FINANCING AGREEMENT

The European Commission, hereinafter referred to as "THE COMMISSION", acting for and on behalf of the European Community, hereinafter referred to as "THE COMMUNITY"

on the one part, and

The Government of the Republic of Croatia, hereinafter referred to as "THE RECIPIENT"

on the other part,

HAVE AGREED AS FOLLOWS:

The measure referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out in this Agreement. The technical, legal, and administrative framework within which the measure referred to in Article 1 below shall be implemented is set out in the General Conditions annexed to the Framework Agreement of 27 February 2002 between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this Agreement and the Special Provisions annexed hereto.

ARTICLE 1 - NATURE AND SUBJECT

As part of its aid programme, THE COMMUNITY shall contribute, by way of grant, towards the financing of the following MEASURE:

Programme number: PHARE/2005/017-655 and PHARE/2005/017-779
Title: CROATIA 2005 PHARE National Programme
Duration: Until 30 November 2007

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 71,5 M€ hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 30/11/2007 subject to the provisions of this Agreement. All contracts must be signed by this date. Any balance of funds of the EC GRANT, which have not been contracted by this date shall be cancelled.

The deadline for execution of contracts of THE EC GRANT is 30/11/2008 with the exception of the project HR/2005/5/6 Tempus (PHARE/2005/017-779) where the deadline for execution of contracts is 28/02/2010. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the contract execution period, should this be requested in due time and properly justified by THE RECIPIENT.
Disbursements of funds may continue for up to 12 months after the deadline for the execution of contracts to meet liabilities properly incurred through the execution of the contracts entered into under this programme. This Financing Agreement shall expire once those disbursements have been completed. All the funds which have not been disbursed by that time shall then be returned to the Commission.

**ARTICLE 4 - ADDRESSES**

Correspondence relating to the execution of THE MEASURE, stating THE MEASURE'S number and title, shall be addressed to the following:

**for the COMMUNITY:**

Delegation of the European Commission  
to the Republic of Croatia  
Masarykova 1  
10000 Zagreb  
CROATIA

Tel:  +385 (1) 4896 500  
Fax:  +385 (1) 4896 555

**for THE RECIPIENT:**

Ms Marija Pećinović Burić  
State Secretary and  
National Co-ordinator for EU Assistance and Co-operation Programmes  
Ministry of Foreign Affairs and European Integration  
Petretićev trg 2  
10000 Zagreb  
CROATIA

**ARTICLE 5 - NUMBER OF ORIGINALS**

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

**ARTICLE 6 - ENTRY INTO FORCE**

This Agreement shall enter into force on the date on which the Recipient notifies the Commission that all internal procedures in the Republic of Croatia necessary for the entry into force of this Agreement have been fulfilled. No expenditure incurred before this date is eligible for the EC GRANT.

The Annexes shall be deemed an integral part of this Agreement.
Done at Zagreb
Date 17/5/06

for THE RECIPIENT

Marija Pecinovic Burić
State Secretary and
National Co-ordinator for EU Assistance
and Co-operation Programmes

Done at Zagreb
Date 17/5/06

for THE COMMUNITY

Vincent Degert
Head of Delegation
of the European Commission
to the Republic of Croatia

Encl.
2. Special Conditions (Annex C)
3. Visibility/Publicity (Annex D)
ANNEX C – SPECIAL CONDITIONS

1. OBJECTIVES AND DESCRIPTION

The Phare National Programme 2005 concentrates on eight sectoral objectives referring to the priorities identified in the Opinion and the European Partnership for Croatia:

Objective 01 / Democracy and rule of law
Objective 02 / Human rights and protection of minorities
Objective 03 / Economic criteria
Objective 04 / Internal market and trade
Objective 05 / Sectoral policies
Objective 06 / Cooperation in justice and home affairs
Objective 07 / Supporting programmes
Objective 08 / Economic and social cohesion

Summary descriptions of the individual projects grouped under the sectoral objectives are as follows:

Objective 1: Democracy and rule of law

Strengthen the judicial system

| HR2005/1/1: Enhancement of mediation as an alternative to court-based dispute settlement |
|-----------------------------------------------|-----------------|
| **Duration**                        | **24 months** |
| **Twinning**                        | **N/A**        |
| **Phare budget**                    | **€ 1.112 M**  |
| **Implementing Agency**             | **CFCU**       |

The aim of this project is to support the enhancement of the mediation process as an alternative to court dispute settlement. It aims at establishing a viable structure and system for mediation in Croatia thereby reducing the backlog of cases at courts, through cooperation with the Croatian Chamber of Commerce, Croatian Chamber of Crafts and Croatian Employer's Association. The project will provide recommendations on the law on mediation, establish a viable structure for mediation, provide training and produce and disseminate information on mediation, develop a code of ethics and provide case management system and administrative support equipment.
**HR2005/1/2: Support to the Judicial Academy of Croatia: Developing a training system for future judges and prosecutor**

<table>
<thead>
<tr>
<th><strong>Duration</strong></th>
<th>24 months</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Twinning</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
<td>€ 1.2 M</td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
<td>CFCU</td>
</tr>
</tbody>
</table>

This project will assist in improving the training and selection of future judges and prosecutors, through a consistent training of court apprentices. It will assist in the design of a strategy for the selection and training of future judges and prosecutors and develop a sustainable training system for apprenticeship as well as training modules piloted in selected regions under the responsibility of the Judicial Academy. The project will also improve access to legal information for apprentices, court advisers and strengthen the training networks.

**Objective 2: Human rights and protection of minorities**

**Improve respect for minority rights**

**HR2005/2/1: Roma Support Project**

<table>
<thead>
<tr>
<th><strong>Duration</strong></th>
<th>36 months</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Twinning</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
<td>€ 1.3 M</td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
<td>CFCU</td>
</tr>
</tbody>
</table>

The aim of this project is to enhance and facilitate active and full participation of the Roma national minority in the economic, educational, cultural and social life of Croatian society, while preserving their own identity, culture and tradition. The project focuses on two activities. It will improve environmental and general living conditions in 10 Roma settlements in Medimurje County and facilitate and improve access for the Roma national minority in Croatia to formal and non-formal education and training.
Objective 3: Economic criteria

Accelerate land reform

<table>
<thead>
<tr>
<th>HR2005/3/1: Modernization of land administration in Croatia and pilot project for 324 municipalities in the NW region of Slavonia</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
</tr>
<tr>
<td><strong>Twinning</strong></td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
</tr>
</tbody>
</table>

This project aims to achieve an efficient land administration system complying with European standards and to update and harmonize land registry and cadastre records for certain municipalities of Croatia. The objective of the intervention is to improve the real property market by addressing constraining aspects of the supporting infrastructure related to the real property registration system in municipal courts and cadastre offices. The Pilot Project aims to support the process of modernization and harmonization of land administration in Croatia, achieving an efficient and harmonized land administration system for 324 Municipalities in North Western Croatia (Slavonia) targeting 14 Land Registry Courts and 13 cadastral offices.

Objective 4: Internal market and trade

Free movement of goods

<table>
<thead>
<tr>
<th>HR2005/4/1: Market Surveillance System in the Field of Technical Products</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
</tr>
<tr>
<td><strong>Twinning</strong></td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
</tr>
</tbody>
</table>

The aim of this project is to contribute to further develop the capacity of the market surveillance system in Croatia regarding its task to guarantee the safety and compliance of technical products (non-food products) in accordance with EU market surveillance good practice. The project will build the capacity of the State Inspectorate to carry out market surveillance activities in accordance with EU good practice and in cooperation with other national market surveillance authorities.
**Competition**

**HR2005/4/2: Strengthening of capacity to manage and enforce the EU competition and state aid policies**

<table>
<thead>
<tr>
<th>Duration</th>
<th>24 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>Yes</td>
</tr>
<tr>
<td>Phare budget</td>
<td>€ 1.8 M</td>
</tr>
<tr>
<td>Implementing Agency</td>
<td>CFCU</td>
</tr>
</tbody>
</table>

This project aims to support training of the Croatian Competition Agency staff and other relevant stakeholders in the implementation of the competition and state aid rules, and the establishment of a state aid inventory. The objective in the area of competition policy is to strengthen the capacity of the Competition Authority staff in handling anti trust cases, to improve the enforcement records and to strengthen the judiciary in handling competition cases. The aim for the area of state aids is to improve control and enforcement, to obtain reliable data and transparency on state aids and to provide training at the regional and local level to improve reporting flows.

**Taxation**

**HR2005/4/3: Assistance to the Croatian tax administration in the development activities proceeding from the EU fiscal blueprints**

<table>
<thead>
<tr>
<th>Duration</th>
<th>24 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>Yes</td>
</tr>
<tr>
<td>Phare budget</td>
<td>€ 3 M</td>
</tr>
<tr>
<td>Implementing Agency</td>
<td>CFCU</td>
</tr>
</tbody>
</table>

The project aims to improve the administrative capacity of the Croatian tax administration in the field of information technology in accordance with the key indicators from the Fiscal Blueprints of the European Commission. Furthermore, it is to adopt and integrate the EU standards and practices for intercommunity trading according to EU requirements. The purpose of this project is to create preconditions for the introduction and effective management of the VIES (VAT Information Exchange System), with the existing National VAT Information System integrated into it. This includes setting up of the IT network to ensure connectivity with the EU tax system, as well as capacity building measures to set the grounds for appropriate management of the new system, effective administrative co-operation with the EU member states and enhanced communication with other relevant stakeholders.
**Customs union**

**HR2005/4/4: Interoperability of IT systems with EU customs systems**

<table>
<thead>
<tr>
<th>Duration</th>
<th>24 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>Yes</td>
</tr>
<tr>
<td>Phare budget</td>
<td>€ 7.075 M</td>
</tr>
<tr>
<td>Implementing Agency</td>
<td>CFCU</td>
</tr>
</tbody>
</table>

The purpose of this project is to strengthen the operational capacity of the Croatian customs administration in accordance with the EU standards in core Customs business areas of the European Customs tariff, Customs transit control and the control of the movement of Excise goods to ensure full compatibility and inter-operability of the Croatian Customs computer systems with the EU computer systems. The project will focus on the development of the “Tarif Intégré Communautaire (TARIC)” component of the integrated tariff management system, and the New Computerised Transit System (NCTS). The project will also assist in the development of the software for the Excise Movement Control System (ECMS).

**Objective 5: Sectoral Policies**

**Agriculture**

**HR2005/5/1: Institutional capacity building and support for implementation of SAPARD/IPA-RD programme**

<table>
<thead>
<tr>
<th>Duration</th>
<th>36 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>N/A</td>
</tr>
<tr>
<td>Phare budget</td>
<td>€ 4.045 M</td>
</tr>
<tr>
<td>Implementing Agency</td>
<td>CFCU</td>
</tr>
</tbody>
</table>

The project aims to build up capacities of the Program Management Authority for SAPARD/IPA - Rural Development Component (referred to as IPA-RD) to enable it to carry out tasks and responsibilities linked to coordination and management of EU co-financed rural development programmes. It will build up capacities of the Directorate for Market and Structural Support in Agriculture to carry out tasks and responsibilities assigned to the SAPARD/IPA-RD Paying Agency; develop a strategic planning framework for implementation of the IPA-RD programme; build up capacities of all relevant national authorities and bodies involved in implementation and monitoring of SAPARD/IPA-RD programmes; build up capacities of potential IPA-RD beneficiaries enabling them to take a full advantage from the programme; and enhance the absorption and an efficient use of EU rural development/agricultural support funds (SAPARD/IPA-RD).
Fisheries

**HR2005/5/2: Support to the Republic of Croatia in the preparation and implementation of the strategy to develop the fisheries sector within the context of alignment and enforcement of the EU Acquis comprising the Common Fisheries Policy.**

<table>
<thead>
<tr>
<th><strong>Duration</strong></th>
<th><strong>36 months</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Twinning</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
<td>€ 4.5 M</td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
<td>CFCU</td>
</tr>
</tbody>
</table>

The project will assist Croatia with the establishment of adequate administrative structures and infrastructure for an efficient implementation of fishery policy, in line with the principles of the Common Fishery Policy. The project will in particular focus on legislation harmonization, resource management, surveillance, control and inspection as well as structural and market mechanisms. The project aims to strengthen the institutional capacity of the Department of Fisheries to administer structures and marketing aspects of the Croatian fisheries sector in the context of EU integration. It aims to design and implement a National Fisheries Management Strategy and to implement delivery mechanisms to promote development of fisheries infrastructure, representative organisations and fish marketing.

Transport

**HR2005/5/3: Maritime safety: Enforcement of administrative capacity – monitoring and management of vessels**

<table>
<thead>
<tr>
<th><strong>Duration</strong></th>
<th><strong>36 months</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Twinning</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
<td>€ 2.15 M</td>
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<tr>
<td><strong>Implementing Agency</strong></td>
<td>CFCU</td>
</tr>
</tbody>
</table>

This project aims to support maritime safety through enhancement of capacity for monitoring and management of vessels with the objective to establish a fully operational Automated Identification of Ships (AIS) system and define measures on Vessel Traffic Monitoring and Information System (VTMIS). The project will also assist in the enhancement of administrative and technical efficiency of the Croatian Maritime Administration in monitoring and management of vessels with a special regard to vessels carrying dangerous and polluting goods.
### Social policy and employment

<table>
<thead>
<tr>
<th>HR 2005/5/4: Active employment measures for groups threatened by social exclusion</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
</tr>
<tr>
<td><strong>Twinning</strong></td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
</tr>
</tbody>
</table>

The project aims to strengthen and develop the Croatian labour market policy. It will assist in the creation of a new Active Labour Market Policy (ALMP) Programme especially targeting groups of unemployed population or population threatened by social exclusion. It will also assist in building capacity of the Croatian Employment Service staff directly involved in preparing, evaluating, implementing and monitoring the ALMP. The project includes pilot grant schemes to test actions for improving the employability of the socially disadvantaged unemployed.

### Small and medium sized enterprises

<table>
<thead>
<tr>
<th>HR2005/5/5: Capacity building for the SME support structure and alignment of policy and actions to the SME charter and acquis communautaire</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
</tr>
<tr>
<td><strong>Twinning</strong></td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
</tr>
</tbody>
</table>

The purpose of the project is to ensure that the Croatian Ministry of Economy, Labour and Entrepreneurship and the Croatian SME Agency (HAMAG) are able to develop policies and provide support to SMEs to EU standards as required by the SME Chapter of the acquis and the EU Charter for Small Enterprise. This institution capacity building is expected to impact significantly on Croatia’s ability to successfully implement SME best practice. The project will assist in reviewing and enhancing the SME institutional framework, the SME policies, programmes and strategies, the Business Advisory Service support mechanisms, the SME definitions, statistics and analyses and the Regulatory regime for SMEs. Training and capacity building to national SME institutions will be delivered as part of the projects activities.
**Education and training**

<table>
<thead>
<tr>
<th><strong>HR2005/5/6: TEMPUS</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
<td>36 months</td>
</tr>
<tr>
<td><strong>Twinning</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
<td>€ 5 M</td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
<td>Centralised</td>
</tr>
</tbody>
</table>

The project will continue to support Croatia's participation in the TEMPUS programme with the aim to increase the quality of higher education institutions and preparedness for successful participation in EU education programmes, to strengthen the strategic management capacity and modernise the administration of higher education institutions and to revise curricula and courses in line with changes in social and economic needs. The European Commission's Directorate-General for Education and Culture has the overall responsibility for the policy and management of the Tempus Programme. Following an annual call for proposals, projects are assessed academically and technically according to general criteria and a list of national priorities established in co-operation with the partner country authorities.

**Statistics**

<table>
<thead>
<tr>
<th><strong>HR2005/5/7: Technical Assistance to the Central Bureau of Statistics of the Republic of Croatia in the Adoption of the Acquis</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
<td>36 months</td>
</tr>
<tr>
<td><strong>Twinning</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
<td>€ 4.66 M</td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
<td>CFCU</td>
</tr>
</tbody>
</table>

The project aims to improve the institutional capacity of the Croatian Bureau of Statistics by establishing a new organisational structure and enhancing the following priority areas: Business Register and Classifications, National Accounts, Business Statistics, Household Based Surveys and Agricultural Statistics. The project will also assist Croatia in developing, managing and assessing the policies in the above mentioned areas by providing statistical information, in accordance with EU standards.
Environment

**HR2005/5/8: Enhanced environmental inspection for enforcement of new environmental legislation**

<table>
<thead>
<tr>
<th><strong>Duration</strong></th>
<th>24 months</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Twinning</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
<td>€ 2.06 M</td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
<td>CFCU</td>
</tr>
</tbody>
</table>

The aim of the project is to enhance the environmental inspection for the enforcement of provisions stipulated by existing and new environmental laws as harmonized with EU legislation. Its purpose is to assist with recommendations for the adaptation of the environmental inspection structure to the needs of new legislation enforcement, train inspectors and educate other related participants on their responsibilities regarding environmental protection, and establish and equip a pilot team of the environmental inspection service.

**HR2005/5/9: Implementation of NATURA 2000 in Croatia**

<table>
<thead>
<tr>
<th><strong>Duration</strong></th>
<th>24 months</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Twinning</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
<td>€ 2.5 M</td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
<td>CFCU</td>
</tr>
</tbody>
</table>

The project purpose is to establish and further implement NATURA 2000 in Croatia and build capacity of the State Institute for Nature Protection (SINP) for provision of biodiversity data to European Environment Agency (EEA) through the Croatian Environment Agency. The project will assist in completing the proposals for NATURA 2000 sites in Croatia, prepare a Management plan for Vransko Lake Nature Park, establish capacity for implementation of the Habitat Directive, develop the Nature Protection Information System (NPIS) and establish monitoring of biodiversity indicators.
Objective 6: Cooperation in justice and home affairs

Border management

<table>
<thead>
<tr>
<th>HR2005/6/1: Strengthening human resources management, education and training system of the Ministry of Interior – Police Academy</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
</tr>
<tr>
<td><strong>Twinning</strong></td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
</tr>
</tbody>
</table>

The aim of this project is to improve the capacity of the Ministry of the Interior to manage its human resources and to enhance the police education and training system. The project will assist in upgrading the career development system, develop a performance evaluation system and establish a functional analysis of human resource management. A further component of the project will assist the Croatian Police Academy to adopt a Police Education and Training Strategy as basis for further activities and development of the Academy. This will include the establishment of a modular system for police education and training and the introduction of the European Credit Transfer System (ECTS) at the Police Academy. The project includes improvement of training capacity and quality through supplying modern technical training devices.

<table>
<thead>
<tr>
<th>HR2005/6/2: Preparation for the implementation of the Schengen acquis</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
</tr>
<tr>
<td><strong>Twinning</strong></td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
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<tr>
<td><strong>Implementing Agency</strong></td>
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</tbody>
</table>

This project aims to further develop and strengthen the capacity of the Ministry of the Interior for implementing the EU Acquis on border control and management. It includes measures for implementing the “Schengen Action Plan” and the “Border Police Development Strategy”, strengthening the capacity of the Border Police for performing risk assessment and enhancing the capability for surveillance of the green border and controls at Border Crossing points as well as elaborating a strategic concept for managing the state border with Bosnia and Herzegovina in the Metković area.
### Objective 7: Supporting programmes

<table>
<thead>
<tr>
<th>HR2005/7/1: Capacity building and project preparation facility</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
</tr>
<tr>
<td><strong>Twinning</strong></td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
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<tr>
<td><strong>Implementing Agency</strong></td>
</tr>
</tbody>
</table>

This facility aims to strengthen the capacity of Croatian institutions to prepare and manage Phare and IPA projects. It includes technical assistance for feasibility studies, training in programming, project design and project management, and the preparation of projects, technical specifications, procurement plans, tender dossiers and environmental impact assessments.

<table>
<thead>
<tr>
<th>HR2005/7/2: Participation in Community programmes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Duration</strong></td>
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<tr>
<td><strong>Twinning</strong></td>
</tr>
<tr>
<td><strong>Phare budget</strong></td>
</tr>
<tr>
<td><strong>Implementing Agency</strong></td>
</tr>
</tbody>
</table>

The Framework Agreement between the Republic of Croatia and the European Community on the general principles for the participation of the Republic of Croatia in Community Programmes was signed in November 2004\(^1\). The Phare programme can be used to meet a part of the costs for the participation in the programmes in accordance with Article 5 Paragraph 2 of the Framework Agreement. From 2005, these funds will be available each year as a part of the Phare national programme so as to co-finance the financial contribution for the participation in the programmes in the following year. In 2005, this facility will provide Phare co-financing to help Croatia pay its contribution for participating inter-alia in the following indicative list of EC programmes and agencies in 2006: 6\(^{th}\) Framework Programme for Research and Development, Intelligent Energy Europe, IDAibc, Customs 2007, Gender Equality, Fiscalis 2007, Marco Polo, and Community Incentive Measures in the field of Employment.

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HR2005/7/3: Unallocated Institution Building Envelope

<table>
<thead>
<tr>
<th>Duration</th>
<th>24 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>Yes – to be programmed according to needs</td>
</tr>
<tr>
<td>Phare budget</td>
<td>€ 2 M</td>
</tr>
<tr>
<td>Implementing Agency</td>
<td>CFCU</td>
</tr>
</tbody>
</table>

This facility will provide Institution Building support to meet the requirements related to specific, urgent and unforeseen needs identified in the course of the accession negotiation process. In particular this facility may help to assist the adoption and implementation of acquis in particular areas where assistance is still necessary; strengthen the institutional and operational capacity of public administration bodies in view of the future role in the implementation of the EU acquis; develop human resources of public administration institutions relevant for the implementation of the EU acquis; facilitate public administration reform; and develop the institutions involved in current and future management of EC funds, and in the protection of these funds against fraud, other irregularities and corruption.

Objective 8: Economic and Social Cohesion

HR2005/8/1: Business related infrastructure grant scheme under ESC 2005

<table>
<thead>
<tr>
<th>Duration</th>
<th>24 months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twinning</td>
<td>N/A</td>
</tr>
<tr>
<td>Phare budget</td>
<td>€ 5 M</td>
</tr>
<tr>
<td>Implementing Agency</td>
<td>CFCU</td>
</tr>
</tbody>
</table>

The overall objective of the project is the effective absorption of Phare Economic and Social Cohesion funds (ESC) in 2005-2006, Instrument for Pre-accession Assistance (IPA) funds from 2007 onwards and, upon accession, Cohesion and Structural Funds to reduce internal and external regional disparities. The specific purpose of the project is to pilot test programmes and planning structures that will implement Phare ESC and IPA pre-accession and the Structural and Cohesion Funds after accession through selective focusing on a limited number of investment priorities.
Lessons Learned

An overall amount of €262 was committed to Croatia under the CARDS programme between 2001 and 2004. The main priorities covered are:

- Return of refugees, sustainable development in return areas, reconstruction and civil society development (€74.70 million/28.5% of total);
- Trade, investment climate, social cohesion including TEMPUS (€68.85 million/26.3% of total);
- Reform of the judiciary and police, migration and asylum, integrated border management, the fight against organised crime (€62.95 million/24% of total);
- Public administration reform, regional and local development, public finance (€41 million/15.6% of total);
- Environmental approximation, institution strengthening, monitoring and planning, investment preparation (€12.50 million/4.8% of total).

In designing the Phare 2005 programme, careful account has been taken of the results of projects programmed in previous years. Lessons learned are usually drawn on a case by case basis, building upon relevant experience in the implementation of previous projects in a specific area. Relevant information in that respect is provided in each project fiche.

The key lesson learned from the implementation of CARDS projects is that weak administrative absorption capacity in Croatia’s public administration bodies is reducing the effectiveness of EC assistance. The Croatian administration needs to make continuous efforts to meet agreed project conditionalities and there is a need to raise the top political levels’ knowledge about EU assistance. Proper staffing of the units charged with implementing projects and support from the top management and political level in ministries is necessary for successful project results. The Commission continues to support Institution building in bodies involved in managing EU funds, including support for the introduction of a decentralised implementation system for EU assistance and also supports general public administration reform.

Overall programme conditionalities

Before the Financing Agreement between the Commission and the Government of Croatia is signed, the National Aid Coordinator will satisfy the Commission that adequate steps have been taken to staff and resource adequately the National Fund, CFCU, other Implementing Agencies and project management units involved in implementing this programme.

Before the Financing Agreement between the Commission and the Government of Croatia is signed, the National Aid Coordinator will confirm the availability of the national co-financing indicated in each project fiche, and the modalities for combining Phare and national co-financing when projects are contracted.

Any project involving the supply of equipment and works requires national co-financing as shown in the relevant project fiche. In addition, all operational and running costs and the maintenance of the equipment will be provided by the final beneficiaries.

If the total cost of equipment or works is less than the amount envisaged in the fiche, the amount of Phare support will be reduced to maintain unchanged the relative proportions of Phare support and national co-financing shown in the fiche. If the total cost is greater
than the amount envisaged in the fiche, the extra support required will be provided by additional national co-financing.

Before the Financing Agreement between the Commission and the Government of Croatia is signed, the National Aid Coordinator will satisfy the Commission that draft twinning covenants, terms of reference and technical specifications have been prepared, as appropriate, to allow each project to be launched immediately.

For any project delivered partly or wholly by twinning, a draft twinning contract shall be presented to the Commission Delegation for approval within three months of notification of selection of the twinning partner. If no draft contract is presented within this period, the Commission may re-circulate the project to Member States for selection of a new twinning partner, tender the project for commercial technical assistance, or cancel the project.

Projects to be implemented through twinning or twinning light require the full commitment and participation of the senior management of the beneficiary institution. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management must be fully involved in the development and implementation of the policies and institutional change required to deliver the project results.

For projects involving more than one Croatian Ministry or agency, the National Aid Co-ordinator will ensure that effective mechanisms for co-operation and co-ordination between such Ministries or agencies are in place. The National Aid Co-ordinator will undertake thorough reviews of progress on implementation of the projects listed at least every three months from the time the Financing Agreement is signed until the final date for contracting.

If these reviews indicate that by the first quarter of the final year for contracting (2007 unless otherwise specified) there is a high risk of a project or component of a project not being contracted, the Commission reserves the right to take remedial action including, if necessary, reallocating funds to other purposes or cancelling projects or components thereof.

Further project-specific conditionalities are described in each project fiche.
## 2. Budget

### 2.1. Budget Table for 2005

<table>
<thead>
<tr>
<th>No.</th>
<th>OBJECTIVE</th>
<th>Phare support</th>
<th>Co-financing</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>IB</td>
<td>INV</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Total Phare</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other sources (**)</td>
<td>National public fund (*)</td>
<td></td>
</tr>
<tr>
<td>01</td>
<td>Democracy and rule of law</td>
<td>2.216.000</td>
<td>96.000</td>
<td>2.312.000</td>
</tr>
<tr>
<td>02</td>
<td>Human rights and protection of minorities</td>
<td>800.000</td>
<td>500.000</td>
<td>1.300.000</td>
</tr>
<tr>
<td>03</td>
<td>Economic criteria</td>
<td>4.081.523</td>
<td>1.083.477</td>
<td>5.165.000</td>
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<tr>
<td>04</td>
<td>Internal market and trade</td>
<td>8.600.000</td>
<td>4.575.000</td>
<td>13.175.000</td>
</tr>
<tr>
<td>05</td>
<td>Sectoral policies</td>
<td>23.523.750</td>
<td>5.891.250</td>
<td>29.415.000</td>
</tr>
<tr>
<td>06</td>
<td>Cooperation in justice and home affairs</td>
<td>2.437.500</td>
<td>2.562.500</td>
<td>5.000.000</td>
</tr>
<tr>
<td>07</td>
<td>Supporting programmes</td>
<td>10.133.000</td>
<td>0</td>
<td>10.133.000</td>
</tr>
<tr>
<td>08</td>
<td>Economic and social cohesion</td>
<td>30.000</td>
<td>4.970.000</td>
<td>5.000.000</td>
</tr>
<tr>
<td></td>
<td>TOTAL</td>
<td>51.821.773</td>
<td>19.678.227</td>
<td>71.500.000</td>
</tr>
</tbody>
</table>

(The distribution of figures between the budget lines is indicative within the limits of Art. 5 MoU NF)

(*) Contribution from national, regional, local, municipal authorities, FIs loans to public entities, funds from public enterprises.

(**) Private funds, FIs loans to private entities.
2.2. Principle of Co-Financing

In accordance with the Phare Guidelines, all investment projects supported by Phare must receive co-financing from national public funds.

The Community contribution may amount to up to 75% of the total eligible public expenditure. Taxes are not an element eligible for co-financing.

Co-financing for Institution Building projects is provided by the Beneficiary Country bearing certain infrastructure and operational implementation costs, through financing the human and other resources required for effective and efficient absorption of Phare assistance.

3. IMPLEMENTING AGENCIES

Subject to a Commission decision to extend Decentralised Implementation to the Republic of Croatia, the Implementing Agency responsible for the programme is the Central Finance and Contracting Unit (CFCU) of the Ministry of Finance of the Republic of Croatia except for:

- Project HR2005/5/6 "Tempus", for which responsibility for implementation lies with the European Commission.

- Project HR2005/7/1 "Participation in Community Programmes", where implementation will only consist in the payment of the EC part of the financial contribution to the Community programmes by the National Fund.

4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of Implementation

Implementation of the programme will follow Art. 53 (1) b (second alternative) of the Financial Regulation\(^2\). The implementation arrangements outlined below do not apply to the Tempus programme (HR2005/5/6), for which the implementation responsibility lies with the European Commission and which will be implemented on a centralised basis in accordance with Art. 53 (1)a of the Financial Regulation. The Beneficiary Country will continue to ensure that the conditions laid down in Art. 164 (1) (a) - (e) of the Financial Regulation are respected at all times.

Prior to the accreditation of Implementing Agencies foreseen by Art. 12 (2) of Regulation 1266/1999\(^3\), project selection, tendering and contracting by the Beneficiary Country will be subject to ex-ante approval by the Commission.

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4.2. General rules for Procurement

Procurement shall follow the provisions of Part 2, Title IV of the Financial Regulation and Chapter 3 of Part 2, Title III of its Implementing Rules⁴, as well as the Commission Decision SEC (2003) 387/2⁵.

The Contracting Authorities shall also use the procedural guidelines and standard templates and models facilitating the application of the above rules provided for in the “Practical Guide to contract procedures financed from the general EC budget in the context of external actions” (“Practical Guide”) as published on the EuropeAid website⁶ at the date of the initiation of the procurement or grant award procedure.

4.3. Grant Schemes

For grant schemes the precise implementation arrangements will be specified in the relevant project fiches in line with the following principles:

The procedures and formats to be used in the implementation of the schemes and award of the grants will follow the grant award procedures for External Actions. In particular, due care will be given to the selection process of the projects. Grants will be awarded in conformity with the provisions of chapter 6 of the Practical Guide, and following the principles of Phare decentralised management. Prior to EDIS accreditation, the ex-ante approval of the Commission Delegation in Croatia will be required.

The competent PAO for the programme under which the grant scheme is financed has to retain his/her contractual and financial responsibility for the implementation of the schemes. In particular, the PAO has to formally approve the call for proposals, application forms, the eligibility criteria and the selection and award criteria, as well as the selection process and results. The PAO also has to sign the grant agreements with the beneficiaries and to ensure adequate monitoring and financial control under his/her authority and responsibility. With this reservation, the management can be decentralised from the PAO to the appropriate bodies at sectoral or regional level.

The implementation of selected projects through provision of works, supplies and services, which are sub-contracted by the final beneficiaries of the individual grants, shall be subject to the procurement rules for External Actions at the time of implementation. Following a positive assessment of the Implementing Agency’s capacity to operationally and financially manage the schemes in a sound and efficient manner⁷, the Commission Delegation may decide to waive its ex-ante

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⁶ current address: http://europa.eu.int/comm/europeaid/tender/gestion/index_en.htm

⁷ see section 11 and Annex 4 of the 2004 Phare Programming Guide
approval of sub-contracting carried out by the final beneficiaries of the individual grants. The detailed provisions governing the role of the Delegation in the above-mentioned sub-contracting phase will be specified, as appropriate, in the Exchange of Letters between the Delegation and the national authorities following the above-mentioned assessment exercise.

Grant schemes will not involve projects for which the Phare contribution is below € 50 000 or above € 2 million. This lower limit may be waived as a result of the above-mentioned assessment of the Implementing Agency’s capacity of giving assurance of sound financial management. The lower limit is not applicable in the case of NGOs.

The financial commitments in Phare terms will be effected at the date of signature of the grant agreements by the competent PAO. The projects should be fully implemented before the expiry date for contract execution of the corresponding Financing Agreement.

4.4. Implementation Principles for Twinning Projects

Twinning projects are set up in the format of a grant contract (twinning contract) whereby the selected Member State administration agrees to provide the requested public sector expertise (including the long term secondment of an official assigned to provide full time counsel to the beneficiary administration as Resident Twinning Advisor) against the reimbursement of the expenses thus incurred. This twinning contract is in line with the provisions of Article 27 of the Financial Regulation and of Part One, Title VI on grants of the Financial Regulation and its Implementing rules.

Further to the provisions of Article 160, first paragraph of the aforementioned Implementing Rules, the Contracting authority shall use the rules and proceedings set out in the regularly updated Twinning Manual (which includes a system of fixed rates and prices for the reimbursement of the provided public sector expertise by the selected Member state administration for launching, selection, implementation and closing of twinning projects.

The twinning manual is available on the Website of DG ELARG at the following address: [http://europa.eu.int/comm/enlargement/pas/twinning/index.htm](http://europa.eu.int/comm/enlargement/pas/twinning/index.htm).

5. MANAGEMENT OF ASSISTANCE

5.1. Project Management

5.1.1. Responsibilities

The National Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring of Phare programmes.

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8 With the exception of project HR2005/5/6 “Tempus” for which the responsibility of implementation lies with the European Commission
The National Authorising Officer (NAO) and the NAC shall be jointly responsible for the co-ordination between Phare, ISPA and SAPARD.

The NAO and the Project Authorising Officer (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the instructions of the Commission. They will also ensure that all contracts required to implement the Financing Agreement are awarded using the procedures and standard documents for External Actions in force at the time of implementation, and that EU state aid rules are respected.

5.1.2. Project Size

All projects will be greater than 2 M €, except those in the following areas:

In accordance with the Phare Guidelines, some specific objectives may require smaller projects. The main reason is that projects focused primarily on institution building where the Croatian Ministry/agency concerned has limited absorptive capacity and cannot utilise as much as € 2 million:

(1) Democracy and rule of law: HR2005/1/1, HR2005/1/2;
(2) Human rights and protection of minorities: HR2005/2/1;
(3) Internal market and trade: HR2005/4/1, HR2005/4/2;
(4) Cooperation in justice and home affairs: HR2005/6/1.

5.1.3. Deadline for contracting and execution of contracts, programming deadline

(1) All contracts must be concluded by no later than November 30, 2007.

(2) All contracts must be executed by no later than November 30, 2008. For the following project only, contracts must be executed by no later than February 28, 2010:

- HR2005/5/6 TEMPUS,
In no case can the contracting period for projects implemented under this programme exceed three years after the date of the global commitment (Art. 166 (2) FR). Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be de-committed (Art. 77 (3) FR).

(3) Under DIS, a complete tender dossier must be submitted to the Delegation for approval by no later than 6 months after the signature of the Financing Agreement. In case of non-compliance, the Beneficiary Country will inform the JMC, which may recommend reallocation or cancellation of funds in accordance with Art. 5 of the MoU on the National Fund.

5.1.4. Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive\(^9\) are fully applicable for all investment projects under Phare. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive. If a project would fall within the scope of annex 1 or annex 2 of the EIA-directive, the carrying out of the EIA-procedure must be documented\(^10\).

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-directive must be documented\(^11\).

All investments shall be carried out in compliance with the relevant community environmental legislation. The project fiches will contain specific clauses on compliance with the relevant EU-legislation in the field of the environment according to the type of activity carried out under each investment project.

5.2. Financial Management

5.2.1. Principles and Responsibilities

The National Fund in the Ministry of Finance, headed by the NAO, will supervise the financial management of the programme, and will be responsible for reporting to the European Commission. The NAO shall have the overall responsibility for financial management of the Phare funds, and the full accountability for the Phare funds of a programme until the closure of that programme, with the exception of project HR2005/5/6 “TEMPUS” for which the responsibility lies with the European Commission.

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

\(^9\) DIR 85/337/EEC; OJ L 175/40; 5.7.1985, as amended

\(^10\) in Annex EIA to the corresponding investment project fiche.

\(^11\) in Annex Nature Conservation to the corresponding investment project fiche
The Commission will make payments to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Republic of Croatia in May 2005.

Payments will be made following requests from the NAO into a separate bank account, denominated in €, which will be opened and managed by the National Fund in the central bank or in a Government guaranteed bank. In principle, all bank accounts will be interest bearing.

According to Articles 3 & 4 of the implementing rules of the Financial Regulation accrued interest is the property of the Beneficiary Country. The NAO must however ensure that the accrued interest is actually registered in its entirety as revenue in the national budget. Furthermore the NAO will ensure a regular reporting of the interest via Perseus.

5.2.2. Payments to the National Fund

A first payment\(^\text{12}\) of up to 20% of the funds to be managed locally\(^\text{13}\), will be sent to the NF following signature of the Financing Agreement and the Implementing Agreements between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts Unit (CFCU). Furthermore, the NAO must submit to the Commission the designation of the PAOs and a description of the system put in place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function between them will be carried out.

Two further payments\(^\text{14}\) of up to 30% of the funds to be managed locally\(^\text{15}\) will be made. The second payment will be triggered when 5% of the total budget in force\(^\text{16}\) has been disbursed by the IAs and the CFCU. The third payment may be requested when 35% of the total budget in force\(^\text{17}\) has been disbursed.

A final fourth payment will be made when 70% of the total budget in force\(^\text{18}\) has been disbursed and all contracts have been signed.

Exceptionally the NAO may request more than the percentage agreed where it can be demonstrated by a cash-flow projection that the cash-flow requirements in the subsequent period will exceed such percentage. In cases where the aggregate of the funds deposited in the NF, CFCU and IAs accounts exceeds 15% of the total budget representing pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation.

\(^{12}\) excluding the amount foreseen for Community Programmes and Tempus

\(^{13}\) representing interim payments or the renewal of pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation

\(^{14}\) excluding the amount for Community Programmes and Tempus

\(^{15}\) excluding the amount for Community Programmes and Tempus

\(^{16}\) excluding the amount for Community Programmes and Tempus

\(^{17}\) excluding the amount for Community Programmes and Tempus

\(^{18}\) excluding the amount for Community Programmes and Tempus
in force for the programme the Commission may exceptionally authorise a payment, if the NAO provides duly substantiated evidence that contractual obligations cannot be met with the funds available.

5.2.3. Payments from the National Fund to the Implementing Agency

The National Fund will make payments to IAs, including the CFCU, in accordance with Implementing Agreements signed between the NF and the IAs/CFCUs. Bank accounts for sub-programmes shall be opened in the name of the relevant Implementing Agency/CFCU in charge of financial management of the sub-programme in line with Art. 13 of the MoU on the National Fund.

As long as implementation follows DIS, each individual Implementing Agreement must be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the CFCU/IA there will be no payments from the NF to the CFCU. The CFCU and the IAs must each be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all operations carried out by the relevant CFCU/IA.

5.2.4. Payments to the National Fund for Participation in Community Programmes and Agencies

A single payment to the National Fund will be made, covering the full amount of the Phare part of the financial contribution for participation in Community programmes and agencies. This payment will be made following signature of the Financing Agreement and upon request from the National Fund.

This payment is separate from the payments made for the rest of the programme. The Phare contribution for each programme will, however, only be transferred when the Association Council Decision or Memorandum of Understanding establishing the terms and conditions for participation in that programme is in force.

If there is a delay in the entry into force of some of the Memoranda of Understanding, the payment to the National Fund may be divided into two or more instalments, so that 100% of the funds necessary for the programmes in force can be paid immediately. The National Fund is responsible for transferring the funds back to the Commission, following the call for funds of the Commission service responsible for the programmes concerned and within the deadlines requested.

5.2.5. Payments in Case of Contractual Retention Clauses

For those contracts with contractual retention clauses (e.g. funds retained for a warranty period), the Implementing Agency assumes full responsibility for managing the funds until final payment is due, as well as for ensuring that the said funds will only be used to make payments related to the retention clauses.

The IA further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission.

22
5.2.6. Closure of Expenditure and Clearance of Accounts

No later than sixteen months after the end of execution of contracts, the NF will submit a final declaration of expenditure covering both Phare support and co-financing and an attestation regarding the regularity, accuracy and veracity of the accounts transmitted. The final certified expenditure should at this point equal the original value of the contracts minus any deductions and savings agreed with contractors in the course of implementation. This should also equal payments made plus any sums outstanding on account of contractual retention.

If the payments received from the Commission exceed the final certified expenditure, the NF shall return the excess to the Commission at the time of submitting the final declaration. If there are any outstanding payments (with the exception of contractual retention funds), the NF should provide an explanation and a forecast when payment will be finalised. The NF shall report on progress on contractual retention funds and outstanding payments on a quarterly basis. If they are not paid to the contractor, they shall be returned to the Commission.

After evaluation of the final declaration, the Commission will state its view on any expenditure to be excluded from Community funding, where it finds that expenditure has not been executed in compliance with Community rules.

The results of the Commission’s checks and its conclusions to exclude expenditure from financing will be notified in writing to the NF, which shall be given one month to transmit its reply in writing.

If no agreement is reached within one month of receipt of the NF’s written reply, the Commission shall decide and establish the amounts to be excluded, having regard in particular to the degree of non-compliance found, the nature and gravity of the infringement as well as the financial loss suffered by the Community.

Following the decision about amounts to be excluded, all ineligible expenditure will be recovered without prejudice to the treatment of irregularities and subsequent financial corrections stipulated below.

The funds will be recovered either by direct reimbursement from the NF or by compensation in accordance with Community rules.

6. Monitoring and Evaluation\(^1^9\)

Project implementation will be monitored through the Joint Monitoring Committee (JMC). It includes the NAO, the NAC and the Commission services. The JMC will meet at least once a year to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in the Financing Agreements and the Accession Partnership. The JMC may recommend a change of priorities and/or reallocation of Phare funds. Furthermore, the JMC will review the progress

\(^1^9\) With the exception of project HR2005/5/6 “Tempus” for which the responsibility for implementation lies with the European Commission.
of all pre-accession EU-funded assistance programmes once a year (Phare, ISPA, SAPARD).

For the Phare programme, the JMC will be assisted by Sectoral Monitoring Sub-Committees (SMSC), which will include the NAC, the PAO of each Implementing Agency (and the CFCU where applicable) and the Commission Services. The SMSC will review in detail the progress of each programme, including its components and contracts, assembled by the JMC into suitable monitoring sectors. Each sector will be supervised by one SMSC on the basis of regular monitoring reports produced by the Implementing Agency, and interim evaluations undertaken by independent evaluators. The SMSC will put forward recommendations on aspects of management and design, ensuring that these are effected. The SMSC will report to the JMC, to which it will submit overall detailed opinions on all Phare financed programmes in its sector.

The Commission services shall ensure that this programme will be subject to interim (either centralised or decentralised) and/or ex post evaluations.

7. **Audit, Financial Control, Anti-Fraud Measures, Preventive and Corrective Actions**

7.1. **Supervision and Financial Control by the Commission and the European Court of Auditors**

All Financing Agreements as well as all resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-Fraud Office) and audits by the European Court of Auditors. As long as EDIS is not yet applicable to the Implementing Agencies in the Beneficiary Country, this includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Beneficiary Country.

In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96.20

The controls and audits described above are applicable to all contractors and subcontractors who have received Community funds.

Without prejudice to the responsibilities of the Commission and the European Court of Auditors21, the accounts and operations of the National Fund and, where applicable, the CFCU and all relevant Implementing Agencies may be checked at the Commission’s discretion by the Commission itself or by an outside auditor contracted by the Commission.

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21 as referred to in the General Conditions relating to the Financing Memorandum" attached to the Framework Agreement
7.2. **Obligations of the Beneficiary Country**

7.2.1. **Audit and Financial Control**

In order to ensure sound financial management of the Phare funds, the Beneficiary Country must have a system for management and control of assistance in accordance with generally accepted principles and standards in place. This system shall fulfil the requirements set out in Art. 164 of the Financial Regulation, and in particular provide adequate assurance of the correctness, regularity and eligibility of claims on Community assistance.

The Beneficiary Country’s management and control systems shall provide a sufficient audit trail, as defined in Art. 7 (2) of Commission Regulation 438/2001.\(^{22}\)

The competent national financial control authority shall carry out appropriate financial controls of all actors involved in the implementation of the programme.

Each year an audit plan and a summary of the findings and main recommendations of the audits carried out and an outline of the follow-up given to past audit recommendations shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

7.2.2. **Preventive Measures**

The Beneficiary Country shall take any appropriate measure to prevent and counter active and passive corruption\(^{23}\) practises at any stage of the procurement procedure or grant award procedure, as well as during the implementation of corresponding contracts.

The authorities of the beneficiary country, including the personnel responsible for the implementation of the programme, shall also undertake to take whatever precautions are necessary to avoid any risk of conflict of interest, and shall inform the Commission immediately of any such conflict of interest or any situation likely to give rise to any such conflict.

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\(^{23}\) Active corruption is defined as 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 European Communities’ financial interests.

Passive corruption is defined as the deliberate action of an official, 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 European Communities’ financial interests.
7.2.3. Anti-Fraud Measures and Corrective Actions

Beneficiary Countries shall, in the first instance, bear the responsibility to ensure investigation and satisfactory treatment of suspected or actual cases of fraud and irregularities following national or Community controls.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94.\(^{24}\)

In particular, all suspected or actual cases of fraud and irregularity as well as all measures related thereto taken by the national authority must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud or irregularity to report, the Beneficiary Country shall inform the Commission of this fact within two months following the end of each quarter.

In case of irregularity or fraud, the Beneficiary Country shall make the necessary financial corrections required in connection with the individual irregularity. The corrections made by the Beneficiary Country shall consist in cancelling all or part of the Community contribution. The Community funds released in this way may be reused by the NF for the purpose of the programme, in compliance with Art. 5 of the MoU on the National Fund.

7.3. Recovery of Funds in Case of Irregularity or Fraud

Any proven irregularity or fraud discovered at any time during the implementation of the programme or as the result of an audit will lead to the recovery of funds by the Commission.

If, after completing the necessary verifications, the Commission concludes that:

(a) the Beneficiary Country has not complied with the obligations to prevent, detect, and correct irregularities or

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\(^{25}\) Fraud shall mean 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 European Communities or budgets managed by, or on behalf of, the European Communities; non disclosure of information in violation of a specific obligation with the same effect; the misapplication of such funds for purposes other than those for which they are originally granted.

\(^{26}\) Irregularity shall mean any infringement of a provision of national or Community law, this Financing Memorandum or ensuing contracts, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, by an unjustified item of expenditure. The term “Community law” in this context shall be defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (e.g. the Europe Agreements, Framework Agreements, the MoU on the Establishment of the National Fund etc.)

\(^{27}\) see definition above

\(^{28}\) see definition above
(b) the implementation of a project appears not to justify either part or the whole of the assistance allocated or

c) there are serious failings in the management or control systems which could lead
to irregularities,

the Commission may suspend further financing of the programme in question, and, stating its reasons, request that the Beneficiary Country submit comments and, where appropriate, carry out any corrections within a specified period of time. If no agreement is reached by the end of the period set by the Commission and if the required corrections have not been made, the Commission may – taking into account any comments made by the Beneficiary Country – decide within three months to:

(a) reduce or cancel any payment for the programme in question, or
(b) make the financial corrections required by cancelling all or part of the assistance granted to the programme concerned.

The Commission shall, when deciding on the amount of a correction, take into account the principle of proportionality, the type of irregularity and the extent and financial implications of the shortcomings found in the management and control system of the Beneficiary Country.

In the absence of a decision to do either (a) or (b), further financing of the programme shall immediately resume.

The National Authorising Officer will ensure the reimbursement of any unused funds or any sum wrongly paid within sixty calendar days of the date of the notification. If the NAO does not repay the amount due to the Community, the Beneficiary Country shall refund this amount to the Commission.

Interest on account of late payment shall be charged on sums not repaid by applying the rules specified in the Financial Regulation.

8. **Visibility and Publicity**

The PAO in charge will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the programme. This will be done in close liaison with the Commission. Further details are set down in the Annex on Visibility and Publicity.

9. **Special Conditions**

In the event that agreed commitments are not met for reasons which are within the control of the Government of the Republic of Croatia, the Commission may review the programme with a view, at the Commission’s discretion, to cancelling all or part of it and/or to reallocate unused funds for other purposes consistent with the objectives of the Phare programme.
ANNEX D

INFORMATION AND PUBLICITY FOR THE PHARE, ISPA AND SAPARD PROGRAMMES OF THE EUROPEAN COMMUNITIES

1. **Objective and scope**

Information and publicity measures concerning assistance from the European Community Phare Programme are intended to increase public awareness and transparency of EU action and to create a consistent image of the measures concerned in all applicant countries. Information and publicity shall concern measures receiving a contribution from the Phare Programme.

2. **General principles**

The appropriate Programme Authorising Officer in charge of the implementation of Financing Memoranda, and other forms of assistance shall be responsible for publicity on the spot. Publicity shall be carried out in co-operation with the EC Delegations, which shall be informed of measures taken for this purpose.

The competent national and regional authorities shall take all the appropriate administrative steps to ensure the effective application of these arrangements and to collaborate with the EC Delegations on the spot.

The information and publicity measures described below are based on the provisions of the regulations and decisions applicable to the Structural Funds. They are:


Specific provisions concerning ISPA are included in:


Information and publicity measures must comply with the provisions of the above mentioned regulation and decision. A manual on compliance is available to national, regional and local authorities from the EC Delegation in the country concerned.

3. **Information and publicity concerning Phare programmes**

Information and publicity shall be the subject of a coherent set of measures defined by the competent national, regional and local authorities in collaboration with the EC Delegations for the duration of the Financing Memorandum and shall concern both programmes and other forms of assistance.
The costs of information and publicity relating to individual projects shall be met from the budget for those projects.

When Phare programmes are implemented, the measures set out at (a) and (b) below shall apply:

(a) The competent authorities of the applicant countries shall publish the content of programmes and other forms of assistance in the most appropriate form. They shall ensure that such documents are appropriately disseminated and shall hold them available for interested parties. They shall ensure the consistent presentation throughout the territory of the applicant country of information and publicity material produced.

(b) Information and publicity measures on the spot shall include the following:

(i) In the case of infrastructure investments with a cost exceeding EUR 1 million:

- billboards erected on the sites, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

- permanent commemorative plaques for infrastructures accessible to the general public, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

(ii) In the case of productive investments, measures to develop local potential and all other measures receiving financial assistance from Phare, ISPA or SAPARD:

- measures to make potential beneficiaries and the general public aware of Phare, ISPA or SAPARD assistance, in accordance with the provisions cited at paragraph 3(b)(i) above.

- measures targeting applicants for public aids part-financed by Phare, ISPA or SAPARD in the form of an indication on the forms to be filled out by such applications, that part of the aid comes from the EU, and specifically, the Phare, ISPA or SAPARD Programmes in accordance with the provisions outlined above.

4. Visibility of EU assistance in business circles and among potential beneficiaries and the general public

4.1 Business circles

Business circles must be involved as closely as possible with the assistance, which concerns them most directly.

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to potential beneficiaries, particularly SMEs. These should include an indication of the administrative procedures to be followed.
4.2 Other potential beneficiaries

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to all persons who benefit or could benefit from measures concerning training, employment or the development of human resources. To this end, they shall secure the co-operation of vocational training bodies involved in employment, business and groups of business, training centres and non-governmental organisations.

Forms

Forms issued by national, regional or local authorities concerning the announcement of, application for and grant of assistance intended for final beneficiaries or any other person eligible for such assistance shall indicate that the EU, and specifically the Phare, ISPA or SAPARD Programmes, is providing financial support. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the Programme in question. If such documents bear the national or regional emblem, they shall also bear the EU logo of the same size.

4.3 The general public

The media

The competent authorities shall inform the media in the most appropriate manner about actions co-financed by the EU, and Phare, ISPA or SAPARD in particular. Such participation shall be fairly reflected in this information.

To this end, the launch of operations (once they have been adopted by the Commission) and important phases in their implementation shall be the subject of information measures, particularly in respect of regional media (press, radio and television). Appropriate collaboration must be ensured with the EC Delegation in the applicant country.

The principles laid down in the two preceding paragraphs shall apply to advertisements such as press releases or publicity communiqués.

Information events

The organisers of information events such as conferences, seminars, fairs and exhibitions in connection with the implementation of operations part-financed by the Phare, ISPA or SAPARD Programmes shall undertake to make explicit the participation of the EU. The opportunity could be taken of displaying the European flags in meeting rooms and the EU logo upon documents depending on the circumstances. The EC Delegation in the applicant country shall assist, as necessary, in the preparation and implementation of such events.

Information material

Publications (such as brochures and pamphlets) about programmes or similar measures financed or co-financed by Phare, ISPA or SAPARD should, on the title page, contain a clear indication of the EU participation as well as the EU logo where the national or regional emblem is used.
Where such publications include a preface, it should be signed by both the person responsible in the applicant country and, for the Commission, the Delegate of the Commission to ensure that EU participation is made clear.

Such publications shall refer to the national and regional bodies responsible for informing interested parties.

The above-mentioned principles shall also apply to audio-visual material.

5. Special arrangements concerning billboards, commemorative plaques and posters

In order to ensure the visibility of measures part-financed by the Phare, Ispa or Sapard Programmes, applicant countries shall ensure that the following information and publicity measures are complied with:

Billboards

Billboards providing information on EU participation in the financing of the investment should be erected on the sites of all projects in which EU participation amounts to EUR 1 million or more. Even where the competent national or regional authorities do not erect a billboard announcing their own involvement in financing the EU assistance must nevertheless be announced on a special billboard. Billboards must be of a size which is appreciable to the scale of operation (taking into account the amount of co-financing from the EU) and should be prepared according to the instructions contained in the technical manual obtainable from EC Delegations, referred to above.

Billboards shall be removed not earlier than six months after completion of the work and replaced, wherever possible, by a commemorative plaque in accordance with the specifications outlined in the technical manual referred to above.

Commemorative plaques

Permanent commemorative plaques should be placed at sites accessible to the general public (congress centres, airports, stations, etc.). In addition to the EU logo, such plaques must mention the EU part financing together with a mention of the relevant Programme (Phare, Ispa or Sapard).

Where a national, regional or local authority or another final beneficiary decides to erect a billboard, place a commemorative plaque, display a poster or take any other step to provide information about projects with a cost of less than EUR 1 million, the EU participation must also be indicated.

6. Final provisions

The national, regional or local authorities concerned may, in any event, carry out additional measures if they deem this appropriate. They shall consult the EC Delegation and inform it of the initiatives they take so that the Delegation may participate appropriately in their realisation.
In order to facilitate the implementation of these provisions, the Commission, through its Delegations on the spot, shall provide technical assistance in the form of guidance on design requirements, where necessary. A manual will be prepared in the relevant national language, which will contain detailed design guidelines in electronic form and this will be available upon request.