FINANCING MEMORANDUM

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 Czech Republic, 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 Memorandum. 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 6th August 1997 between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this Memorandum 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: CZ9806, CZ9807, CZ9808, CZ9809, CZ9810, CZ9811, CZ 9812
Title: The Czech Republic Country programme 1998
Duration: Until 30 June 2000

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 22.45 MECU 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 June 2000, subject to the provisions of this Memorandum. 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 disbursement of THE EC GRANT is 30 June 2001. All disbursements must be completed by this date. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall 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 Czech Republic
Pod Hradbami 17
160 00 PRAHA 6
Czech Republic

Fax: 00420/2/2431 2850

for THE RECIPIENT:

Ministry of Finance of the Czech Republic
National Co-ordinator of Foreign Assistance
Letenská 15
118 10 PRAHA 1
Czech Republic

ARTICLE 5 - NUMBER OF ORIGINALS

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

ARTICLE 6 - ENTRY INTO FORCE

This Memorandum shall enter into force on the date on which it has been signed by both parties. No expenditure incurred before this date is eligible for the EC GRANT.

The Annexes shall be deemed an integral part of this Memorandum.

Done at Prague
Date

for THE RECIPIENT
Ivo Svoboda
The Minister of Finance of the Czech Republic

Done at Prague
Date

for THE COMMUNITY
Hans van den Broek
Member of the European Commission

Annex 1 Framework Agreement (Annexes A & B)
Annex 2 Special Provisions (Annex C)
ANNEX C - SPECIAL PROVISIONS

1. Objectives and Description.

The 1998 programme consists of the following sub-programmes and projects.

1.1 Sub-Programme 1: Strengthening the Democratic System, the Rule of Law, Human Rights and the Protection of Minorities

Project: Improvement of the Integration of the Roma Community into Czech Society and the Strengthening of Civil Society Organisations (CSOs)

The project will support:

1. *improvement of the integration of the Roma community into Czech society* - this will involve Phare support focused to activities which can be speedily implemented, have a high degree of visibility and which will achieve an early impact. Activities will fall into the category of education/training (pedagogical assistance, to assist Roma children entering elementary school and for the re-qualification of Roma youth and to assist with the acquisition of work experience), legal and advisory support (advisory centres, advisers at municipality level, improving legal attitudes to prevent discrimination, monitoring of the citizenship law), and integration (public awareness to promote communal tolerance and cultural understanding, support to Roma publications, school campaigns, concerts, exhibitions, etc);

2. *strengthening CSOs* - this will involve Phare support (expanding on past Phare allocations in this field) for CSOs’ information and training activities (supporting CSOs’ information services/publications, training for CSOs’ employees and volunteers), the fostering of CSOs’ sustainability and grants for CSOs’ projects (supporting projects in the areas of human rights, the protection of disadvantaged groups, the strengthening of community life, the protection of the environment and consumer protection);

3. *NROS* - this will involve Phare support to the Civil Society Development Foundation (NROS), under the understanding that its medium-term objective is to reach self-sustainability as a grant-giving foundation.

The project will be administered via the Implementing Agency (IA) Civil Society Development Foundation (NROS).

1.2 Sub-Programme 2: Economic and Social Cohesion

Project: Preparation for Structural Policies

The project will support:

1. *the establishment of a national development strategy and support structure for the Structural and Cohesion Funds* - this will involve Phare support for the establishment of an integrated, multi-sectoral approach to regional development. Activities will cover policy support, programming support, and institutional support (adapting regulations - e.g. Structural Funds, competition rules, financial control etc. - to Czech conditions/implementation, preparation of strategic programming documents, supporting management and monitoring structures etc.);

2. *training programmes* - this will involve Phare support to develop a sustainable training programme and capacity. Activities will cover the development of training programmes (based on the existing range of training materials, the elaboration of a comprehensive and coherent set
of modules tackling issues of local/regional development within the context of Structural and Cohesion Funds) and the development of Czech training institutes and delivery of training (support for the training of trainers and the strengthening of training institutions delivering the modular training package);

3. preparation for participation in ISPA and SAPARD - this will involve Phare support to prepare the relevant Ministries to operate ISPA and SAPARD. Activities will cover the Ministries for Agriculture and Regional Development, the Ministry for Environment and the Ministry for Transport (developing the institutional and management capacity of the Ministries to assess and catalogue needs in line with national policy and mechanisms, to select, monitor and evaluate projects, to manage multi-source financial flows etc.);

4. investment for micro-region projects for integrated regional development - this will involve Phare investment support to two micro-regions. Activities will cover investment in the micro-regions centred on the agricultural area of Jeseník and on the growth-pole area of Olomouc (in accordance with Structural Funds’ principles and mechanisms).

The project will be administered via the Central Financing and Contracting Unit (CFCU) with the possibility that the Investment Sub-Project be administered via the Ministry for Regional Development in conjunction with the Centre for Regional Development.

1.3 Sub-Programme 3: Strengthening the Institutional/Administrative Capacity to Implement the Acquis

Project 1: Institution Building Strategies

The project will provide:

1. Horizontal support to the Ministry of Interior in the form of an advisory/co-ordination team, working in close co-operation with SIGMA. Activities will include methodological and expert support to the process of Institution Building and horizontal modernisation in the Czech administration as a whole, as well as to three specific ministries (see 2.)

2. Vertical support to three specific Ministries in their modernisation efforts (analysis of the present management and organisational structures of the ministries, their medium-term requirements in terms of institutional structures and personnel development, implementation of the modernisation strategies). Activities will cover the Ministries of Industry and Trade, Justice, and Labour and Social Affairs.

The project will be administered via the CFCU.

Project 2: Strengthening Financial and Banking Sector Institutional / Regulatory Capacity

The project will support the:

• non-banking financial sector and the banking sector, to strengthen the Czech Republic’s administrative and regulatory capacities in the priority sectors of state aid, insurance and banking, with activities carried out in close co-operation with SIGMA, the EC and the EU Member States (to develop full compliance with and enforcement of EC legal requirements, with particular attention to the methodologies and practices and experiences in the EU Member States).

The project will be administered via the CFCU.

1.4 Sub-Programme 4: Agriculture
Project: Institutional and Policy Support to the Ministry for Agriculture, Including Strengthening the Veterinary and Food Control Regulatory Capacities

The project will support:

1. restructuring of the Ministry of Agriculture and establishment of a market intervention agency, to ensure the structural preparedness of the Ministry to administer CAP. Activities will provide T.A. advisory support (analysis of the structures and functioning of the Ministry, its ‘mission’, delivery support mechanisms, human resource needs);

2. support to the State Veterinary Administration, to strengthen the technical capacity of the regulatory authority, with particular attention on border controls. Activities will support the authority’s information system (equipment supply), monitoring emergency and exotic diseases (specialised laboratory equipment, improved diagnostic methodologies), border inspection posts (technical modernisation), residue tests in live animals and animal products (specialised laboratory equipment, improved diagnostic methodologies), establishing the system for identification and registration of animals (policy and legal support);

3. support to the Czech Agriculture and Food Inspectorate (CAFI), to strengthen the technical and personnel capacity of the regulatory authority. Activities will support human resource development (staff training), food industry information (raising awareness of EC requirements, standards and practices), import/export control/information network (improved linkage with the Customs directorate regarding imports of foodstuffs);

4. market information, to improve the collection and processing of core data on agriculture, as the basis for policy analysis and information to the EC. Activities will provide for T.A. analysis and equipment supply (a detailed assessment of existing information sources and medium-term needs to ensure full harmonisation with EC requirements);

5. Competitiveness and restructuring of the food industry; analysis of investment needs of the agricultural sector in order to fully comply with EC standards. Activities will cover T.A. analysis (recommendations for policy reform and investment finance schemes).

The project will be administered via the CFCU.

1.5 Sub-Programme 5: Justice and Home Affairs

Project 1: Strengthening Border Control

The project will support:

- border crossing networks, automated fingerprint identification system (AFIS), system of control of cars at the border, thermographic and underground detectors at the border and training of border police, to increase the technical capacity and effectiveness of border management on the Czech-Slovak border. Activities will involve specialised technical equipment supply and related training support.

The project will be administered via the CFCU.

Project 2: Strengthening the Institutions of Law Enforcement/Asylum

The project will strengthen:
1. law enforcement institutions in the fight against organised crime, in close co-operation with EU Member States bodies (a comprehensive review of the structures and functions of the police force and of the communication links between the police, the Ministry for Interior, state prosecutors and the courts, leading to proposals for reform and the further development of specialised training and career structures);

2. structures/administrative procedures of asylum requests, in relation to the planned reform of asylum and aliens legislation.

The project will be administered via the CFCU.

**Project 3: Strengthening the Independence and Functioning of the Judiciary**

The project will provide:

1. support to the Association of Judges and to the Association of State Attorneys, to ensure the active role of the professional associations in the development of the judiciary and in the enhancement of the human resource skills of judges. Activities will involve strengthening the professional associations (regular T.A. inputs to develop the role and function of the associations), information access – judicial information centre (the provision of information on EC legislation and developments in European judiciary), training (training for judges, via seminars, conferences and short-term study stays);

2. support to develop the commercial and civil courts systems, to improve the organisation and functioning of the two sets of courts. Activities will provide T.A., equipment supply and training (a management study of the present functioning of the two courts systems, followed by the establishment of two ‘model’ courts introducing the study’s findings);

3. comparative study of the legislative relationship and practice between Ministries of Justice and court administration bodies with courts and judiciary in EU Member States, providing recommendations to the Ministry of Justice of the Czech Republic regarding the legal framework governing the operation of and employment conditions in the judiciary. Activities will cover T.A. analysis and policy recommendations.

The project will be administered via the CFCU.

**1.6 Sub-Programme 6: Environment**

**Project 1: Strengthening the Institutional / Regulatory Capacity in the Environmental Sector**

The project will support:

- the Czech Environmental Inspectorate (CEI), to strengthen the enforcement capacity of the regulatory authority. Activities will involve development of a national strategy, equipment supply, contacts with partner organisations and public access to environmental information (professional training, technical equipment, policy support).

The project will be administered via the CFCU.

**Project 2: Implementation / Investment Strategies for EC Air and Waste Directives**

The project will support:
• Implementation of *EC directives on air* and *EC directives on waste management*. Activities will cover legislative/strategic support (to recommend strategies and mechanisms, including legal steps, to achieve full compatibility), financial analysis (to assess investment costs implied by approximation and propose financing strategies) and information provision (to develop suitable public communication strategies).

The project will be administered via the CFCU.

### 1.7 Sub-Programme 7: Management

**Project: Support to National Aid Co-ordination, the National Fund, and the CFCU**

The project will provide support through:

- *T.A.*, business trips/study visits, staff training, equipment and logistical support for the management of the Phare Programme (on a digressive basis, support to the secretariat of the National Co-ordinator, the National Fund and the CFCU).

The financing of this project will be conditional upon the conclusion of a Memorandum of Understanding (including a detailed breakdown of costs) between the National Co-ordinator and the European Commission covering the digressive phasing out of Phare support for the operational costs of the management of Phare.

The project will be administered via the CFCU.

*An environmental impact assessment will be carried out for all investment projects.*

*Equal opportunity for men and women to participate in all projects will be ensured. Indicators will be elaborated to assess the extent of women's participation in projects.*

---

2. Budget
The total financial commitment under the National Phare Programme 1998 (including a 7 MECU allocation under the Multi-Beneficiary Special Preparatory Programme) in support of the Sub-Programmes described in section 1 above amounts to **22.45 MECU**, as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>Sub-Programme/Projects</th>
<th>Allocation (MECU)</th>
<th>Indicative split between IB / Inv.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CZ9806</td>
<td>Strengthening the Democratic System, the Rule of Law, Human Rights and the Protection of Minorities Improvement of the Integration of the Roma Community into Czech Society and the Strengthening of Civil Society Organisations (CSOs)</td>
<td>2.0</td>
<td>2.0</td>
</tr>
<tr>
<td>CZ9807</td>
<td>Economic and Social Cohesion Preparation for Structural Policies</td>
<td>7.0</td>
<td>4.0 3.0</td>
</tr>
<tr>
<td>CZ9808</td>
<td>Strengthening the Institutional/Administrative Capacity to Implement the Acquis Institution Building Strategies Strengthening Financial and Banking Sector Institutional / Regulatory Capacity</td>
<td>3.0</td>
<td>3.0</td>
</tr>
<tr>
<td>CZ9809</td>
<td>Agriculture Institutional and Policy Support to the Ministry for Agriculture, Including Strengthening the Veterinary and Food Control Regulatory Capacities</td>
<td>3.0</td>
<td>1.4 1.6</td>
</tr>
<tr>
<td>CZ9810</td>
<td>Justice and Home Affairs Strengthening Border Control Strengthening the Institutions of Law Enforcement / Asylum Strengthening the Independence and Functioning of the Judiciary</td>
<td>4.8</td>
<td>2.65 2.15</td>
</tr>
<tr>
<td>CZ9811</td>
<td>Environment Strengthening the Institutional/Regulatory Capacity in the Environmental Sector Implementation / Investment Strategies for EC Air and Waste Directives</td>
<td>2.15</td>
<td>1.85 0.3</td>
</tr>
<tr>
<td>CZ9812</td>
<td>Management Support to National Aid Co-ordination, the National Fund and the CFCU</td>
<td>0.5</td>
<td>0.5</td>
</tr>
<tr>
<td>TOTAL</td>
<td>National Phare Programme 1998</td>
<td>22.45</td>
<td>15.40 7.05</td>
</tr>
</tbody>
</table>

Under separate Financing Proposals 4.55 MECU have been earlier committed for the participation of the Czech Republic in Community programmes (3.55 MECU) and Tempus (1 MECU). The total 1998 Phare allocation under the National Programme is therefore 27 MECU.

While the National Programme provides strong support for Institution Building (15.40 plus 4.55 - see above) and a smaller allocation for Investment (7.05 MECU), this reflects the sizeable allocation from Phare resources to the Cross Border Co-operation Programme in the Czech Republic.

Up to 20% of the budget may be contracted directly by the Commission for long term secondments and will not, therefore, be transferred to the National Fund.

### 3. Implementation Arrangements
The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures. The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare Programmes.

A National Fund (NF) will be established in the Ministry of Finance, headed by the National Authorising Officer (NAO). The NF will supervise the financial management of the Programme, and will be responsible for financial reporting to the European Commission. Appropriate financial control shall be carried out by the competent National Financial Control Authority with respect to the implementation of the programme.

The EC will transfer funds to the NF in accordance with the Memorandum of Understanding to be signed between the Commission and the Government of the Czech Republic. Funds will be transferred following requests from the NAO. A payment of up to 3,592 MECU will be transferred to the NF following signature of the Financing Memorandum. Four replenishments will be made of up to 3,592 MECU or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 10% of the budget has been disbursed by the Implementing Agencies (IA) and the Central Financing and Contracting Unit (CFCU). The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the IAs exceeds 10% of the total budget in force of the commitment. Exceptionally the NAO may request an advance payment of more than 20% in accordance with the procedures laid down in the aforesaid Memorandum of Understanding.

In the case of long term secondments the Commission transfers funds directly to a Bureau d’Assistance Technique. Twinning arrangements including long-term secondments are planned in the case of the following sub-programmes: Economic and social cohesion; strengthening the institutional/administrative capacity to implement the acquis; agriculture; justice and home affairs; environment.

Implementing Agencies will be responsible for sub-programmes as follows:

The Civil Society Development Foundation (NROS) will administer the sub-programme “Strengthening the democratic system, the rule of law, human rights and the protection of minorities”. By the date of signing the Financing Memorandum the decision will be taken if the Ministry for Regional Development in conjunction with its Centre for Regional Development will be nominated by the NAC as Implementing Agency for the Investment sub-project of the sub-programme “Economic and social cohesion”, after approval by the European Commission. This approval will be made conditional on the Ministry for Regional Development having demonstrated that it is capable of carrying out this task. The CFCU will administer the Institution Building sub-projects of this sub-programme. The CFCU will also administer all remainder sub-programmes.

The NF will transfer funds to the IAs, including the CFCU, in accordance with Financing Agreements (FAs) signed between the NF and the IAs/CFCU where applicable. Each individual FA will be endorsed in advance by the EC. In cases where the NF is itself the paying agent for the CFCU/IA there will be no transfer of funds from the NF to the CFCU/IA. The CFCU and the IAs will 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 the operations carried out by the relevant CFCU/IA.

A separate interest bearing bank account, denominated in ECU will be opened and managed by the NF in a separate accounting system in a bank agreed in advance with the EC. Interest will be reported to the EC; if the EC so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme. The same procedures will apply to any funds transferred to an IA or theCFCU.
The NAO and the PAOs will ensure that all contracts are prepared in accordance with the procedures set out in the DIS Manual.

All contracts must be concluded by **30 June 2000** at the latest, with disbursements concluded by **30 June 2001** at the latest.

Any funds not used by the expiry date of the Programme will be recovered by the EC.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period of the programme, the overall total of funds related to those contracts, as calculated by the PAO and established by the Commission, will be paid to the Implementing Agency before the official closure of the programme. The Implementing Agency assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses. The Implementing Agency further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Interests accrued on the funds deposited will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts - and notably of the payments made out of them - of interests accrued will annually be provided by the NAO to the Commission.

4. **Monitoring and Assessment**

A Joint Monitoring Committee (JMC) will be established. It will include the NAO, the NAC and the EC. 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 Financing Memoranda and the AP. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds.

The JMC will be assisted by Monitoring Sub-Committees (MSC) and will include the NAC, the PAO of each IA (and of the CFCU where applicable) and the EC. The MSC will review in detail the progress of each Programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultants (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring these are effected. The MSC will report to the JMC, to which it will submit overall detailed reports on all Phare financed Programmes.

5. **Audit, Monitoring and Evaluation**

The accounts and operations of the NF, and, where applicable, the CFCU and all relevant Implementing Agencies may be checked at the EC’s discretion by an outside auditor contracted by the EC without prejudice to the responsibilities of the EC and the European Union's Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement.

The EC shall ensure that an ex-post evaluation is carried out after completion of the Programme.

6. **Visibility/Publicity**

The appropriate PAO 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 EC Delegation. Further details are at the Annex.
7. **Special Conditions**

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