1. Basic information
   1.1. Désirée Number: PL01.02.06  Twinning number: PL/IB/2001/OT/01
   1.2. Title: Audio-visual Policy
   1.3. Sector: Internal Market
   1.4. Location: Poland

2. Objectives
   2.1. Wider Objective: Establishment of stable foundations for economic activities conducted by Polish and foreign companies operating in the audiovisual sector, in the context of full integration with the EU.
   2.2. Immediate Objectives: Reform and implementation of legislation in conformity with EU standards. Establishing strategy for audiovisual sector in digital age in accordance with EU recommendations. Structural and institutional development and strengthening of KRRiTV.
   2.3. Accession Partnership and NPAA priority: The project is in line with the AP and NPAA and addresses short and medium-term priorities of the AP. Among the main priorities reads that “...the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities...”
   In the short-term the priority is defined under the heading: “Audiovisual” which underlines “the complete alignment of legislation”. The AP has also a medium-term priority “internal market – free movement of capital” which underlines the abolishment “of remaining restrictions at the latest by the end of 2002 and strengthen surveillance and regulatory bodies”.
   The NPAA, point 21 states that one of the priorities is: “... implementation of regulations in the area of radio and television broadcasting in environment of technological convergence in the context of integration with the EU (according to the “Green Paper on convergence in the area of telecommunications, media and IT sector”), recommendations for legislators “COM (97) 623 and “Communiqué of the Commission- the Rules and Guidelines for a Policy of the Community in the Area of Audiovisual Media in the Era of Digital Information COM (99) 657...”.
   2.4. Contribution to National Development Plan – Not applicable
   2.5. Cross Border Impact - Not applicable

3. Description
   3.1. Background and Justification: As far as adjustment of national legislation to EU legislation is concerned, good progress has been made in Poland on the audiovisual field, yet it is still not enough to say that full conformity has been achieved. The law of 31 March 2000 amending the Broadcasting Act entered into force on 19 May 2000 (Journal of Law of 2000 , No. 29, item 358). The main goal – compliance with the acquis communautaire requirements has not been achieved. A new draft of so-called Act on alignment of the Polish Broadcasting Act to the EU legislation has been prepared and was sent to the Parliamentary Commission of European Law. That project regulates in full conformity with EU rules problems of definition of European audiovisual works, problem of European works quotas and problems of independent production as well as normative character of European works. It is also proposal of full liberalization of foreign stakes in licensed radio and television stations since January first 2003. Separate project which was sent to the Council of Ministers (July 7th 2000) regulates problems of digital TV and is consider in the light of newly amended telecommunication law. Important part of the project will be implementation of that fully conformed to the EU legislation Act to the practice.
   In an environment that is changing at a fast pace, institutional structures play an especially important role in assuring appropriate accomplishment of public aims. The leading role in the reforms should be taken by the current radio and TV regulator, namely KRRiTV. It is the institution that is expert in the matters related to the audiovisual sector, and at the same time it is this institution that has the strongest legal basis, as its existence and operations are provided, inter alia, for by the Polish Constitution. That is why it is precisely this institution that has to coordinate and supervise any attempts to change “the division of labour” among various institutions whose regulatory activities currently affect the audiovisual sector as well as reform itself and increase its own administrative and regulatory capacity.
   KRRiTV was created in 1993, following the passing of the Radio and Television Act. In the period in which KRRiTV was organized, the main problem was how to introduce some order into the Polish audiovisual market and how to implement the principles of state policy towards that sector, as contained
in the Act. Progress in the area of digital technologies is giving rise to new expectations towards the regulatory institutions. These expectations regard not only the extent of the regulator’s competencies, but also the way in which its activities are structured and organized as well as its ability to act in line with standards expected from public administration and to fulfill its tasks speedily and efficiently. Taking into account the challenges of digitization and convergence, it is needed, first of all, to elaborate new principles and institutional structure of audiovisual regulation and suggest appropriate, forward looking changes to the way in which KRRiTV currently operates. In fact a proposal for the reform of this institution as well as drafts of necessary legislative changes need to be prepared. Those proposals should take into account the requirements of European integration and of Poland’s full membership in the EU. In other words, in accordance with the very idea of legal harmonization, the principles of the EU audiovisual policy and law should be analyzed in the context of the Polish situation and the optimum way of their implementation will be proposed. Proposals of changes need to be consulted, further elaborated and implemented in co-operation with the twinned institution, which will share its experiences, will assure access to best practice solutions and will help to train KRRiTV personnel. In this way, the expertise and administrative capacity of the Polish audiovisual regulation will increase considerably, which will also allow KRRiTV fully to participate in the developments at the European level.

Poland needs to have an action strategy for the implementation of digital technologies in the area of radio and television broadcasting in the context of technological convergence. However, currently there are no regulations for so-called digital platforms and KRRiTV seem to be unable to prepare even the most necessary regulations in that area. Meanwhile, digital television has been already introduced to the Polish media system (two digital television stations are already present on the Polish market), and we can expect further intensification of competition in that area after Poland’s accession to the European Union. The regulatory policy of the European Union that protects such values as cultural and language differences, or the interests of minors and consumers, might therefore encounter a material barrier as far as the practical implementation of its rules is concerned. Great discrepancy in economic potential of the Polish audiovisual sector comparing to EU standards needs technical assistance program for preparing strategy for the implementation of digital technologies in that sector, which will be based on deep knowledge about Polish audiovisual sector and trends in Europe. KRRiTV have no sufficient quantity of modern computer equipment necessary for effective realization of its tasks. Modern hardware with relevant software is particularly needed in providing access to data basis on audiovisual sector in Europe, in sphere of viewers and listeners complains on broadcasters activity, in monitoring transmitted content (implementation of monitoring system for “European works”) and public information about KRRiTV’s works (in alignment with transparency rules).

3.2. **Linked activities:** In 1998 the KRRiTV used Phare funds organizing seminar for members and people working in KRRiTV– “ EU institutions and legal framework of audiovisual policy”. It was also organized a study visit in Italy, with an aim to recognize new structure of regulating institution and new electronic media structure. According to the knowledge of KRRiTV any other home, national or international institutions do not realize the proposed or similar project.

3.3. **Results:** Amendments to the Broadcasting Act in full conformity with *acquis communautaire* prepared and when accepted by the Parliament will be implemented. The KRRiTV is responsible for preparing and implementation of rules when accepted by the Parliament. Draft legislation with proposals of structural and administrative changes, aimed at strengthening KRRiTV and increasing its regulatory capacity will be prepared and implemented. Administrative staff employed in KRRiTV will be trained. Background expertise for long-term state policy in the area of broadcasting based on profound and detailed analysis of European policy, law and practical experiences will be done. A strategy regarding the aims of audiovisual policy and its implementation in the period before accession and after accession to the EU will be developed, and the priorities of audiovisual policy will be identified.

3.4. **Activities:**

Twinning – with regulatory authority in the media sector will comprise:

- Pre-accession adviser (PAA), who will be located in Warsaw for the period of one year, to help implement legislation, help prepare and implement strategy for development of audiovisual sector and day- to-day practical cooperation in implementation of suggested reforms of KRRiTV.
- It is expected that PAA will be the person with a very good knowledge on legislative framework for audiovisual sector and telecommunications in EU countries. PAA should have particular deep knowledge about regulatory bodies in that sector and a practice of their functioning in the EU. It would be ideally if PAA will be familiar with theory and practice of convergence of regulatory bodies in Europe.
• Support in drawing up a strategy aimed at modernizing internal structure of the KRRiTV.
• Assistance in organizing training for the staff of the KRRiTV (25 – 30 persons). The scope of proposed training includes knowledge about legal and political aspects of audiovisual policy in EU, technical knowledge about new digital technologies and achievements.
• Exchange of experiences in the area of audiovisual policy development and the efficient management in public administration
• Organizing of conferences and seminars for legislature and industry representatives from audiovisual sector, with participation of experts from MS, about audiovisual policy problems in digital age.
• Help in preparing terms of reference for technical assistance program
• Help in purchase of computers, peripherals and software for foreign department, complains department, monitoring departments, technical departments (Internet web-site).

It is expected that twinning institution will help in work out a strategy for audiovisual policy and preparation of appropriate drafts of legislation and propose options of institutional and structural solutions for the regulatory body, i.e. KRRiTV. In particular, the following topics need to be studied:
• Proposals for reform of KRRiTV in the context of new legal obligation resulting form development of digital technology.
• Practical rules for cooperation and division of tasks between the audiovisual and telecommunications regulators and the antitrust authorities
• Fundamental rules of EU audiovisual policy in the context of digital technologies, their implementation in the Member States and enforcement by European institutions (the European Commission, the European Court of Justice etc.);
• International standards in the area of radio and television activity related to Internet technology applications (infrastructure and content aspects);
• Licenses for services provided in the area of radio and television activity in the context of digital technologies;
• Economic, technological and legal aspects of regulating radio and television activity as far as conditional access and EPG (electronic program guide) are concerned;
• Economic, technological and legal aspects of regulating radio & television activity as far as cable systems, advertising, sponsoring, ownership and intellectual property rights are concerned;
• Proposal for rules governing audiovisual policy in Poland in the area of radio and television activity in environment of convergence of radio and television activity, IT systems and telecommunication systems, with particular reference to the issue of access to infrastructure and the right to construct it;
• Purchase of equipment. Purchase of computers, peripherals and software for foreign department, complains department, monitoring departments, technical departments (Internet web-site).

4. **Institutional framework:** The Chairman of KRRiTV will be in charge of supervision and correctness of the Project as far as substance is concerned.
4.1. The project is designed to reconstruct and strengthening KRRiTV. For realization and implementation of the project will be responsible foreign relations department.
4.2. Effective implementation of solutions being proposed requires adoption of appropriate legislation by the Parliament, and KRRiTV will present to the government detailed proposals and draft legislation. The Project will aim at effective introduction of institutional changes in KRRiTV and at development of an incentive system for highly qualified administrative staff.

5. **Detailed Budget:**

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<th></th>
<th>Investment Support</th>
<th>Institution Building (IB)</th>
<th>Total (= I+IB)</th>
<th>Phare</th>
<th>National Cofinancing</th>
<th>IFI*</th>
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The co-financing funds for the project implementation will be available

6. **Implementation arrangements:**
6.1. **Implementation Agency:** PAO : P. Samecki, Undersecretary of State at the Office of the Committee for European Integration; Al. Ujazdowskie 9, 00-918 Warsaw, tel.: (+48 22) 455 52 41, fax. (+48 22 ) 455 52 43;
6.2. **Twinning:** PAA will be located in Warsaw in the KRRiTV office. Contact person: Ms Izabela Chruslinska, KRRiTV, phone +48 22 838 16 47; E-mail Address: chruslinska@krrit.gov.pl

6.3. **Non-standard aspects:** DIS will be followed.

6.4. **Contracts:**
Twinning covenant 1.7 M€. The amount of 0.4 M€ of national co-financing the twinning covenant will include costs as: air travel tickets, office space renting, additional expertise, office materials, etc. Purchase of equipment 0.40 M€.

7. **Implementation Schedule:**
7.1 **Start of tendering:** IIIQ’2001
7.2 **Start of project activity:** IQ’2002
7.3 **Project completion:** IIIQ’2003

8. **Equal Opportunity:** Only criteria for participation in project will be professionalism and experience.

9. **Environment:** Not applicable
10. **Rates of return:** Not applicable
11. **Investment criteria:** Not applicable.

12. **Conditionality and sequencing:**

*Conditionality.* It is expected that Parliamentary Commission finish its works and Parliament accept proposals of the KRRiTV, which are in conformity with EU legislation to the middle of 2001, that opens need for implementation of newly amended law into practice.

Development and strengthening of KRRiTV as impartial and leading authority in audiovisual sector is the most important aim of the proposed project. Political consensus between all important participants of public sphere is an elementary condition to achieve described above task.

Sharing of competence between telecommunication authority and KRRiTV, in the broadcasting activity, is an important condition of successful implementation of this project.

*Sequencing:*
- Detailed designing of project – IVQ2001
- Terms of reference and contracting of twinning covenant IQ2002
- Starting with training programme for KRRiTV members and staff IIIQ2002
- Preparing reform and implementation of restructuring of KRRiTV IIIQ2003
- Terms of reference and contracting purchase of equipment IIIQ2003
Annex 1: Log frame planning matrix for project

End Contracting: 15/12/2003 - End Disbursement: 15/12/2004

Date of drafting: January 2001

Audio-visual policy

Total budget: € 2.5
Phare: € 2

Wider Objectives

Establishment of stable foundations for activity conducted by national and foreign companies operating in the audiovisual sector, in the context of full integration with the EU.

Indicators of Achievement

Broadcasting Act in full conformity with EU standards. A new institutional and regulatory structure of the audiovisual sector. Establishing of an audiovisual policy strategy for the period of preparation for accession to the EU, and for the period of being a member of EU.

Sources of Information

Progress Reports on Poland's Application for Membership of the EU. Study works and expertise. Reports on implementation of Phare programs.

Assumptions and Risks

Political willingness to make structural and institutional changes in the area of audiovisual sector regulations. Effective co-operation between Ministries. Development of the audiovisual sector in the context of overall economic development.

Immediate Objectives

Reform and implementation of legislation in conformity with EU standards. Establishing strategy for audiovisual sector in digital age in accordance with EU recommendations. Structural and institutional development and strengthening of KRRiTV.

Indicators of Achievement

Accession of Poland to the Media Plus Program. A new institutional structure of KRRiTV and high qualifications of its staff (25 – 30 persons). Establishing of the system of monitoring European works and system of public complaints.

Sources of Information

Legislation concerning the audiovisual sector, and KRRiTV. Studies and analyses of the sector. Reports on the Program implementation.

Assumptions and Risks

Effective implementation of solutions being proposed requires adoption of appropriate legislation by the Parliament.

Results/Outputs

Modernization of the administrative and organization structure of KRRiTV. Training of KRRiTV's staff. Preparation of a strategic program for audiovisual policy. Drafting of legal instruments for effective accomplishment of audiovisual policy aims.

Indicators of Achievement

Reports for strategy of audiovisual sector will be prepared. More effective operation of KRRiTV.

Sources of Information

Executive regulations. Organization by-laws. Documents and reports. Study works and expertise. Documents and reports on completion of the Program. Training programs and study visit programs.

Assumptions and Risks

Effective introduction of institutional changes in the body regulating the audiovisual sector. Development of an incentive system for highly qualified administrative staff. Encourage professionals to work in a renewed KRRiTV. Utilization of knowledge and experiences of other regulatory bodies and expert institutions (twinning). Quality of expertise and training programs. Qualifications of administrative staff. Proper coordination of all activities being performed. Development of relations with appropriate partners for co-operation in EU MS.

Activities/Inputs

Twinning with relevant regulating authority in MS and purchase of equipment for KRRiTV.

Annex 2-4: Cumulative implementation, contracting and disbursement table

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Legend: D – design of sub-projects / C - tendering and contracting / I – contract implementation and payment