FINANCING MEMORANDUM\(^1\)

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 Hungary 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 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: 2003/005-004
Title: Phare External Border Initiative
Duration: Until 30/11/2005

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 5.3 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 30/11/2005 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 execution of contracts of THE EC GRANT is 30/11/2006. 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. This Memorandum shall

\(^1\) The Financing Memorandum structure is as follows: 1. the coverpages with the references to the country concerned, amount and authority to sign, 2. Annex A of the Framework Agreement; 3. Annex B of the Framework Agreement; Annex C—Special Conditions (the text of the adopted financing proposal starting from Description and Objectives onwards; and Annex D Visibility/Publicity.
expire at the expiry date for execution of contracts 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:
Mr. Jürgen Köppen
Head of Delegation of the European Commission to Hungary
Bérc u. 23
H 1016 Budapest

for THE RECIPIENT:
Dr. Etele Baráth
State Secretary
Government Commissioner for the National Development Plan and European Funds
Office of the Prime Minister
Pozsonyi út, 56
H 1133 Budapest

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 Budapest
Date 06/11/2003

for THE RECIPIENT

for THE COMMUNITY

Encl.
1. Framework Agreement (Annexes A & B)
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)
ANNEX C to FINANCING MEMORANDUM (SPECIAL PROVISIONS)

1. OBJECTIVES, DESCRIPTION

The 2003 Phare External Border Initiative for Hungary has been designed following bilateral discussions between the Hungarian authorities and the European Commission’s representatives. It focuses on 3 projects; the first project is at the Hungarian-Ukrainian border, while the other two proposed projects are at the Hungarian-Croatian border. A description of the proposed projects is given below:

Project 1: CRIS n° 2003/005-004-01

Reconstruction of the main road Nr. 4 between Fényeslitke and Tiszabezdéd

As a result of the measures taken to enhance economic development in the Hungarian-Ukrainian border region a “Euro Gate” truck terminal was constructed. It serves the border crossing of 120,000 - 130,000 trucks a year and consequently several enterprises started to operate in the region.

In addition, at the border crossing post of Záhony, a logistics, trade and business center operates, providing the enterprises involved in the east-west trade with business services. It also provides offices, meeting and negotiation rooms as well as exhibition halls. Another factor aiming at accelerating the development of the region is the industrial park in Záhony, which is currently under construction. In addition, it is worth noting that this border crossing point is particularly important also because of its railway relay station, whose capacity is equal to the capacity of the port of Hamburg.

Furthermore, the road Nr. 4. between Fényeslitke and Tiszabezdéd, whose reconstruction is proposed in this project, goes through Tuzsér. The industrial park in Tuzsér is also very important because it is the only one in Hungary where the wide trans-Siberian gauge and the standard gauge European railway systems come together. The growing activity of the companies requires more transport both by truck and by train.

Therefore, the planned reconstruction of the road Nr. 4. between Fényeslitke and Tiszabezdéd is crucial for the growing traffic needs. Indeed, the existing infrastructure places a barrier to possible further development: traffic is slowed down on the access road to the truck terminal and at the border station. Due to the unfavourable cross-section characteristics, the access road is obstructing the passengers’ transit and the freight-traffic. The access road to the border station, at its present technical state, is not suitable for growing international transport. Furthermore, it is not adequate to carry the increased traffic generated by the border station.

Reconstruction of this road is also essential since the safe accessibility of the border station will ensure that the trucks coming from Western Europe could use this road and will not detour to the North avoiding the region.

The project will upgrade 13.18 km of the main road Nr. 4 between point of junction of Fényeslitke and point of junction of Tiszabezdéd.

The project will achieve the following results:
- Easier access to the Záhony border station and to its logistics, trade and business centre and to the Tuzsér industrial park.
- Increased accessibility of the local population and the companies, active in the border region, to Ukraine.
The proposed project is also consistent with past Phare and TACIS funded activities. Indeed the reconstruction of the road Nr. 4, between Záhony and Tiszabezdéd, which is currently under construction, was financed in the 2000 Phare National Programme for Hungary. The modernisation's works of the Chop border post in the Ukrainian side, opposite to Zahony, have been funded under the 1999 Tacis CBC Programme and were completed in September 2002.

**Phare contribution:** € 2,000,000

**Project 2: CRIS n° 2003/005-004-02**

**Building the by-pass road Nr. 58 of Harkány**

At the Hungarian-Croatian border, the Drávaszabolcs – Doni Miholjac border crossing station is open 24 hours a day without restraint for international cars, passengers and transport. According to the 2013/2001 (I. 17.) Government Act, which was modified and specified by the 2365/2002. (XII. 13.) Government Act, the development of the Drávaszabolcs dry land and waterway border crossing station has to be completed by the date of the Hungarian accession to the European Union in context of the Schengen system. For this purpose, the Hungarian Customs and Finance Guard organises and finances with Phare (through the Phare project HU 0103.03) and Hungarian governmental funds the planning and implementation of the reconstruction of the border station in Drávaszabolcs. According to the official plans of the Hungarian Customs and Finance Guard, the construction of the two new truck terminals, the widening of the border crossing road, the reconstruction of the border station building and of the bridge leading to the border will start in October 2003. The reconstruction of the border station in Doni Miholjac on the Croatian side has already been completed.

Harkány is a small town with a world-famous health water and spa very near to the Hungarian-Croatian border. The medical and thermal bath, and the hospital is in the centre of Harkány, right next to the road Nr. 58 leading from Pécs, which is the centre of the South Transdanubian region, to the Drávaszabolcs (Hungary) – Doni Miholjac (Croatia) border station.

As mentioned above the road Nr. 58 goes through the inner-city of Harkány next to the spa and the hospital. From the beginning of the built-up area the road is a two by two-lane road with a parking lane on each side. Hence one of the reasons for building the by-pass road is the reduction of environmental pollution effects such as noise, vibration and air-pollution generated by the transport. Indeed, according to the information given by the Baranya County State Road Management Public Enterprise, the traffic intensity going through the inner-city is 1889 vehicle-unit per day including 430 heavy-engined vehicle-unit and 168 trucks. In addition, building the by-pass road will relieve the health water and spa of Harkány, a world-famous tourist attraction, and its surrounding areas from the crossing traffic. It will also provide faster, safer and easier passing of the township of Harkány and easier access to the Hungarian-Croatian border for the international traffic going to Croatia and coming to Hungary from Croatia. The cross border links between Hungary and Croatia in the targeted border region will thus be facilitated and strengthened.
The proposed project aims at building 3,638 m by-pass of road Nr. 58, 5 km far from Harkány, leading to the Drávaszabolics (Hungary) – Doni Miholjac (Croatia) border station. In addition, the project aims also at building three roundabout traffic systems and an interchange with traffic lights on the by-pass road, which will also guarantee safe crossing of the road Nr 58.

**Phare contribution:** € 2,000,000

*Project 3: CRIS nº2003/005-004-03*

**"Miroslav Krleža" Croatian-Hungarian Educational Centre complex development project**

Both the South-Transdanubian region and Zala County in Hungary are tightly bonded to the Croatian cross border areas over the River Dráva, through their historical, geographical, natural and economic relationships. This relationship is further strengthened by the characteristic "human factor": on both sides of the border there are communities of Croatian and Hungarian nationalities preserving their identities. The number of inhabitants of Croatian origin in the target region in Hungary can be estimated to be about 25-30,000. The Hungarians in Croatia live in significant fragments as well. Their number approaches 15,000, the bigger part of which live in the Baranja triangle in Croatia. The national minorities of the two countries have always nourished a living relationship that has surfaced in the realisation of several common projects. The bilingualism of both ethnic groups provides the bridge, the bond that makes the borders easily traversable.

Therefore, one of the basic conditions for the development of these cross border areas is the preservation of human resource, the retention of the population, the strengthening of the national, ethnic and geographical identity.

The "Miroslav Krleža" Croatian-Hungarian Educational Centre is based in Pécs and presently includes Croatian nationality kindergarten, bilingual primary, secondary schools and a student hostel. The proposed project intends to assist the development of the "Miroslav Krleža" Croatian-Hungarian Educational Centre in implementing its programmes and activities:
- with its programme promoting the linguistic preparedness and identity, it strengthens the territorial bonds in the Dráva Valley for the Croatian nationalities living in Hungary.
- with its supplementary programme it provides mobility in the cross-border relations, it makes more effective the co-operation between the institutions.
- with its mirror institution contact it provides organised possibilities for student and teacher exchanges, for cultural and artistic relations.

The mirror institution is working in Osijek (Osijek-Baranja County, Croatia) as a Hungarian Educational and Cultural Centre. The co-operation between the two institutions runs back over 8 years and includes student and teacher exchange programmes, teacher further-education programmes for both nationalities and several cultural programmes related to the Croatian-Hungarian common culture.

However, the co-operation between the two institutions until now had been hindered by several problematic elements. They were mainly linked to the quantitative and especially qualitative inadequacies of the structures of the "Miroslav Krleža" Croatian-Hungarian Educational Centre (such as dormitory, assembly hall, education rooms and necessary equipment).
The proposed project aims at providing the technical and material conditions, through building works and purchasing furniture and tools, which make possible for the two mirror institutions to develop adequately the targeted co-operation and exchange programs.

In addition, the project also aims at developing an action plan to define the actions leading to an increased knowledge of the culture and traditions of the neighbouring nationalities (Hungarian and Croatian) and to increase professional exchange among students of education institutions in the border region. This will be implemented through the Programme: “One Community – Several Identities in the Development of New Europe”. This Programme will result in the development of curricula and training programmes on ‘Nationality values in the common Europe’ that can be implemented in primary, secondary education and the university in both border regions.

Phare contribution: € 1,300,000

2. BUDGET

The following table specifies the EU contribution to the programme.

<table>
<thead>
<tr>
<th>2003 Hungary Phare External Border Initiative (€)</th>
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<tr>
<td>CRIS Nº</td>
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<td>Project 1: 2003/005-004-01</td>
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<td>Project 2: 2003/005-004-02</td>
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<td>Project 3: 2003/005-004-03</td>
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<td>TOTAL</td>
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In accordance with the Phare Guidelines 2000-2006, as revised in 2002 [C(2002)3303-2], 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\(^2\) public expenditure.

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\(^2\) Taxes are not an element eligible for co-financing
Co-financing for Institution Building projects is provided by the beneficiary bearing certain infrastructure and operational implementation costs, through financing the human and other resources, required for effective and efficient absorption of PHARE assistance.

3. IMPLEMENTATION ARRANGEMENTS

a) Financial and Project Management by the Candidate Countries

The programme will be managed in accordance with the Phare Extended Decentralised Implementation System (EDIS) procedures as set down in the EDIS Accreditation Decision and the Agreement on the Implementation of EDIS (EDIS Implementation Agreement; EIA) concluded between Hungary and the Commission\(^3\). Prior to the conclusion of said Agreement, implementation will exceptionally follow Phare Decentralised Implementation System (DIS) procedures\(^4\). Extended Decentralisation will, however, apply from the date of accession at the latest.

The National Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring of Phare programmes. The National Authorising Officer (NAO) and the Project Authorising Officers (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the EDIS Implementation Agreement and/or the DIS Manual as well as the other instructions of the Commission, and that all contracts required to implement the Financing Memorandum are awarded using the procedures and standard documents defined and most recently published by the European Commission for the implementation of External Actions.

The NAC and the NAO shall be jointly responsible for co-ordination between Phare (including Phare CBC), ISPA and SAPARD, as well as the Structural and Cohesion Funds.

The National Fund (NF) in the Hungarian 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 overall responsibility for financial management of the PHARE funds. He shall ensure that the PHARE rules, regulations and procedures pertaining to procurement, reporting and financial management as well as Community state aid rules are respected, and that a reporting and project information system is functioning. This includes the responsibility of reporting all suspected and actual cases of fraud and irregularity. The NAO shall have the full overall accountability for the PHARE funds of a programme until the closure of the programme.

b) Project size

All projects will be greater than € 2 million, with the exception of the project “Miroslav Krleža” Croatian-Hungarian Educational Centre complex development project”, which will be supported by an overall Phare contribution of € 1.3 million.


\(^4\) in accordance with the rules set down in Council Regulation 1605/2002 (Financial Regulation), the Commission Regulation 2342/2002 (Implementing Rules of the Financial Regulation) and the annex of Council Regulation 1266/1999
c) Contracting and disbursement deadline

All contracts must be concluded by 30 November 2005.

Execution of all contracts must end by 30 November 2006. Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted.

d) Clearance of Accounts Procedure and Recovery of Funds

A clearance-of-accounts procedure in line with Art. 53 para 5 of the Financial Regulation and Art. 42 of the Implementing Rules to the Financial Regulation will be put in place.

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

If the implementation of a measure appears not to justify either a part or the whole of the assistance allocated, the Commission is to conduct an appropriate examination of the case, in particular requesting the beneficiary country to submit its comments within a specified period of time and to correct any irregularity.

Following the examination referred to in the previous paragraph, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals irregularity, an improper combination of funds or a failure to comply with one of the conditions in the financing memorandum and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission’s approval has not been sought. Any reduction or cancellation of the assistance is to give rise to recovery of the sums paid.

Where the Commission considers that an irregularity has not been corrected or that all or part of an operation does not justify either all or part of the assistance granted to it, the Commission is to conduct a suitable examination of the case and request the beneficiary country to submit its comments within a specified period. After the examination, if the beneficiary country has undertaken no corrective measures, the Commission may:

   (a) reduce or cancel any advance;
   (b) cancel all or part of the assistance granted to the measure.

The Commission is to determine the size of a correction taking into account the nature of the irregularity and the extent of any failures in the management and control systems.

Any funds not used by the expiry date of the programme will be recovered by the Commission. A final written declaration with supporting documentation shall be issued by the NAO 2 months after all payments have been made, showing the total amount contracted and disbursed. A final bank reconciliation showing the existing balances in the NF/IA/CFCU shall also be enclosed.

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6 Commission Regulation 2342/2002 of 23 December 2002
7 As defined under number 8a (Audit and Anti-fraud Measures by the Candidate Countries) of this document
Notwithstanding the recovery of unused and ineligible funds after expiry of the Financing Memorandum, a complementary recovery order may be issued after the final audit of the reliability and consistency of contracts and disbursements as well as their compliance with the provisions of the Financing Memorandum has been carried out, taking into account the independent opinion of the final audit.

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 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 payments shall be charged on sums not repaid by applying the rules specified in the Financial Regulation governing the Community Budget.

e.) Financial Flows

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and Hungary on 17 December. Funds will be transferred following requests from the NAO onto a separate bank account, denominated in €, which will be opened and managed by the NF in a Bank agreed in advance with the Commission.

a.a.) Transfer of Funds to the National Fund

A first transfer of up to 20% of the funds to be managed locally, representing pre-financing\(^8\) will be sent to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agency (IA). The provisions foreseen in articles 2 and 13 of the MoU on the NF must also be met. 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 and the manner in which the payment function will be carried out.

Two further transfers of up to 30 % each of the funds to be managed locally will be made. The second transfer will be triggered when 5% of the budget has been disbursed by the IAs and the CFCU. The third transfer may be requested when 35% of the total budget in force has been disbursed. A fourth transfer will be made when 70% of the total budget in force is disbursed and when all expenditure has been incurred (i.e. fully contracted). No later than 2 months after all payments have been made the National Fund will submit a final declaration of expenditure, which will trigger a balancing operation of all transfers against final certified expenditure incurred, which at that point will be equal to payments made. (closure of expenditure)\(^9\).

Exceptionally the NAO may request payment of more than the percentages mentioned above in accordance with the procedures laid down in the aforesaid Memorandum of Understanding. Save for express prior authorisation from the Commission HQs, no interim payments may be made if the trigger points mentioned above have not been respected.

b.b.) Transfer of Funds to the Implementing Agencies

The National Fund will transfer funds to IAs in accordance with Financing Agreements (FAs) signed between the NFs and the IAs. Bank accounts for sub-programmes shall be opened in

\(^{8}\text{ as defined in Art. 81.1.b.i of the Financial Regulation}\)
\(^{9}\text{ as defined in Art.105 of the Implementing Rules}\)
the name of the relevant Implementing Agency in charge of the financial administration of the sub-programme in line with Art. 13 of the MoU on the establishment of the National Fund.

Under DIS, each individual FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the IA there will be no transfer of funds from the NF to the IA. 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 the operations carried out by the relevant IA.

For those contracts with funds retained for a warranty period 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. 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 - and of interests accrued will annually be provided by the NAO to the Commission.

c.c.) Interest

In principle, all bank accounts\(^{10}\) will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme.

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

In Hungary, the overall responsibility for the Hungary Phare External Border Initiative will rest with the Hungarian Prime Minister's Office as the Implementing Authority of all the projects of the Initiative. The National Agency for Regional Development (NARD) has been nominated as the Implementation Agency of the 2003 Hungary Phare External Border Initiative.

g.) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive\(^{11}\) 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 I or annex II of the EIA Directive, the carrying out of the EIA-procedure must be documented\(^{12}\).

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive\(^{13}\) must be documented\(^{14}\).

\(^{10}\) in particular, but not exclusively, accounts run by the NF, the CFCU and IAs

\(^{11}\) DIR 85/337/EEC; OJ L 175/40; 5.7.1985; as amended by DIR 97/11/EEC; OJ L 73/5; 14.3.1997

\(^{12}\) in Annex EIA to the corresponding investment project fiche

\(^{13}\) DIR 92/43/EEC; OJ 206/7; 22.7.1992

\(^{14}\) in Annex Nature Conservation to the corresponding investment project fiche
All investment projects 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.

h.) Special rules for certain components for the programme

Twinning

The amounts earmarked for twinning projects will cover the eligible costs (as set down in the DIS instructions) for implementing the work plan agreed between the Member State and the Applicant Country. The eligible costs may include costs incurred by the selected Member State during the preparation of the twinning covenant in the period between signature of the Financing Memorandum and the final notification of the financing approval of the covenant.

4. MONITORING AND EVALUATION

Project implementation of this programme 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 Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds. Furthermore the JMC will review the progress of all pre-accession EU-funded assistance programmes once a year (PHARE, ISPA and 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 of 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 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 an ex-post evaluation is carried out after completion of the Programme.

5. AUDIT AND ANTI-FRAUD MEASURES

a.) By the Candidate Countries

Each year an audit plan and a summary of the findings of the audits carried out shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

Appropriate financial control shall be carried out by the competent national financial control authority with respect to the implementation of the programme.

15 in accordance with the rules set down in Art. 54 of the Financial Regulation
Beneficiary countries shall ensure investigation and satisfactory treatment of suspected and actual cases of fraud and irregularity following national or Community controls.

Irregularity shall mean any infringement of a provision of national or Community law\textsuperscript{16}, this Financing Memorandum or ensuing contracts or 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, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Fraud shall mean any intentional act or omission relating to:

(i) 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,

(ii) non-disclosure of information in violation of a specific obligation, with the same effect,

(iii) the misapplication of such funds for purposes other than those for which they are originally granted.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94\textsuperscript{17}.

In particular, all suspected and 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 and irregularity to report, the beneficiary country shall inform the Commission of this fact within two months following the end of each quarter.

\textbf{b.) By the Commission}

All Financing Memoranda as well as the resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-fraud Office) and audits by the Court of Auditors. This includes on-the-spot checks and, as long as the Extended Decentralisation System is not yet applicable to the Implementing Agencies in the Candidate Country concerned, measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned.

In order to ensure efficient protection of the financial interests of the Community, the Commission may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96\textsuperscript{18}.

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 an outside auditor contracted by the Commission without prejudice to the responsibilities of the

\textsuperscript{16} defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (for example the Europe Agreements, the Framework Agreement, the Memorandum of Understanding on the Establishment of the National Fund etc.).

\textsuperscript{17} OJ L 178; 12.7.94; p. 43-46

\textsuperscript{18} OJ L 292; 15.11.1996; p. 2-5
Commission 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.

6. **VISIBILITY/PUBLICITY**

The appropriate Programme Authorising Officer 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 Delegation. Further details are set down in the Annex “Visibility/Publicity” (enclosed).

7. **SPECIAL CONDITIONS**

In the event that agreed commitments are not met for reasons which are within the control of the Government of Hungary, 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.
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.