co-operation of all relevant authorities. It will also ensure access to state-owned companies and governmental institutions, which are involved or are necessary in the implementation of an action or in the execution of the contract.

(3) After the entry into force of this Agreement, the IPA III beneficiary shall adopt or amend the legislation 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, duties and charges having equivalent effect shall not be eligible under IPA III programmes or any other Union instrument. This rule of exemption on taxes, customs duties and other fiscal charges shall also apply to co-financing provided by the IPA III beneficiary, or other co-financing entities, recipients of IPA III financial assistance received by natural or legal persons or any other financing under other Union instruments*.*

(2) The following provisions shall apply:

(a) for the purposes of this Agreement, the term ‘*Union contractor*’ shall be construed as natural and legal persons, executing a Union contract. The term ‘Union contractor’ shall include in particular, service/supplies/works contractors, grant beneficiaries (including twinning contractors, sub-grant beneficiaries), partners in a consortium or joint venture or co-beneficiaries or affiliated entities in grants, sub-grantees, contractors, international organisations, including their specialised agencies or development agencies, and RTAs under twinning contracts as well as contractors under the Technical assistance and Information exchange instrument (TAIEX);

(b) the term *‘Union contract’* means any contract, grant contract or agreement in direct or indirect management through which an activity is financed under IPA III or any other Union instrument, including sub-grants. The term ‘Union contract’ shall also cover provisions of assistance under TAIEX and participation in Union programmes;

(c) all imports by Union contractors shall be allowed to enter Türkiye without being subject to customs or import duties, Value Added Tax (VAT), excise duties and other special consumption tax or to any other similar tax, duties or charges having equivalent effect. Such exemption shall only be applied to the imports or charges in connection with the goods supplied or services rendered or works executed by the Union contractors under a Union contract. Türkiye 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 regard to any delays or disputes over the settlement of the above-mentioned duties, taxes or charges;

(d) Union contractors shall be exempted from VAT for any service rendered or goods supplied 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;

(e) the exemption provided for in point (d) shall be put into effect through the following mechanism.

(i) IPA III beneficiary shall ensure that an effective mechanism and procedures for VAT *ex ante* exemption has been put in place. This mechanism shall allow Union contractors and contractors of Union contractors to issue an invoice exclusive of VAT.

In case the IPA III beneficiary does not ensure that an effective mechanism and procedures for *ex ante* VAT exemption have been in place immediately following the entry into force of this Agreement, the Commission may apply a financial correction.

ii) By way of derogation, where in duly justified cases the *ex-ante* exemption is not technically or practically feasible, VAT exemption shall be put into effect through refund or offsetting.

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

Where the offsetting procedure applies, Union contractor and contractors of Union contractors shall be entitled to offset or deduct any input VAT paid in connection with the goods supplied or services rendered or works executed under IPA III 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 III.

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

(f) profit or income arising from Union contracts shall be taxable in Türkiye in accordance with the central/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 III other than the IPA III beneficiary, executing Union contracts shall be exempted from profit or income tax in Türkiye, including withholding and provisional or temporary taxes; except in cases where the natural and/or legal person making such profit and/or income has its residence or a permanent establishment to which such income is attributable in Türkiye according to the provisions of the applicable double taxation agreements;

(g) 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 central/local tax system;

(h) expenditures of the Union contractors shall be relieved from import charges, excise duties and other special consumption tax or from any other similar tax, duties or charges having equivalent effect for the expenditure in connection with the goods supplied or services rendered or works executed by that Union contractor under the Union contract;

(i) financial or material assets/goods, including constructed facilities or rights transferred to beneficiaries of actions/activities or beneficiaries of contracts carried out under IPA III programmes or under any Union Instrument shall not generate for these beneficiaries ‘inheritance and transfer taxes’ or any other tax or charge having equivalent effect;

(j) 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 or works or grant contracts or twinning contracts or agreements, shall be exempted from customs or import duties, Value Added Tax (VAT), excise duties and other special consumption tax or to any other similar tax, duties or charges having equivalent effect 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 Türkiye after termination of the contract;

(k) Union contracts shall not be subject to stamp or registration duties, or to any other charge having equivalent effect in Türkiye. 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 beneficiaries (including their partners, affiliated entities or sub-grant 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, where such payments are directly related to a Union contract;

(l) the following charges shall also be exempted for Union contractors:

(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 III beneficiary shall adopt or amend the secondary legislation 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 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 legislation of the IPA III beneficiary, the provisions of this Agreement shall prevail. In the event of accession to the Union, the IPA III beneficiary will continue to apply the provisions in Article 27 and this Article except where these are incompatible with its obligations under the relevant Union *acquis*.

1. This is an extract of Article 27 and 28 of the IPA III Financial Framework Partnership Agreement signed between Türkiye and the European Union Commission on 17.10.2022, and adopted as a law by Turkish Parliament (no: 7424) on 01 December 2022 and which was published in the Turkish Official Gazette on 08 December 2022, no:32037. Presidential Decree, no 2022/7424 that was published in Official Gazette no: 32042, dated 13 December 2022. Please, also refer to the Financial Framework Partnership Agreement (accessible via <https://ipa.gov.tr/ipa-iii-2021-2027/>), and the Communiqués issued by:

   - The Ministry of Treasury and Finance (MoTF) thereto for further information, especially for exemption scope and implementation procedure, which are available at the MoTF’s website at: <http://www.gib.gov.tr/uluslararasi_mevzuat>,

   - The Ministry of Trade (MoT) thereto for further information, especially for facilities extended for customs clearance, which is available: <https://resmigazete.gov.tr/eskiler/2023/04/20230424-3.htm> - AB Katılım Öncesi Yardım Aracı, published in the Official Gazette of Türkiye, No: 32170, on 24.04.2023,

   - The Ministry of Labour and Social Security, for application for work permits in Türkiye via https://www.csgb.gov.tr/uigm/calisma-izni/calisma-izni-muafiyeti/muafiyetler/ and for guidance via <https://emuafiyet.csgb.gov.tr/welcome> [↑](#footnote-ref-1)