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 Poland, 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 31 May 1990 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: PL0002

Title: Special Programme for strengthening the Civil Society and preparing for accession of the ten candidate countries in Central and Eastern Europe


ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 5,850,000 EUR 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 31.11.2002 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 31.11.2003. All disbursements must be completed by the deadline for disbursement. 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 in Poland
Al. Ujazdowskie 14
PL-00478 Warsaw
Poland
Fax: (+48-22) 625 04 30

for THE RECIPIENT:

Mr Pawel Samecki
Deputy National Co-ordinator of the EU Phare Programme
Office of the Committee for European Integration – IA
ul. Bagatela 14
Warsaw
Fax: (+48-22) 455 55 14

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 Warszawa
Date: ...28...12...2000

for THE RECIPIENT

Annex A & B of the Framework Agreement
Annex C Special conditions
Annex D Visibility/Publicity
BACKGROUND

CIVIL SOCIETY DEVELOPMENT IN THE PRE-ACCESSION PROCESS

To meet the ‘Copenhagen political criterion’, candidate countries are expected not only to formally subscribe to the principles of the rule of law, human rights and the respect for and the protection of ethnic minorities but to put them into daily practice and establish the necessary institutional framework that supports their sustainability. The development of a democratic society is intrinsically linked to the development of an open civil society, the so-called third sector which complements the activities of the state and market economy. Functioning non-governmental and non-profit organisations (NGO/NPO) have a key role in articulating the demands of citizens through active participation, advocacy and consciousness raising. Typically many elements of the *acquis communautaire* are based on the existence of thriving and active NGOs/NPOs (such as consumer movements, environmental initiatives, social and health associations, etc.). Without the activities of these NGOs/NPOs, the *acquis* could not find popular acceptance or be implemented fully.

Reflecting the pre-accession context, the Phare guidelines 2000-2003 provide the following basis for the civil society support:

“Safeguarding and developing the democratic process in the candidate countries is critical to satisfying the Copenhagen criteria. In addition to assistance which may be provided to governments for this purpose, e.g. for the protection of minorities such as the Roma, financial and technical assistance may also be provided to non-governmental organisations with a view to:

a) supporting initiatives aimed at the consolidation and further development of democratic practices and the rule of law;

b) strengthening the institutional capacity of non-governmental organisations and social partners at all levels;

c) supporting the inclusion and participation of individuals or groups who risk being socially, economically or politically marginalised due to culture, beliefs, gender, age, sexual orientation or disability.”

EXPERIENCE WITH HORIZONTAL PROGRAMMES ON CIVIL SOCIETY DEVELOPMENT

ACCESS is developed on the basis of experience gathered with previous multi-country programmes on civil society development that operate since 1993, notably the LIEN, Partnership and Democracy programmes. Programme evaluation reports recommend continuing support to the third sector.

The evaluation findings have been taken into account in the programming of ACCESS: the programme has been kept as flexible as possible, guided by a decentralised bottom-up approach, providing for a variety of cooperative ventures, a mixture of sectors and differing allocation levels.

OVERALL PROGRAMME OBJECTIVES

The wider objectives of ACCESS are as follows:

a) to promote the implementation of the *acquis communautaire* in policy areas in which the third sector plays an important implementation and advocacy role, and to raise popular awareness and acceptance in these areas;

b) to encourage the inclusion and participation of individuals and groups who risk being economically, socially or politically marginalised in the transformation process.

4.2. The specific and immediate objectives are as follows:
a) to alleviate specific problems in the areas of environmental protection and socio-economic development and the reduction of marginalisation;

b) to strengthen the institutional and operational capacity of NGOs/NPOs;

c) to involve the NGOs/NPOs of the candidate countries in the activities of the European-wide NGO/NPO platforms and networks.

PROGRAMME DESCRIPTION

ALLOCATIONS BY COUNTRY

ACCESS is set up on a single country basis so as to achieve its specific acquis and social policy objectives. Attention will be paid to regional and country-specific priorities. On the basis of criteria including the population, status of NGO/NPO development and social sector needs, the following country allocations are foreseen:

<table>
<thead>
<tr>
<th>Country</th>
<th>TOTAL: Grants and Management (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgaria</td>
<td>2,000,000</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>1,670,000</td>
</tr>
<tr>
<td>Estonia</td>
<td>900,000</td>
</tr>
<tr>
<td>Hungary</td>
<td>1,670,000</td>
</tr>
<tr>
<td>Latvia</td>
<td>1,120,000</td>
</tr>
<tr>
<td>Lithuania</td>
<td>1,230,000</td>
</tr>
<tr>
<td>Poland</td>
<td>5,850,000</td>
</tr>
<tr>
<td>Romania</td>
<td>4,310,000</td>
</tr>
<tr>
<td>Slovakia</td>
<td>900,000</td>
</tr>
<tr>
<td>Slovenia</td>
<td>350,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>20,000,000</strong></td>
</tr>
</tbody>
</table>

As a general rule, 5% of the total allocation per country should be reserved for the management of the programme. If necessary, the management allocation can be increased up to 10% of the total allocation.

ELIGIBLE PARTNERS

The partner organisations must be:

- non-governmental and/or non-profit organisations that are officially registered in their country of establishment;
- established and run in a candidate country of the Central and Eastern Europe or in an EU country;
- non ‘exclusive’ organisations, i.e. organisations which do not condition their support or actions to ideological, doctrinal or religious adherence.

Local and regional authorities may be associated as partners or co-financers to projects. They may not apply as lead applicants in projects.

ELIGIBLE SECTORS

The ACCESS programme will support the NGO/NPO activities in two main sectors:

a) Activities related to the adoption and implementation of the *acquis communautaire* in the following fields:

- environmental protection
- socio-economic development (such as promotion of workers’ rights and Social Dialogue; promotion of consumer interests and strengthening of associations representing co-operatives, mutuals and other organisations with a socio-economic role; promotion of advocacy in support of good social policy)
b) Activities in the social sector, which aim at contributing to the social reintegration and/or to promote sustainable health and social support for marginalised groups of the population (such as members of minority groups, handicapped, elderly, homeless, street or abused children, illiterate, unemployed, victims of addictions, of AIDS, victims of cruelty, etc.).

Within the parameters of these two broad sectors, the Steering Committee (see section 8) should identify the specific priorities for support in each country in relation to the priorities expressed in the Accession Partnerships and other support available to civil society in each country.

SUPPORTED TYPES OF ACTIVITIES

Co-financing grants will be awarded to support two types of projects: transnational “macroprojects” and local “microprojects”. In addition, networking of NGOs/NPOs is supported. It will be up to the Steering Committee to determine how the total grant allocation of its host country is subdivided among macroprojects, microprojects and the networking facility.

Macroprojects

The basic conditions to apply under the macroproject facility are as follows:

- Projects must be coherent with the programme objectives. Projects should be self contained operations designed in response to the situation of the country(ies) concerned and to the specific needs of the beneficiary country or beneficiary target group. They should indicate a coherent set of activities with clearly defined operational objectives.

- The financial EC contribution for projects will be up to 200,000 €. Depending on country needs, the Steering Committee is free to define a suitable minimum size for admissible projects. The Phare contribution will cover up to 80% of total project costs where one or more Community partners are involved, and up to 90% of total project costs where all partners are established in central and eastern Europe. Project promoters will therefore have to secure a matching contribution covering, respectively, min. 20% or min. 10% of total project costs; matching contributions may come from the partners themselves or from other public or private sources, but not from any other Community programme. However, a higher share of co-financing may be positively assessed in the evaluation process.

- In the interest of sustainability co-funding by national and local authorities is particularly encouraged.

- All projects must be submitted by at least two partner organisations from different countries. A partnership is a relation of substance involving an active exchange of skills, experience, knowledge and/or finance. All partners must be involved from the start in the elaboration of this project and actively participate in its implementation.

- One of the partners will act as lead organisation, which means that it must demonstrate enough experience and capability to assume the financial and legal responsibility of the project. The lead applicant organisation must be based in one of the Phare accession countries. Partners may equally be based in a Phare accession country or in the European Union.

- Each project should provide for at least the two following components:

  (a) activity related component: concrete actions implemented for the benefit of the sector or target group

  (b) capacity related component: training activities targeted at the beneficiary NGO’s staff (e.g., management, bookkeeping, human resources, marketing, fund-raising etc.) in order to ensure viability and sustainability of the organisation. Applicants should clearly demonstrate the positive organisational impact of the projects and their sustainability.

- The administrative costs of the organisations involved may be covered under the EC contribution (up to a maximum of 7% of the total cost of the project concerned) insofar as they are directly related to the implementation of the activities.
- The EC grants cannot be used for the following: One-Off conferences, academic research and feasibility studies not followed by an implementation phase, amortisation, capital endowment, deficit financing, emergency relief projects, projects having already started and those of a partisan nature.

- The matching contribution for projects may be partly secured by contributions in kind, up to a ceiling of 10% of total project costs.

- The project duration may not exceed 24 months.

**Microprojects**

The above provisions related to the macroprojects apply also to microprojects, with the following exceptions:

- Projects may be submitted by a single CEEC-based eligible organisation without necessarily involving a partner.

- The EC contribution will not exceed 90% of each project’s costs (the remainder being provided in cash or in kind by the applicant NGO/NPO).

- The maximum size of the EC grant is 50,000 €. The Steering Committee will define the minimum grant size for each country.

- The projects should be implemented within a year.

**Networking facility**

This facility will provide support allowing NGOs, NPOs and other civil society bodies to participate in activities organised at EU level. This would mainly cover travel and subsistence costs for attendance at events organised by bodies such as the EU-wide NGO/NPO platforms operating in the eligible sectors of the ACCESS programme.

This facility will not be used for financing the organisation of events.

**PROJECT EVALUATION AND SELECTION PROCESS**

Projects will be selected through an open Call for Proposals, launched in each beneficiary country and organised by the selected implementing organisation. Standard procedures of the Commission in the field of External Aid will be followed (particularly the Practical Guide to Phare, ISPA & Sapard contract procedures, Section 6 Grants).

**PROGRAMME REVIEW**

The programme may be subject to a review at the request of the European Commission during the course of its implementation in order to assess its appropriateness with regard to the pre-accession process and to its social and civic objectives.
OTHER DONORS’ ACTIVITIES AND CO-ORDINATION

Close attention will be paid to ensuring that the project activities do not duplicate those funded by other Community sources, such as the Phare national programmes, other horizontal programmes (in particular the European Initiative for Democracy and Human Rights) and the Community programmes open to the participation of the candidate countries. Similarly, co-ordination will be sought with activities financed by the candidate countries themselves as well as by other international donors.

COST AND FINANCING PLAN

The Phare contribution to ACCESS will be 20 M€ for 2000.

ACCESS will expire on 30 November 2003 (disbursements).

See expected commitment and disbursement schedules in annexes 2 and 3.

IMPLEMENTATION ARRANGEMENTS

The programme will be implemented through the Decentralised Implementation System. The implementing body will be selected by the following two alternative mechanisms: a) the CFCU will organise a tender (in Bulgaria, Estonia, Hungary, Latvia, Poland and Slovenia) or b) Civil Society Development Foundation (or an equivalent organisation) is nominated directly as an implementing body (in the Czech Republic, Lithuania, Romania and the Slovak Republic). Whenever an implementation system for a national Phare civil society programme exists, the implementation of ACCESS should follow the same mechanism if possible. The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes.

For the purpose of this programme, a special Steering Committee may be instituted in order a) to take the key strategic decisions concerning the programme (as defined in sections 5.3 and 5.4) and b) to oversee the implementation of the programme. The Committee should have representatives of the major stakeholders, namely the NAC, the Head of Delegation and a representative(s) of the civil society.

The National Fund (NF) in the Ministry of Finance, headed by the National Authorising Officer (NAO), will supervise the financial management of the Programme, and will be responsible for 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 Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and Poland on 24 December 1998. Funds will be transferred following requests from the NAO. A payment of up to 20 % of the funds to be managed locally will be transferred to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts Unit (CFCU). 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/CFCU and the manner in which the payment function will be carried out.

Four replenishments will be made of up to 20 % of the funds to be managed locally 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 IAs and the 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.

The National Fund will transfer funds to IAs/CFCU in accordance with Financing Agreements signed between the NF and the IAs/CFCU where applicable. Each individual Financing Agreement will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the IA/CFCU, there will be no
transfer of funds from the NF to the IA/CFCU. 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 IA/CFCU.

A separate interest bearing account, denominated in euro, will be opened and managed by the NF in a separate accounting system in a bank agreed in advance with the Commission. Interest will be reported to the Commission. If the Commission 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 the CFCU.

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 will be greater than 2 million euro, except in projects involving institution building, where contracts for both services and supplies may be for lesser amounts. All contracts must be concluded by 30 November 2002. All disbursements must be made by 30 November 2003. Any funds not used by the expiry date of the programme will be recovered by the Commission.

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 IA/CFCU before the official closure of the programme. The IA/CFCU assumes full responsibility for depositing the funds until final payment is due and for ensuring that the said funds will only be used to make payments related to the retention clauses. The IA/CFCU further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Interest 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 - and of interest accrued will be provided annually by the NAO to the Commission.

MONITORING AND EVALUATION

The selected Implementing Body has the responsibility for the monitoring of projects. It will keep the Steering Committee informed about the programme implementation.

Standard DIS procedures concerning the Monitoring & Assessment at programme level apply.

Standard DIS procedures concerning the evaluation of Phare programmes apply.

RISKS

The predominant risks relate to: co-ordination between the various bodies involved in the programme; effective programme management; and the timely availability of co-financing resources.

The problems that could interfere with effective implementation of the programme are as follows:

- The weak institutional and professional capacity of the NGO/NPO to develop and implement projects satisfactorily, availability of co-financing.
- The absence of a real partnership between NGOs/NPOs involved in a project.
- NGOs/NPOs with fraudulent objectives; misappropriation of grants.
- Management capacity of implementing bodies.