1. **Basic Information**

1.1. CRIS number: 2002/000-605-02.02  
Twinning number: PL02-EC-03(L)

1.2. Title: New regulatory framework for electronic communications

1.3. Sector: Internal market

1.4. Location: Poland

2. **Objectives:**

2.1. **Wider objective:**
To achieve the approximation of Polish regulation to the EU requirements related to electronic communications and to assure the effective implementation of the *acquis communautaire* in that field.

2.2. **Immediate objectives:**
1. Transposition of the new framework for electronic communications (including support for significant regulation concerning the harmonisation of three sectors: telecommunications, broadcasting and IT services),
2. Adjustment of the Polish regulation to the EU new acquis (including the preparation of proper regulations in accordance with new acquis, the establishment of appropriate methods for implementing the new regulatory framework).

2.3. **Accession Partnership and National Programme for the Adoption of the Acquis priorities:**

Accession Partnership 2001: in chapter “Telecommunications and information technologies” the urgent action was underlined – to reach “*Complete alignment with the acquis and ensure transparent and effective implementation*” for secondary legislation. There is a necessity for support in the implementation of the new framework in the Polish Law and assistance in adjustment of Polish regulation to the new Directives.

The objectives cited in item 2.2 are in compliance with the National Programme for the Adoption of the Acquis 2001, priority 19.1 Liberalisation of Telecommunication Market

Final objective: “*The functioning of the telecommunication market according to the rules determined by the Directives and other regulatory provision of the European Community concerning telecommunications is extremely important, especially in the following sub-areas: liberalisation, open network provisions, interconnections, licensing and universal services etc.*”

Intermediate objectives: “*securing of an appropriate level of administrative capacity of the newly created Telecommunications Regulatory Authority*” was underlined. Especially it is a strong need to prepare the Polish NRA to issue regulation in line with new acquis.

Moreover priority 19.4 Development of the Information Society in Poland are in the line with further harmonisation of the regulations concerning the convergence in the above-mentioned three sectors and the implementation of the new regulatory framework for electronic communications. The priority description (passage 2) notes that: “*Poland, with other candidate countries, declared the promptness to create a national programme for the development of the Information Society ePoland and to co-operate with the European Commission during the preparation of the programme eEurope+*.” Furthermore final objective states “*Wide use of IST in Poland*”.

Regular Report on Poland Progress Towards Accession 2001 notes that: “*The foundations laid by the Telecommunications Act now need to be built on to secure compete compliance with the acquis, particularly regarding cost-orientation, local interconnection, affordability, universal service and the availability of carrier selection and number portability facilities. Further progress is now needed with the remaining pieces of secondary legislation that are necessary for the market to be regulated properly and fully opened.* Much of the success of
the reform of the telecommunications sector will depend upon the NRA continuing to improve its capacity to oversee and regulate the sector in an efficient and independent manner.

2.4 Contribution to National Development Plan: n.a.
2.5 Cross Border Impact: n.a.

3. Description
3.1 Background and justification:
In the context of the legislative process for the new regulatory framework and the prospective Polish accession to the EU there is a strong need to adjust the Polish Telecommunications Law to the new directives (introduce the amendments to the existing law and draft ordinances) and to implement appropriate regulation.

In the telecommunications sector, Poland has achieved a reasonable level of alignment with the acquis. The new Law on telecommunications came into force in July 2000 to act as a basis for the transposition of EC Directives in the field. The preparatory work on secondary legislation is close to being completed. According to the Telecommunications Law, the Office of Telecommunications Regulation (OTR) was established on 7 October 2000 and began operating on 1 January 2001. On 1 April the Office of Telecommunications Regulation was replaced by the Office of Telecommunications and Post Regulation Poland speeds up the integration of the secondary legislation remaining so that the market can be properly regulated and opened up to competition. Some ordinances to the Telecommunications Law and regulations necessary for the proper functioning of the URTiP are already in place, i.e. the ordinance on the statute of the URTiP, the ordinance regarding the rules of remuneration of the President, Vice President and employees of the OTR, the ordinance regarding the specimen application for authorisations and the procedures relative to its filling out as well as the types of documents required for the consideration thereof, the ordinance regarding the amounts and timing for the payment of authorisation fees, the ordinance regarding the marking for equipment which had received a type-approval certificate, the Significant Market Power ordinance, the ordinance regarding the types and specimens of radio operator’s certificates, the ordinance regarding the detailed procedures for drafting the emergency action plans and their updates by authorised operators, the ordinance on the amounts, timing and payment terms for the right to use numbering resources and for the possession of the authorisation, the ordinance on the National Frequency Allocation Table, the ordinance on the detailed technical and working requirements for mobile, public telephone cellular networks NMT-450.

The telecommunications market will be fully liberalised at all network levels from January 1st 2003. It will be the last step introducing open provision of international services. The long-distance networks were liberalised on 1st January 2002. The long-distance licences were granted through a tender in 2000 to: Netia, Niezalezny Operator Miedzystrefowy (Independent Long-Distance Operator) and NG Koleje Telekomunikacja (telecommunications subsidiary of the Polish Railways and National Grid).

From the entry into force of the Telecommunication Law the old regulatory regime was abolished. The new act introduced the following rules: system of authorisation and registration replaced the old licensing regime, no restrictions of the foreign involvement in telecommunications, framework for the market environment favourable for the development of competition, the issue of the universal service provision, completion of a tariff rebalancing process by the end of the year 2003, access rights and interconnection rules.

In connection the EU acquis implementation to the Polish Law and the dynamism of the technological and market change in the sectors, a new regulatory framework is essential for the introduction of a coherent regulatory regime for electronic communications in Poland. The adoption of the new regulatory framework, covering communications infrastructure and associated services, gives an opportunity for further and faster development of the converged sectors. Moreover, further harmonisation of the regulation for telecommunications, broadcasting and information technology sectors is a milestone in creating Information Society. It helps to meet its targets set out in the programme eEurope+.
According to the accession declaration and provisions set out in the NPAA, Poland declared to create a national programme for the development of the Information Society ePoland and to co-operate with the European Commission during the preparation of the programme eEurope+. In this context on 28 November 2000 the Council of Ministers approved the document “Targets and directions for the development of the Information Society in Poland” which contains e.g.: universal access to information, e-education, economic growth, competitiveness and job creation related to digital economy. Currently the Ministry of Infrastructure is preparing the ePoland programme, based on the structure of the eEurope strategy of the European Union. It will raise many subjects concerning the introduction of the Information Society, taking into account the Polish accomplishments and reality. The new regulatory framework for electronic communications will influence greatly the regulatory background for the performance of the ePoland programme.

Moreover the economic policy guidelines prepared by the Polish Government in the document „The Government’s Economic Strategy” of January 2002 defines the goal of the telecommunications sector policy which is to ensure transparent rules of market play for all operators.

The Polish input in drafting Action Plan Poland 2002, in chapter 19 – Telecommunications and information technologies, in the on-going measures for implementation was as follows: “amendments will be brought to the Telecommunications Law in order to bring it fully in line with the EC acquis (including new EC regulatory framework)”. Under the provision Poland is aware of the new internal market requirements and considers the process of implementing the new directives really important. In response to the need of the new acquis implementation the new project Phare 2002-2003 “EU new regulatory framework for electronic communications” was applied as supplementary.

After full completion of liberalisation process there will be a necessity to implement the new framework for electronic communications which consists of a Framework Directive identifying generally and specific policy objectives and four specific directives on licensing, access and interconnection, universal service and data protection.

The draft Directives are as follows:


Directives 2002 20/EC of the European Parliament and of the Council of 7 March 2002 – on the authorisation of electronic communication networks and services – aims at a single European market for electronic communications services by harmonising the rules for authorising provision of such services, e.g.: using general authorisations as the basis for licensing, applying a complete and coherent policy framework to communications infrastructure, ensuring that the fees for authorisations cover only justifiable and relevant administrative costs.

Directives 200219/EC of the European Parliament and of the Council of 7 March 2002 – on access to, and interconnection of, electronic communications networks and associated facilities – sets out the rights that users have in respect of electronic communications services, in particular in respect of universal service.

Directives 2002 22/EC of the European Parliament and of the Council of 7 March 2002 – on universal service and user’s rights relating to electronic communications networks and services - sets out the rights that users have in respect to electronic communications services, in particular regarding universal service: the current definition and scope of universal service, developing pricing principles at the EU level to ensure the affordability of universal service, making the extension of the European emergency call number 112 obligatory, maintaining and consolidating existing obligations with regard to complaint
handling and dispute settlement procedures, increasing the transparency of information (particularly on tariffs) for consumers, repealing the Leased Lines Directive 92/44/EC. Directive 2002[...] EC of the European Parliament and of the Council of .......... concerning the processing of personal data and the protection of privacy in the electronic communication sector” – updates the current Directive to ensure it is technologically neutral and can cover new communications services.

Within the project implementation amendments to the other existing EU regulation will be considered and brought in line with the new regulatory framework for electronic communications (e.g. Electronic Commerce Directive, etc.).

3.2. Linked activities:
The following PHARE programmes concern the telecommunication sector:

**Current Phare Assistance:**

**PHARE’99 Programme – PL9905.03: National Regulatory Authority**
Beneficiaries: Office of Telecommunications and Post Regulation, Ministry of Infrastructure (MI).
The overall objective of this project is the harmonisation of Polish telecommunications, radiocommunications and postal market regulation with the current requirements of the European Community Acquis (not included EU new regulatory framework). This involves establishing appropriate regulatory bodies to oversee liberalisation of the markets and the development of polities which will both promote competition and provide the best deal for consumers.
Telecoms and radiocom activities are being delivered by OFTEL with support being provided by PTS and the UK Radiocommunications Agency. Postal activities are being delivered solely by PTS.
Assistance under this project concentrates on training of URTiP’s staff in 17 areas (matching components described in the twinning covenant) – legislative framework for the adoption of the acquis, organisation of the national regulatory authority, interconnection, universal service policy, licensing regime and allocation of scarce resources, billing systems, establishing a numbering plan, development of policies to promote competition, development of the terminal equipment market, pricing policies, creation of market surveillance systems, monitoring methods, promotion, information and international strategy, consumer protection strategy including procedures for handling consumer complaints, co-operation with other Polish dealing with emergency situations, broadcasting and multimedia, quality of postal service.

In the investment part the complex system for frequency management (as the first part of the OTR information system) is being created.

**PHARE’99 Programme - PL9905.01: Certification and Standards**
Beneficiaries: Ministry of Economy, Electrotechnical Institute, Office for Technical Inspection, URTiP, Central Office of Measure, Institute of Metal Cutting,
The wider objective of the project is to increase Poland’s ability to adopt a certification and standardisation system in conformity with the EU requirements with regard to the New approach Directives 99/5/EC (RT&TE) and 89/336/EC (EMC). The project for the telecommunications sector is implemented in the Office of Telecommunications Regulation but the leading institution is the Ministry of Economy. Activities under the project include the organisation of local offices of the URTiP and advice for their local laboratories on obtaining accreditation, notification of equipment in non-harmonised frequencies, publication of interfaces in public telecommunications networks and working out plans for the system of

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market surveillance. The results were development of procedures of conformity assessment in order to be better prepared for the practical activities for market surveillance and to improve the URTiP capacity to regulate the market of terminal equipment.

Expert advice is rendered by the twinning partner (French Association of Standardisation /AFNOR/ in cooperation with Regulatory Authority for Telecommunications and Posts from German - /RegTP/).

**PHARE’00 Programme – PL0004.05: Universal service in telecommunications**

**Beneficiary:** URTiP

The aim of the project is the development of policies and the continuation of activities relating to the effective implementation of universal service in Poland. It is a continuation of one component of Phare’99 “NRA” related to universal service and cover the current regulatory package and new Directive 2002 22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and user’s rights relating to electronic communications networks and services. The project result will be fully approximation of the Polish law in relation to Universal Service to the EU requirements including new Directive on universal services and user’s rights.

The project is divided into two contracts, namely twinning and investment ones. Activities have been undertaken to prepare for the investment part of the project, which is the database for processing information on the provision of universal service and its economic determinants. In the scope of the project management system will be created in line with the long-term strategy and deployment of data base structure parts of which some already exist and of some necessary applications. Data migration from the legacy system will also be required. The system also ought to ensure co-operation with the existing sub-system. The exemplary information to be collected and processed by this application is as follows: Polish telecommunication operators, existing networks, structure of costs and revenues of the operators, quality of telecommunications services (based on the quality indicators) etc. It should allow to monitor and analyse the potential threats for the telecom market, all the operations as well as any possible breaches of law on the part of operators.

**PHARE’00 Programme – PL0004.02: Certification Phase II**

**Beneficiaries:** Central Institute for Labour Protection, Testing and Research Centre PREDOM-OBR, Central Mining Institute, URTiP, National Institute of Telecommunications

The aim is to increase Poland’s institutional ability to implement New Approach Directives and adopt the institutional conformity assessment frameworks in line with EU requirements. The result will be the improvement of surveillance capabilities of institutions which were transformed into the URTiP.

The investment part is being prepared. Additional data was gathered to prepare Terms of Reference (ToR) and initial version of technical specification concerning measuring apparatus for URTiP and NIT was submitted to CFCU. Framework Contract for Technical Assistance (TA) is developing and the first task this Contract (Analysis, assessment and verifications of procurement proposal of equipment for URTiP’s laboratory) was done. The equipment is to provide the up-to-date infrastructure for measurement in the scope of Directives 89/336/EC and 99/5/EC. URTiP does not participate in the twinning part of the project.

**PHARE’01 Programme – PL01.02.01: Certification, Accreditation and Standardisation Strengthening**

**Beneficiaries:** Ministry of Economy, Polish Centre for Testing and Certification, Polish Centre for Accreditation, MoPT, Polish Committee for Standardisation, URTiP, National Institute of Telecommunications, Wroclaw University of Technology.

The wider objective is to achieve the effective functioning of acquis communautaire in the field of free movement of good in the harmonised area through a smooth transition from existing regulatory certification system in Poland to conformity assessment system of the UE (New Approach) and realisation of provisions on the designation of bodies included in the
Protocol on European Conformity Assessment Agreement and to increase Poland’s ability to adopt the standardisation system in line with the EU requirements and support its effective functioning in order to ensure the free movement of goods. The results notes that the Polish NRA will be ready to control fulfilment of requirements related to New Approach Directives.

The list of previous Phare projects which have been carried out to completion or are currently in progress whose results may have an impact on the sector, are as follows:

**National Phare Programme PL.9313**
Beneficiaries: MoPT, National Radiocommunications Agency, Institute of Telecommunications.

Technical assistance for the Ministry of Posts and Telecommunications:
- Assessment of the economic impact of entry to the Single Market on the telecommunications sector in Poland (completed)
- Analysis of conformity of the Polish draft Telecommunications Law with the acquis
- Restructuring of Polish Posts
- Pilot information systems for Polish Post - mail monitoring and tracking systems
- Software tools and software necessary for database creation (CASE and INFORMIX) for a frequency spectrum management system
- 19 SUN servers intended for database INFORMIX servers in National Radiocommunications Agency WAN

**Phare/Fiesta II Programme**
Analysis of legal and institutional changes in the telecommunications sector since the year 1990

**Ministry of Posts and Telecommunications Programme**: Analysis of EU Directives and examination of divergence of the current telecommunication law from the EU law.

3.3. Results:
The realisation of the project will support the approximation of the Polish regulation to the EU new requirements relating to electronic communications and to assure the effective functioning of the *new acquis communautaire* in that field. The project, accordingly with its objectives, should result in:

- Adaptation of the Polish law to new framework for electronic communications,
- Adjustment of the Polish regulation to the EU new acquis (initial analyses, documents and elaboration for the practical implementation of the new EU Directives requirements by URTiP),
- Elaboration proper solutions for interconnection,
- Obtaining information and expertise from the EU Member States relating to the implementation of the EU new regulatory framework and adoption appropriate regulation into the Polish market.
- Drafting of detailed guidelines for regulator and proposals of proper regulatory changes related to the EU new regulatory framework,
- Improvement of proper procedures relating to the new Directives e.g.: for dealing with disputes between undertakings providing electronic communications networks or services, for granting general authorisation of electronic communications services and networks and individual authorisation for scarce resources (radio frequencies and numbers),
- Strengthening the administrative capacity of the Office of Telecommunications Regulation and other institutions in the line with the new regulatory framework, approximation of Polish NRA’s independency status to the new Directives requirements, assignment of the new URTiP’s tasks and responsibilities under the new Directives,
- Creation of the data protection IT system for URTiP.
3.4. Activities:  
**CONTRACT 01 - TECHNICAL ASSISTANCE:**

Beneficiary: Ministry of Infrastructure  
Under this technical assistance contract 01, the focus will be on the adaptation of the Polish law to the new framework for electronic communications. The following tasks are foreseen under this contract:

⇒ Review of the current state of the Polish Telecommunications Law and secondary legislation in line with the new regulatory framework (expertise),

⇒ Drafting amendments to the Telecommunications Law and secondary legislation according to the new EU Directives and the Radio Spectrum Decision and the Regulation for unbundled access to the local loop and the Electronic Commerce Directive (drafts of relevant ordinances, expertise),

⇒ Analysis of the EU market of electronic communications services in view of the harmonisation of the law (expertise),

⇒ Analysis of the update of standards under the new regulatory package concerning electronic communications

⇒ Analysis of the scope of the new regulatory package in regard to alternative technology models (other than fixed telephony and voice telephony services)

Total cost of Contract 01: 0.40 mln EUR  
Co-financing (MI resources): 0.1 mln EUR

**CONTRACT 02 - TECHNICAL ASSISTANCE:**  
Beneficiary: the Office of Telecommunications and Post Regulation  
The contract 02 adjusting the Polish regulations to the EU new acquis will include initial analyses, documents and elaboration for the practical implementation of the new EU Directives requirements by URTiP. The results of the contract will be used by URTiP as the market regulator. The following tasks are foreseen under this contract:

Task 1  
Determination of an optimal scope of RIO for the Polish market in line with the EU requirements (expertise),  
Analysis of RIOs on the EU interconnection market,  
RIO implementation process, especially the regulator’s role (training),  
Identification of the difficulties connected with the approval of the offer – ways of avoiding them (workshops).

Task 2  
Expertise on the necessary elements including the activity profile of parties concluding an interconnection agreement,  
Workshops on regulatory activities undertaken in individual cases,  
Formulating necessary statements, especially relating to the integration of technical infrastructure, interoperability of network and the provision of universal service,  
Drafting of the optimal agreements/decisions on network interconnection on the basis of the telecommunications activity profile of parties entering into the agreement/decision,  
Making interconnection agreements available in practice.

Task 3  
Establishment of optimal models for interconnection, including the variety of participants providing the services, the development of technological solutions, types of services provided in interconnected networks.

Task 4  
Development of internet services in interconnected networks - drafting of guidelines for the regulator,  
Establishment of an interconnection model stimulating the development of competition on the internet market, including all groups of parties participating in service provision.
Task 5
Development of competition on the long-distance market – indirect access, number portability, carrier pre-selection, billing (setting out detailed guidelines for the regulator, expertise and workshops).

Task 6
Overview of practical activities undertaken by the regulator in the EU Member States concerning obligations imposed by the regulator on the parties entering into interconnection agreements (case studies).

Task 7
Feasibility study on the implementation of IPv6 protocol

The tasks will be integrated in a preparation of one comprehensive, multi-chapter analysis concerning the above problems. Experts will be available for a number of visits to consult the issues with URTiP’s employees, provide series of trainings and present the final result of their work.

Total cost of Contract 02: 0.40 mln EUR
Co-financing (URTiP resources): 0.1 mln EUR

**CONTRACT 03 - TECHNICAL ASSISTANCE – ACCOUNTING AND DATA COLLECTION:**

**Beneficiary: URTiP, MI**

This contract will concentrate on the development of proper solution for implementation of the EU new regulatory framework preparation.

**Task 1**
Preparation of an analysis containing schemes on:

⇒ Drafting of transparent rules on separate accounting, preparing detailed guidelines for separate accounting (draft ordinance, expertise, consultation workshops),
⇒ Implementation of rates based on Long Run Incremental Costs (LRIC), including drafting detailed guidelines necessary for building a model for a dominant operator (expertise and consultation workshop), the model for a step by step verification (workshops), assessment of a model of a dominant operator and technical consultations,
⇒ Implementation of WACC (weighted average cost of capital) in view of the EU requirements,
⇒ Cost allocation methodology,
⇒ Leased lines prices,
⇒ Establishment of a strategy relating to separating interconnection and the system for financing universal service (expertise and consultation workshops).

**Task 2**
Analysis of the functioning of the interconnection market in Poland – collecting information: scope and procedure for data collection and analysis of the information in the context of the EU regulations and experiences for the Member States – drafting detailed guidelines for the regulator and the Ministry of Infrastructure, proposals for proper regulatory changes, crafting forms and creating data base models.

Publication of information on operators’ activities – scope and necessary regulations, the regulator’s tasks, review of the EU experience in cooperation between the regulator and the relevant Ministries,

Analysis of the regulator’s role in the new telecommunications environment – the scope of competencies, working procedures to communicate with the Ministry of Infrastructure/departments of the Ministry.

Total cost of Contract 03: 0.45 mln EUR
Polish side co-financing, total amount of 0.2 MEUR (including 0.1 MEUR from the URTiP resources and 0.1 MEUR from the MI resources)

**Contract 04 – Twinning light:**

**Beneficiary Ministry of Infrastructure, Office of Telecommunications and Post Regulation, National Institute of Telecommunications.**
The contract will allow to receive information and expertise from the EU Member States relating to the implementation of the EU new regulatory framework and to adopt appropriate regulation into the Polish market.

At this stage the following activities are foreseen under this contract:

- Workshops on mediation, informal role of the regulator in dispute resolution, phases and strategies for mediation activities,
- Impact of the convergence of telecommunications services on the regulator’s role regarding interconnection in the new environment, including technical and financial aspects of interconnection (training),
- Network security and interconnection (trainings),
- Consultation process with telecommunications environment, drafting rules for dealing in line with the EU new directives, methods of the regulator’s activities enabling their practical application in shaping the interconnection market, revision of solutions implemented in the EU Member States (training and expertise),
- Access – definition of the regulator’s role regarding ensuring different categories of access as covered by the EU new regulations (training),
- Preparation for implementation of detailed regulation relating to the local loop unbundling (training and expertise),
- Procedure for the assessment of the competition in the markets regulated ex-ante. Results of the assessment allowing for departing from ex-ante regulation,
- Definition of the regulator’s role in shaping the awareness of the players in interconnection market regarding their rights and obligations.
- Analysis of the impact of the new regulation on the EU telecommunications and multimedia markets (expertise and workshop),
- Analysis of the social and economic effects of the new regulation (expertise and workshop),
- Analysis of the functioning of IT and telecommunications market in Poland before and after the implementation of the new regulation (training and expertise),
- Consultation with telecommunications and multimedia market players regarding of draft secondary legislation (workshop and consultation meetings) – according to the following stages:
  - drafting consultation documents,
  - preparatory work for consultation process,
  - submission of the consultation results and presentation of the conclusions.
- Identification of the scope and mechanisms for making information available – implementation of the right of universal access to public information (expertise and workshop),
- Establishment of the methodology on collecting information regarding ICT market - information and communication techniques (training, expertise and workshop),
- Study on the tendencies in the needs regarding the development of Information Society,
- Study on the critical aspects of the utilisation of ICT (expertise and other tools).
- Study on the results of personal data protection in electronic communications sector in the EU Member States after the introduction of the new regulation (expertise and workshop),
- Establishment of the rules concerning the security of information and communication networks exploited by operators providing IT and telecommunications services in the light of the Directive on the processing of personal data and the protection of privacy in the electronic communications sector, which defines the regulator’s obligation in that scope.

The candidates for the position of short term experts should have a fluent command of the English language, working knowledge of Polish will be considered an asset. They should be familiar with legal and professional vocabulary and ready to help in drafting relevant ordinances, including ad hoc advisory and training support.

The short-term experts: provision of highly specialised expertise; responsible for developing specific tasks and for providing practical, on-going hands-on support in the effective implementation of the proposed actions in each tasks.
Total cost of contract 04: 0,15 mln EUR  
Polish side co-financing, total amount of 0.1 EUR, including 0,05EUR from URTiP and 0,05 EUR from MI

**Contract 05 - Investment: setting up information system**  
At present, one of the most important tasks for the OTR is the creation of a complex information system which is necessary for supporting statutory activities of the Office. It is anticipated that the process will be distributed for a number of years. Currently, the system for frequency management is the first part of the OTR information system and is being created. It is the investment component of Phare PL99.05.03 project “National Regulatory Authority”. The next step will be the deployment of the database for processing information on the provision of universal service and its determinants. It is the investment component of Phare PL0004.05 “Universal service in telecommunications”. Now the OTR is preparing a draft t design of the relevant database, sub-bases and associated databases.

Next phase for the creation of the OTR's complex information system will be the deployment of the data protection IT system.

The aim of the system is to ensure the safe acquisition, storage and processing of data both new and the already gathered in OTR: personal data, billing data, location data and data on the elements of telecommunications infrastructure, as required by the provisions of the Directive on data protection and the related obligations of the regulator, flowing from the framework Directive.

1. The safety-protection system will have a two-fold character, ensuring integrity, confidentiality and non-reputability of data obtained from points located in the premises of telecommunications operators, as well as service providers who process the above data on a commercial basis.
2. Transmission between system elements should be provided by secret encryption and description mechanisms and electronic keys, which prevent an unauthorized access to transmitted information. It also should implement electronic signature infrastructure.
3. The system will ensure a multiple-level (multi-step) authorization for the access to resources and multi-level system of access restrictions.
4. The system will ensure the alignment of standards concerning personal data protection, secret information storage, protection of existing data-bases and observation of “tacit telecommunications information” with the requirements of the acquis.

To enable safe and efficient processing and transfer of data, the IT hardware platform in OTR should be considerably upgraded. This should also account for the growth of the amount of data and increasing number of system users as the system covers subsequent fields of OTR's activities. Therefore a new generation central server as well as the regional servers should be acquired thus increasing computing power of the system and enabling for using old ones as a “hot” backup. The homogeneity of the system should be maintained. The data on backup servers should be kept up to date using on-line replications. At any time the main server suffers any failure the backup should take over the processing task.

An important complement to the safety system will be encryption hardware modules designed to encrypt IP packets throughout the system. These should conform to both Polish (national) and European standards.

Total cost of contract 05: 0,6 mln EUR  
Co-financing of URTiP(URTiP resources): 0,2 mln EUR

Under co-financing URTiP will provide the technical specification of systems requirements, analysis of the presently existing systems in the URTiP which require extra protection strengthening to meet the requirements of the new acquis, data coding/decoding models, analysis of data-protection levels and proposal for applications related to data stored on these levels.
New regulatory framework for electronic communications

<table>
<thead>
<tr>
<th>Title</th>
<th>Cost per each nod</th>
<th>Central cost</th>
<th>Sources of financing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Local database server</td>
<td>13 000 EUR</td>
<td>221 000 EUR</td>
<td>UE</td>
</tr>
<tr>
<td>2. Local NT network server</td>
<td>6 000 EUR</td>
<td>102 000 EUR</td>
<td>UE</td>
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<td>3. Central database server</td>
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<td>112 000 EUR</td>
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<tr>
<td>4. Consolidation of system</td>
<td>-</td>
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<td>5. Migration of data within the system of consolidated base</td>
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<td>100 000 EUR</td>
<td>PL (co-financing)</td>
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<td>6. Securing and coding data processed within the system</td>
<td>-</td>
<td>165 000 EUR</td>
<td>UE</td>
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<td>7. Surveillance over the implementation of the system</td>
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<td>50 000 EUR</td>
<td>(PL (co-financing)</td>
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<tr>
<td>TOTAL</td>
<td></td>
<td>800 000 EUR</td>
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Institutional framework:

4.1. Target Institutions involved in the project are the Ministry of Infrastructure, Telecommunications National Regulatory Authority (Office of Telecommunications and Post Regulation - URTiPand the National Institute of Telecommunications. The leading institution within the above-mentioned project will be the Ministry of Infrastructure. The MI and URTiP will create an integral body supervising and managing the project (Task Force).

4.2. No institutional changes will be the project results. But they will focus on further strengthening of the URTiP and MI capacity in fulfilling its competences and tasks effectively.

4.3. Basically, this is a technical assistance project, a twining part parallel with the activities carried out under the preceding projects - PHARE 1999, 2000, and related to the legislative changes mentioned in the Background and the strengthening of the administrative capacity of the OTR in the field of electronic communications.

4.4. The URTiP will obtain ownership of the equipment. The URTiP will also prepare TOR (Terms of Reference) and co-operate with CFCU on carrying out the investment contract. All procedures will be conducted accordingly with the DIS and twinning contract regulation. Financial and formal control of the contract proceedings will be performed by the CFCU (Central Financing and Contracting Unit). The investment contractor will be responsible to the URTiP. Steering Committee for PHARE Programme Implementation (hereinafter referred to as the Steering Committee) appointed by the decision No 4/2001 of the President of the URTiP will be responsible for management and monitoring the project implementation. The Steering Committee will appoint a person as a contact point, responsible for coordination.

5. Detailed budget (M€):

<table>
<thead>
<tr>
<th>Phare</th>
<th>Financing</th>
<th>Total PHARE</th>
<th>National Co-financing</th>
<th>International Financial Institutions</th>
<th>Total</th>
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<tbody>
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<td></td>
<td>Investment (IN)</td>
<td>Institution Building</td>
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<td>Contract 01 TA</td>
<td>0.40</td>
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<td>0.10</td>
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<td>0.5</td>
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<tr>
<td>Contract 02 TA</td>
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<td>0.40</td>
<td>0.10</td>
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</tr>
<tr>
<td>Contract 03 TA</td>
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<td>0.45</td>
<td>0.20</td>
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<td>0.65</td>
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<tr>
<td>Contract 04 Twinning</td>
<td>0.15</td>
<td>0.15</td>
<td>0.10</td>
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<td>0.25</td>
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<tr>
<td>Contract 05 Investment</td>
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<td>0.60</td>
<td>0.2</td>
<td></td>
<td>0.8</td>
</tr>
<tr>
<td>TOTAL</td>
<td>0.60</td>
<td>1.40</td>
<td>2.0</td>
<td>0.7</td>
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</table>
Co-financing will be available.

6. Implementation Arrangements
6.1 Implementing agency:
PAO: Ms. Krystyna Gurbiel, Under-secretary of State, Office of the Committee for European Integration, Aleje Ujazdowskie 9, 00-918 Warsaw, phone number: +48 22 455 52 40, fax number: +48 22 455 52 43.
CFCU will be the Implementing Agency:
Mr Wojciech Paciorkiewicz, Director, Co-operation Fund, Central Financingand Contracting Unit, ul. Górnoślaska 4a, 00-444 Warsaw, phone number: +48 22 622 00 31, fax number: +48 22 622 75 65.
CFCU will be responsible for handling tendering, contracting and payments of contracts. During the preparation of TORs and contracts it will be assisted by beneficiaries. In order to support CFCU, the Steering Committee will be established to efficiently carry out implementation works and co-ordinate them. Its task will be to prepare TOR (technical terms) and to co-operate with CFCU on carrying out contracts.

6.2 Twinning Light
The candidates for the Short Term Experts should have a fluent command of the English language, working knowledge of Polish will be considered an asset. The Short Term Experts should have a knowledge of the new ‘regulatory package’ of EU Directives and practical experience in electronic communications. They should be familiar with legal and professional vocabulary and ready to help in drafting relevant ordinances, including ad hoc advisory and training support.

6.3 Non-standard aspects:
The investment contract will be based on the DIS and PRAG rules.
Contact person in the MI:
Marek Krawczyk
Director of Financing the Infrastructure Department
phone number: 630 13 56,
fax: 630 13 63
ul. Chalubinskiego 4/6
00-928 Warsaw
Contact person in the URTIIP:
Jerzy Czajkowski,
Director of International Department,
phone: (48) 22 608 81 59,
fax: (48) 22 608 82 53,
e-mail: j.czajkowski@urt.gov.pl
ul. Kasprzaka 18/20
01-211 Warsaw
Contact person in the NIT:
Ms. Alina Karwowska-Lamparska,
Head of Radiocommunications Radio and Television Department
phone number: 512 84 19,
fax: 512 81 80,
e-mail: a.karwowska@itl.waw.pl.
ul. Szachowa 1
04-894 Warsaw
The project activities will be contracted in line with PHARE DIS and relevant contract procedures.
6.4 Contracts:
Contract 01 – Technical Assistance
0,40 MEUR (Phare) +0,10 MEUR(co-financing)=0,50 MEUR - joint co-financing
New regulatory framework for electronic communications

(Oversights, analyses for the adoption new regulatory framework for electronic communications, drafting amendments to the Telecommunications Law and secondary legislation, market analyses for the implementation new regulation and of the UE market of electronic communications services in view of harmonisation of the law.)

**Contract 02 – Technical Assistance**

0,40 MEUR (Phare) +0,10 MEUR (co-financing)= 0,50 MEUR - joint co-financing

(Initial analyses, documents and elaboration for the practical implementation of the new EU Directives requirements by URTiP analyses of RIOs, expertises on interconnection agreements, expertises on the market, including the services, technological solution and types of services, analyses on EU and Polish internet services, expertise and case studies on practical activates undertaken by NRAs)

**Contract 03 – Technical Assistance**

0,45 MEUR (Phare) +0,20 MEUR (co-financing) = 0,65 MEUR - joint co-financing

(Analyses, expertises on separating accounting, of the functioning of the interconnection market and of the regulator’s role in EU Member States)

**Contract 04 – Twinning**

0,15 MEUR (Phare) + 0,1 MEUR (co-financing) = 0,25MEUR

(Analyses, expertises on EU Member States implementation of the EU new acquis, trainings, seminars and workshops on specific areas, translation of documents)

**Contract 05 – Investment**

0,60 MEUR (Phare) + 0,20 MEUR (co-financing) = 0,80 MEUR - joint co-financing

(Assessment of URTiP existing information system preparatory work for tendering documents (TOR), Designing and deployment of Data protection IT system, the system installation)

7. Implementation schedule:


7.3. Project completion: II quarter 2004 (June 2004)

8. Equal Opportunity:

Women will be integrated into all levels of the objectives and actions under the project, getting new opportunities for professional growth in the field of the telecommunications, broadcasting and IT sectors. National minorities also will integrated in to all actions under this project.


11. Investment criteria: n.a.

12. Conditionality and sequencing:

   **Conditionality**

   • Meeting by the Polish Government of the obligations included in the strategic documents e.g. the National Programme for the Adoption of the Acquis and the Accession Partnership,
   • Signing of the Financing Memorandum Phare 2002,
   • Effective implementation of National PHARE 1999 and PHARE 2000 Programmes,
   • Co-financing of project costs from Polish sources,
   • Timely preparation and signing the tender documents for technical assistance and investment components and Twinning Covenant,
   • Selection of suitable twinning partners from EU Member States and proper contractors,
   • Selection of personnel and management; enabling them to participate in training, workshops and seminars.
Poland will undertake the necessary measures aimed at the implementation and application of the acquis in the area of ‘Telecommunication and Information Technology”, as declared above by 31 December 2002. Wherever possible, Poland will harmonise its legislation with the acquis and fully implement it as soon as possible before the accession date.” (priority 19.1)
Moreover Poland considers the adoption of the new acquis necessary for further market development in line of the convergence of electronic communications and in order to ensure the effective functioning of the URTiP.

Milestones
• Signing of the Financing Memorandum,
• Preparing the documentation for tendering process for TA and Investments contracts,
• Selecting of twinning partner,
• Preparing the twinning covenant,
• Preparation of background, initial analyses,
• Carrying out of analyses, consolations, workshops and trainings to achieve the project results,
• Creation of an integrated information system for the OTR,
• Implementing the information system, performing the acceptance tests and training the OTR staff in operating the application.

Annexes:
  1  Logframe
  2-3 Commitment, contracting and disbursement schedule – cumulative
### New EU regulatory framework for electronic communications

**Annex 1: Logframe**

**New EU regulatory framework for electronic communications**

**Date of drafting:** 05.03.02

**Planning period:** 01.2003 - 06.2004

**End contracting:** 30/11/04

**End disbursement:** 30/11/05

**Total budget of the project:** Total EUR 2,700,000

**PHARE EUR:** 2,000,000

**Wider objective**

To achieve the approximation of Polish regulation to EU new requirements related to electronic communications and to assure the effective functioning of new *acquis communautaire* in that field.

<table>
<thead>
<tr>
<th>Indicators of Achievement</th>
<th>Source of information</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passing proper acts and complete implementation of secondary legislation concerning electronic communications (drafting the amendments to the Telecommunications Law and secondary legislation).</td>
<td>Progress Report on Poland’s Application for Membership of the European Union, Polish Journals of Law, EU new Directives on electronic communications and other regulation related to above mentioned</td>
<td>Issuing the proper amendments to the Telecommunications Law and secondary legislation in line with new acquis at appropriate time.</td>
</tr>
</tbody>
</table>

**Immediate Objectives**

1. The adaptation the new framework for electronic communications to the Polish law (including the support for significant regulation concerning the harmonisation of three sectors: telecommunications, broadcasting and IT services),

2. The adjustment of Polish regulation to the EU new acquis (including the preparation of proper regulations in accordance with new acquis, the establishment of appropriate methods for implementing the new regulatory framework).

<table>
<thead>
<tr>
<th>Indicators of Achievement</th>
<th>Sources of information</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
</table>

**Results/Outputs**

<table>
<thead>
<tr>
<th>Indicators of Achievement</th>
<th>Sources of information</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
</table>
- Adaptation Polish law to new framework for electronic communications,
- Adjustment of Polish regulation to the EU new acquis (initial analyses, documents and elaboration for the practical implementation of the new EU Directives requirements by OTR),
- Elaboration proper solutions for interconnection,
- Obtaining information and expertise from the EU Member States relating to the implementation of the EU new regulatory framework and adoption appropriate regulation into the Polish market,
- Drafting of detailed guidelines for regulator and proposals of proper regulatory changes related to the EU new regulatory framework,
- Improvement of proper procedures relating to the new Directives e.g.: for dealing with disputes between undertakings providing electronic communications networks or services, for granting general authorisation of electronic communications services and networks and individual authorisation for scarce resources (radio frequencies and numbers),
- Strengthening the administrative capacity of the Office of Telecommunications and Post Regulation and other institutions in the line with the new regulatory framework, approximation of Polish NRA’s independency status to the new Directives requirements, assignment of the new URTiP’s tasks and responsibilities under the new Directives,
- Creation of the data protection IT system for URTiP.

<table>
<thead>
<tr>
<th>Activities</th>
<th>Inputs</th>
<th>Sources of information</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signing and effective functioning of twinning agreements, preparation of Tender documents, singing technical assistance and investment contracts, Organisation of seminars, workshops and trainings, Preparation of handouts for trainings Analyses, elaborations and expertises A high standard of personnel well trained, Preparation of URTiP data protection IT system,</td>
<td>Polish Journals of Law, Official publications, Reports of experts, NRA’s Bulletins, Studies and analyses.</td>
<td>1. Fulfilment by both the government of the Republic of Poland, including the MI and the European Commission of the activities preparing the commencement of the project: a signing of Financial Memorandum, 2. Meeting by the Polish Government of the obligations included in the strategic documents e.g. the National Programme for the Adoption of the Acquis and the Accession Partnership, 3. Effective implementation of national PHARE 1999, PHARE 2000 programmes, 4. Co-financing of project costs from Polish sources.</td>
<td></td>
</tr>
<tr>
<td><strong>Contract 01 – TA for MI</strong></td>
<td><strong>Contract 02 – TA for URTiP</strong></td>
<td><strong>Contract 03 – TA for MI and URTiP</strong></td>
<td><strong>Contract 04 – twinning for MI and URTiP</strong></td>
</tr>
<tr>
<td>-----------------------------</td>
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<td>--------------------------------------</td>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>1. Review of the current state of the Polish Telecommunications Law and secondary legislation in line with the new regulatory framework (expertise), 2. Drafting secondary legislation to the Telecommunications Law according to the new EU acquis (drafts of relevant ordinances, expertise), 2. Analysis of the EU market of electronic communications services in view of the harmonisation of the law (expertise), 1. Determination of an optimal scope of RIO and RIO implementation process for Polish market in line with the UE new requirements, 2. Drafting of the optimal agreements/decision related to the interconnection issues, 3. Establish of optimal models for interconnection, 4. Development of internet services in interconnected network, 5. Development of competition the long-distance market, 6. Overview of practical activities undertaken by the regulator in the EU Member States concerning obligations imposed by the regulator on the parties entering into interconnection agreements</td>
<td></td>
<td>1. Preparation of an analysis containing schemes on drafting of transparent rules on separate accounting, implementation of rates based on LRIC, establishing of a strategy relating to separating interconnection and the system for financing universal service, 2. Analyses of the functioning of the interconnection market in Poland, of the regulator's role in the new telecommunications environment, 3. Preparation of information on operator's activities.</td>
<td>1. Obtaining information, experience exchange and expertise from the EU Member States relating to the implementation of the EU new regulatory framework and to adopt appropriate regulation into the Polish market e.g.: 1. Impact of the convergence of telecommunications services on the regulator's role, 2. Consultation process with the telecommunications information system, 3. Preparation for implementation of detailed regulation relating to the local loop unbundling.</td>
</tr>
<tr>
<td><strong>Overview</strong></td>
<td><strong>Analyses</strong></td>
<td><strong>Analyses</strong></td>
<td><strong>Analyses</strong></td>
</tr>
<tr>
<td>Overviews, analyses, drafting for the adoption new regulatory framework for electronic communications Market analyses for the implementation new regulation Analyses of RIOs, expertises on interconnection agreements, expertises on the market, including the services, technological solution and types of services, analyses on EU and Polish internet services, expertise and case studies on practical activates undertaken by NRAs Analyses, expertises on separating accounting, of the functioning of the interconnection market and of the regulator's role in EU Member States Analyses, expertises on EU Member States implementation of the EU new acquis. Logistic assistance for trainings, seminars and workshops. Translation of documents.</td>
<td></td>
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## ANNEXES 2 - 3 Cumulative implementation, contracting and disbursement chart

### New regulatory framework for electronic communications

<table>
<thead>
<tr>
<th>Activities</th>
<th>Implementation chart (cumulated)</th>
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<table>
<thead>
<tr>
<th>PLANNED - by quarters</th>
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<tr>
<td>D/C</td>
<td>C/I</td>
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<table>
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<tr>
<th>Commitments</th>
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<thead>
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<th>Legend</th>
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</thead>
<tbody>
<tr>
<td>D – design of sub-projects / C – tendering and contracting / I – contract implementation and payment</td>
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</tbody>
</table>