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 Romania, 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 12 March 1991 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: RO 9905 to RO 9908
Title: Romania National Programme 1999
Duration: 30 November 2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 55.2 M Euro hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 30 November 2001, subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is 30 November 2002. 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:

   EC Delegation in Bucharest
   11, Strada Grigore Mora,
   71278 BUCURESTI
   Romania

   Fax: (40-1) 230 2453

for THE RECIPIENT:

   THE GOVERNMENT OF ROMANIA
   Department of European Integration
   Piata Victoriei 1
   BUCHAREST
   Romania

   Fax (40-1) 312 6929

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 Bucharest,
Date

for THE RECIPIENT

Mr. Petre Roman
Deputy Prime Minister
Minister of Foreign Affairs of Romania
National Phare Coordinator

for THE COMMUNITY

Mr. Fokion Fotiadis
Head of European Commission
Delegation to Romania

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

SPECIAL PROVISIONS

1. Objectives and Description

RO-9905 Sub-Programme 1 (Objective 1)

Strengthen Democracy, the Rule of Law and Human Rights

This sub-programme includes two projects:

RO-9905-01 Project: Assistance to the Ministry of Justice (MoJ) in continuing the Reform of the Romanian Judiciary (MEUR 3.0)

Both the AP for Romania and the Commission’s 1998 Regular Report identified serious weaknesses and institutional limitations resulting in an ineffective operation of the judiciary system.

The current project provides for follow-up and expansion of activities started under the Phare 1997 and 1998 programmes for Romania. The overall objective is to develop an effective, efficient and modern operating Romanian judiciary system through continuous institutional development and training programmes.

The project consists of two components. First, it is envisaged that assistance to the National Institute for Magistrates (NMI), started under previous Phare programmes, will be continued. Second, it is planned to provide further support to the development of the “Case and Document Management System” (CMDS). The activity, started under Phare 1997, is expected to be advanced with the support of the Phare 1999 programme, providing the basis for an overall network system within which all courts will be inter-connected.

RO-9905-02 Project: Development of Child Welfare Services (MEUR 25.0)

As a result of the continuing economic crisis in Romania, public authorities at central and local level have met with increasing difficulties in financing the running costs of childcare institutions. These financial difficulties have very seriously affected children - be they handicapped, HIV-infected, without home or family, or otherwise disadvantaged - in a number of different types of institution, for which various different central and local government bodies are responsible. While the longer-term need for structural reform of the child protection system in Romania should not be neglected, the overriding immediate need is to establish an acceptable level of care for all children in institutions in Romania. As an urgent short-term measure to assist with this situation, funds under the Phare 1998 Child Protection Reform Programme have been reallocated to provide immediate support for the basic needs of children. A preliminary assessment has been made of the situation, and it is clear that this initial response is not sufficient.

In view of the seriousness of the economic crisis, Romanian budgetary resources to ensure adequate levels of care in the concerned institutions are likely to remain extremely limited. A co-ordinated response is required involving efforts by the both the Romanian authorities and the international community.

This project will fit into such a co-ordinated effort. It has two objectives: (a) to provide in the short term for the basic welfare needs of children in care, and (b) in the longer term to support central government and local authorities in strengthening and diversifying activities in the field of the protection of children’s rights and in improving the effectiveness of all the services and institutions involved in child welfare.
(a) Immediate direct basic aid (food, hygienic products, clothing, medicines, heating fuel, rehabilitation of facilities and other inputs needed to ensure an acceptable level of care) will be provided to children in all types of childcare institutions on the basis of need. A full co-ordination will be maintained with support provided from Romania’s own resources, and with inputs financed by other donors. As far as possible, this assistance will be managed in a manner which supports the identification and implementation of sustainable solutions to the crisis in childcare institutions in Romania.

(b) Longer-term support may cover the following areas: (i) development of new alternative services and reinforcement of organisational capacity at local level, (ii) restructuring/rationalisation of residential institutions, (iii) harmonisation of the legal framework, (iv) reinforcement of the organisational capacity of the concerned government bodies, and (v) development of a monitoring and evaluation system. Development of new alternative services could cover support for implementation of schemes aimed at reducing abandonment of children. Support could also be provided to the design and implementation of a public awareness campaign to improve the comprehension, the promotion, the guarantee and the respect for children’s rights. These activities will to a large extent replace those originally foreseen under the 1998 Child Protection Reform Programme now reallocated to direct basic aid.

Tendering, contracting and financial management for the project will be undertaken by the CFCU under Phare rules and procedures. Contracts may be with NGO(s) or appropriately qualified procurement agencies, by Direct Agreement following informal consultation, or through tenders for supply and/or technical assistance, as appropriate.

Phare support under this project is provided subject to the following conditions:

(a) The government will nominate a single authority responsible for establishment and co-ordination of policies relating to children in care, for setting norms as regards appropriate standards of care for all residential childcare institutions, including homes for mentally and physically handicapped children, and for controlling the performance of all institutions in provision of care in accordance with the established standards. Appropriate standards of care should be defined for all types of institution in co-ordination with other concerned Ministries (Health; Education; Labour and Social Protection, the State Secretariat for Persons with Handicap, DPC), and should relate to all factors affecting the well-being of children in institutions. In addition to the single authority referred to above, the European Commission also strongly favours the setting up of an independent regulatory agency in Romania, supported by competent international bodies, with the mandate to monitor the respect for appropriate standards of care in residential childcare institutions.

(b) This single authority will be responsible for preparing and maintaining detailed records on all childcare institutions, and on the relevant budgets at central and local level which are available for financing of these institutions. A continuous assessment will be maintained of each institution’s performance in the provision of care respecting of the established norms, and of the actual availability of funds for the institutions, permitting the early identification of any shortfall in financing affecting the standard of care in specific institutions or groups of institutions. Such records will be made available to the European Commission.

(c) The Government of Romania will ensure the financial provision to maintain the established acceptable standards of care (covering food, medical provision, clothing, heating, normal operating expenditure and adequate staff) for all children in all different types of child-care institution throughout the period of implementation of the project.

**RO-9906 Sub-Programme 2 (Objective2):**
Strengthen the Capacity to withstand Competitive Pressures

The following three projects are included:

**RO-9906-01 Project: Standardisation and Conformity Assessment Infrastructures (MEUR 2.5)**

The development objective of the project is to establish an effective and transparent system to manage the implementation of EC technical regulations on quality infrastructure and conformity assessment in Romania.

Due to the fact that several line ministries and other agencies are closely involved in the project implementation process, a proper institutional and organisational project structure is of great importance. The Commission has made a strong recommendation to the Romanian authorities to move the responsibility for the quality infrastructure from the National Agency for Science, Technology and Innovation to the Ministry for Industry and Trade, which will become the institution with overall policy responsibility for Standardisation and Conformity Assessment. Furthermore, it is expected that the MIT establishes a well-staffed and equipped unit in charge with the management of Quality Infrastructure related matters.

The project has identified the following components:

- **Support to line Ministries and the National Agency for Science, Technology and Innovation (ANSTI)**
  The project will concentrate on technical support, training needs assessment and general staff training to the line Ministries in order to establish and implement a common organisational and methodological structure to be used when implementing the EC legislation related to the free movement of goods. ANSTI is at present responsible for policy matters related to the Romanian Quality Infrastructure and for the maintenance of parts of the related institutional infrastructure. Metrology is under the responsibility of the Ministry for Industry and Trade (MIT). The Romanian authorities are focusing on a reorganisation of the quality infrastructure with the aim of placing the overall responsibility within MIT. The project will support MIT in developing a plan for reviewing existing and processing new legislation with the aim of establishing a coherent legal and institutional quality infrastructure system.

- **Support to the Romanian Standards Association (ASRO)**
  ASRO is establishing itself as an independent self-supporting standards body. The project will support the institution in establishing marketing policies and strategies, and in the identification of possible new products and services and will support the institution in establishing certification activities in the field of product and system certification.

- **Support to the Romanian Accreditation Network (RENAR)**
  The project will support RENAR in further adapting to the EA (European Co-operation for Accreditation) requirements for full membership by supporting in reviewing the overall organisation, procedures and quality system of the body and by enhancing the competence of the technical assessors through the implementation of assessor training courses and joint assessments.

- **Support to the Romanian Bureau of Legal Metrology (BRML)**
  The support will include staff training in issues related to calibration, establishment and implementation of quality systems to prepare for accreditation of the calibration laboratories and establishment of an information system, including the acquisition of computer equipment and software.

- **Support to the Office of Consumer Protection (OPC) and Consumer Associations**
OPC will be supported in establishing and implementing an awareness campaign on consumer rights and the effects of the implementation of the EC legislation. The assistance will also concentrate on providing support in establishing consumer consultancy centres and will include training and the development of information systems.

**RO-9906-02 Project: Strengthening the Administrative Capacity to manage the Acquis in the field of Competition and State Aid (MEUR 2.0)**

The main objective of the project has been defined as strengthening the administrative capacity of the Competition Council and the Competition Office in order to create and maintain a competition environment by prohibition of anti-competitive agreements, abuse of dominant position, merger control and the introduction of a proper State Aid Control system.

The Competition Council and Competition Office are the supervising authorities of Competition and State Aids. Both institutions have received EC Phare support for strengthening their organisational structure, for implementing the Competition Law and for staff training. Although significant progress has been made, further assistance is needed in order to achieve full compliance with the Acquis. Support under the current project will focus on:

- Strengthening and improvement of the administrative capacity of competition and state aid authorities to manage and implement the “acquis”, through training for staff of the supervisory bodies, aid granting bodies and judges.
- Effective enforcement of the competition policy adapting and completion of secondary legislation.
- Determination of rules and/or procedures for monitoring of state aids and development of a transparent and complete overview of state aid in Romania, including an information data-base covering all types of aid and annual reports stating all aid provided in a given financial year.
- Preparation of implementation regulations for competition policy and state aid control and support to their implementation and enforcement.

**RO-9906-03 Project: Acceleration and Streamlining of the Privatisation Process (MEUR 6.0)**

The development objective of the project is to create a sustainable and competitive corporate environment by privatisation of the majority of the State Owned Enterprises.

The immediate objective of the project is to accelerate the privatisation process of companies through:

- Providing them with access to privatisation transaction expertise
- Supporting new legal provisions pertaining to restructuring, sales of assets and liquidation.
- Reinforcing hard budget policies by restructuring core, unsaleable companies to create potentially viable units.

The project has a strong relation to both the Phare 1998 programme and the recently negotiated World Bank conditionalities, which will be the driving force behind the 1999/2000 privatisation programme. The Phare assistance is provided subject to the government’s continuing commitment to the conditionalities of the World Bank PSAL loan.

Three sub-projects have been identified:

**RO-9906-03-01 Framework Contracts for retaining fee-based Professional Expertise**

An important constraint on the rate of progress in privatisation is the availability of expertise to ensure that adequate, reliable information on the target companies is available to potential buyers.

The current sub-project will finance three framework contracts covering the costs for retainer fees in order to attract the best possible professional advise and expertise needed for a successful privatisation programme. The following expertise will be covered through this sub-project facility:
Lawyers on Retainer – up to 4 firms under one framework contract; to ensure a full documentation of legal issues relating to companies undergoing privatisation.

International Accounting Standards Auditors – up to 4 firms under one framework contract; to prepare company audits prior to privatisation.

Environmental auditors – up to 4 firms under one framework contract; to carry out environmental audits and assess environmental liabilities of companies undergoing privatisation.

**RO-9906-03-02 Restructuring Component**

This sub-project will support restructuring of companies for which no suitable client for direct privatisation can be identified. Consultants and industrial experts will work together the companies board and senior management, following the new legal provisions. A comprehensive step by step approach has been developed to guide both consultants and management on the scope of the effort.

The restructuring of two to three large-scale companies over a calendar period of eighteen months is envisaged. The sub-project is intended as a pilot initiative. Once the methodology has been prepared and successfully applied to a few projects, the SOF will select other companies for future assistance to be financed from other sources.

Phare support under the Restructuring component is provided subject to the condition that the assistance will lead to the break-up or liquidation of non-viable enterprises, and an end to the state’s subsidies to and participation in those enterprises. This objective will be achieved through the sale of physical assets, privatisation of any potentially viable business units within the loss-making enterprise and measures to deal with enterprise debts in a manner consistent with EC state aid policies.

**RO-9906-03-03 Related Technical Assistance**

This sub-project will cover the identified technical assistance needed to support SOF with the execution of its tasks and responsibilities throughout the project implementation period.

**RO-9907 Sub-Programme 3 (Objective 3): Meeting the Obligations of the Acquis**

Six projects have been identified under this sub-programme:

**RO-9907-01 Project: Strengthening Border Management and Control (MEUR 10.5)**

The objective of the project is to strengthen border management control in Romania through both the purchase of appropriate equipment and the development of relevant training for Romanian border guards and border police. The current project is seen as the first phase of an investment programme supporting the modernisation of the border management services to ensure their capacity to effectively counter illegal trans-frontier activities. The project will contribute to the acceleration of the accession process, through preparing Romania for its future role in controlling a part of the external borders of the Union.

The project includes three sub-projects:

**RO-9907-01-01 Education and Training**

A detailed analysis of the required training standards, in line with EC norms and standards, will be executed and recommendations made to the Romanian authorities on how to develop a modern and professional border management training system that will guarantee an effective border control mechanism. Both general and specific training programmes for border guard personnel will be designed and executed in order to enhance the professional operation of Romanian border guards. It is expected that this sub-project will be implemented through twinning with a member state institution(s).
Procurement of four types of equipment is foreseen:

- Land vehicles and water craft to replace the most obsolete models currently available to the border management services. These will enhance the mobility and increase the flexibility of border guard control teams both in terms of regular patrolling and the ability to react quickly to particular incidents.
- Equipment necessary to develop a unified horizontal and vertical compatible communication network and data supply system that in due course can be linked and integrated into the EC Schengen system of border control.
- A mixed package of standard equipment, including night vision devices and long-range surveillance instruments, in order to enhance the detection of illegal border activities.
- Operational equipment individual border guards (all weather gear, administrative support equipment and other patrolling instruments).

The current project is seen as the first phase of a major investment and institutional development programme. In this context continuing advisory support is required to assist in further definition of future institutional development and investment needs. Support under the project is provided on the condition that the necessary institution reform of the border management authorities is pursued.

The objective to provide a series of pre-accession impact studies related to further improvement and implementation of the NPAA. Following on from activities contracted under the 1997 Phare support, further applied research or analytical studies will be commissioned regarding the impact arising from the harmonisation with and enforcement of harmonised legislation in Romania from an economic, social and institutional point of view. The studies will help to elaborate specific areas of policy, to clarify the institutional aspects of delivering specific policy measures, and to assess the broader economic and social and consequences of the implementation of the Europe Agreement, and in the longer term of integration into the single market.

The priority areas for studies and applied research and programme of activities under this project will be agreed between the Commission services and the Department of European Integration. The DEI may delegate responsibility for establishing the programme of activities and terms of reference for individual studies to the European Institute of Romania. The conclusions of the screening exercise will be taken particularly into account in establishing priorities.

The individual studies will be contracted by the CFCU to qualified Romanian or international bodies with appropriate specialised expertise through Phare DIS procedures.

The assistance focuses on institution building in key acquis areas. Together with the 1998 Programme, the support is provided to significant reforms in all major areas of responsibility of the Ministry of Finance.

The current project covers:

1. **Public procurement**
   In line with the AP and the NPAA, the objective is to complete the harmonisation of legislation in public procurement by drafting secondary legislation, to design and implementing a
monitoring system for public procurement, to develop a training system and elaborate on procedures, roles and responsibilities regarding public procurement.

2. **Strengthening the State Treasury Department**
The treasury system will be strengthened in order to provide spending agencies with modern systems for managing commitments, payables, receivables and payrolls. Preparations will be undertaken for the implementation of an integrated computer-based financial management system supporting key functions: revenue collection, expenditures management, and monitoring economic indicators.

3. **Capital expenditure programming**
Support will be provided to strengthen the Ministry of Finance capacity to select and programme public investment projects, by implementing the methodology for screening and programming of capital expenditure within the State Budget. Within the Ministry of Finance, a programming mechanism for difficult problems and major projects will be designed and implemented.

4. **Central Finance and Contracting Unit (CFCU)**
Financial support to the CFCU is provided to cover operating costs on a diminishing basis in line with the MoU signed between the Romanian authorities and the Commission in July 1998. In view of the expanding and highly important role of the CFCU with regard to the management of the Phare support programmes, support will continue in order to further facilitate and professionalise the working relations between the Government of Romania and the Commission.

5. **Design of financial management arrangements**
The assistance will be provided to the Ministry of Finance in the overall design and implementation of coherent financial management structures and procedures in line with the specific requirements of the pre-Accession instruments. These activities will relate to the bodies involved in management pre-Accession instrument funds channelled through the National Fund (the central treasury entity within the Ministry of Finance through which the Community Funds are channelled). In particular, financial management arrangements will be proposed with reference to an appropriate division of responsibilities between the National Fund and the Implementing Agencies and Paying Agencies located within other institutions. (This activity should be closely co-ordinated with support for the development of financial control arrangements being provided under Phare 1998.) It is not envisaged to support any operational costs of the National Fund or other agencies.

As far as possible, it is expected that this project will be implemented through twinning with member states, but technical assistance may also be contracted for some components.

**RO-9907-04 Project: Support to the National Office for the Prevention and Control of the Money Laundering (MEUR 0.5)**
The objective of this project is to improve investigation and analysis methods and domestic and international co-operation in the area of prevention of money laundering, in line with AP and NPAA priorities. It will strengthen the capacity of the National Office for the Prevention and Control of Money Laundering to perform the tasks required under Act no. 21/1999 regarding the prevention and punishment of money laundering. It will also assist financial sector institutions to meet reporting requirements.

The project will execute an analysis of the Romanian legislation regarding money laundering compared to the same legislation enforced in the European Union, with a view to completing
the harmonisation of legislation. It will develop and support the implementation of new procedures for the optimal gathering and processing of information, for the design of procedures for reporting, for the setting up of a database, connected to the databases of the Reporting entities, for the supervision of the implementation of the legal obligations of the Reporting entities and for the effective co-operation with other Romanian and international institutions.

Actions will be developed to increase the awareness of the reporting institutions of their obligations in the fight against money laundering and to develop a relationship of trust with the Office for the Prevention and Control of the Money Laundering will be developed.

Support will also be provided to design and implement a training of trainers programme aimed at a transfer of know-how to increase the effectiveness of the institution and the performance of its staff. A staff training manual including domestic and European regulations in the field of money laundering will also be designed.

It is expected that the project will be implemented through twinning with a member state institution.

**RO-9907-05 Project: Maritime Safety (MEUR 0.5)**

The project will support the creation of an efficient organisational structure, able to adopt, implement, monitor and enforce the Maritime Safety acquis. The objectives are:

- to identify the list of the key areas of the acquis with which Romanian legislation should be harmonised and to assess the horizontal and vertical implications of its adoption and implementation, including administrative reforms;
- to prioritise the steps towards the required legal harmonisation and institutional development;
- to assist the concerned Romanian authorities to draft the necessary legal documents as to obtain a fully harmonised national legislation in maritime safety;
- to assist the concerned Romanian authorities to implement the harmonised legislation.

It is expected that the project will be implemented through twinning with a member state institution.

The project beneficiaries are the Ministry of Transport through its designated Directorates, the bodies in charge with Maritime Safety (Inspection of Civil Navigation, Romanian Register of Shipping) and in the medium term the transport operators, seafarers, pilots and other users of transport services.

**RO-9907-06 Project: Surveying Health Conditions for Workers exposed to dangerous Agents at Work (MEUR 0.7)**

The objective of the project is to support the creation of an effective operation of Labour Inspection related to health and safety at work.

The immediate objectives are to prepare a national policy for prevention of workers for risks on exposure to dangerous agents at work and to prepare draft legislation harmonised with the relevant EC Directives.

The activities of the project will concentrate on analysing the existing situation regarding exposure of workers in the sanitary field to dangerous agents, identifying priority areas for intervention and drafting a national policy on prevention of risks of exposure to dangerous agents at work. Draft legislation harmonising Romanian legislation with relevant EC Directives will also be prepared.

An appropriate organisational structure for effective implementation of health and safety legislation and policies will be defined, and the human resource development and budgetary implications of this structure will be assessed.
Pilot actions will be implemented including training programmes for labour inspectors, implementation of methods and procedures of inspection and provision of information to employers and employees related to risks of exposure to dangerous agents.

This project is expected to be implemented through twinning with a member state institution.

**RO-9908 Sub-Programme 4 (Objective 4): Economic and Social Cohesion**

The following project has been selected in the area of Economic and Social Cohesion:

**RO-9908-01 Elaboration of the National Action Plan for Employment (MEUR 1.0)**

The project will support the medium-term priorities of the Accession Partnership under the heading *Employment and Social Affairs*: “development of appropriate labour market structures and joint review of employment policies as preparation for participation in EU co-ordination” and under the heading *Reinforcement of Institutional and Administrative Capacity*: “Begin to set up structures needed for regional and structural policy”.

The NAPE will be prepared by the Ministry of Labour and Social Protection, in consultation with other concerned government bodies, as a policy document to be formally adopted by the Government of Romania. It will provide the policy framework for European Social Fund-type measures to be implemented in the context of regional development programmes in Romania. It will be designed in accordance with the four main pillars of the “1999 Employment Guidelines” adopted by the European Council in Vienna in December 1998; that is, improving employability, developing entrepreneurship, encouraging adaptability in business and their employees, and strengthening the policies for equal opportunities. It will take into account the current situation of the Romanian economy and the short and longer-term effects of the industrial restructuring process.

The NAPE will define a set of appropriate measures which will result in a change from traditional passive measures to a new active approach. The use of public unemployment benefits to improve employability through the provision of real incentives to the unemployed to seek and take up work or training will be promoted. The budgetary, institutional and human resource development implications of the NAPE will be fully assessed, and priority measures and a realistic time-scale for implementation will be established. Necessary legislation to support implementation of the NAPE will be identified and drafted.

In this context there is a need to prepare the legal framework to promote the up-grading of the skills of the labour force in Romanian companies through a flexible system of continuing training, and to regulate the attributions of MoNE, MoLSP, economic ministries and other institutions at national, regional and local level regarding the vocational training activity. Support will be provided for development of this legal framework, which should take into account financial support, fiscal incentives and any other financial mechanism for continuous training is should be covered as well as categories of persons having access to continuing training.

The project will be implemented through twinning with a member state institution(s).

2. Budget
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<th>SUB-PROGRAMME</th>
<th>Investment (indicative)</th>
<th>Institution Building (indicative)</th>
<th>OVERALL TOTAL IN MEURO</th>
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<td>RO-9905: Strengthen Democracy, the Rule of Law and Human Rights</td>
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<td>(projects: Child Protection, Justice)</td>
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<td>RO-9906: Strengthen the Capacity to withstand Competitive Pressures</td>
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<td>(projects: Standardisation and Conformity Assessment, Competition Policy and State Aid, Privatisation)</td>
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<td>RO-9907: Meeting the Obligations of the Acquis</td>
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<td>(projects: National Action Plan for Employment)</td>
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<td><strong>TOTAL</strong></td>
<td>30.21</td>
<td>24.99</td>
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</tbody>
</table>

3. **Implementation**

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures. The National Aid Coordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes.

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 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 the Government of Romania on 20 October 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 (FA’s) between the NF and the Implementing Agencies (IA’s)/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 PAO’s 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.

In the event that a project fiche for the Child Protection project is not adopted between the Commission and the Government of Romania at the time of signature of the Financing Memorandum for this programme, the first and subsequent transfers to the NF will be reduced by the amounts related to the Child Protection project, until a project fiche is approved.

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1 *Pour mémoire*: Romania’s participation in Community Programmes (8.7 M Euro) and TEMPUS (3 M Euro) for 1999 is drawn from the overall allocation of the Romania national programme, and is not included within this programme.
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 IA’s 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 installment 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 IA’s 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 Central Contracting and Finance Unit (CFCU) of the Ministry of Finance will act as Implementing Agency for all sub-programmes within the programme.

The National Fund will transfer funds to the CFCU, in accordance with a Financing Agreements (FA’s) signed between the NF and the CFCU. The FA will be endorsed in advance by the European Commission. The CFCU will be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all the operations carried out by the relevant CFCU.

The implementing authorities responsible for technical aspects of all projects and sub-projects within the programme are specified above under **Objectives and Description**

A separate interest bearing bank account, denominated in EUR will be opened and managed by the NF in a separate accounting system in a Bank agreed in advance with the Commission. In principle, all bank accounts will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme. The same procedures will apply to funds transferred to the CFCU.

The NAO and the PAO will ensure that all contracts are be prepared in accordance with the procedures set out in the DIS Manual. All contracts for investments will be greater than EUR 2 million. Twinning conventions and technical assistance contracts may be for smaller values, as required by the specific nature of institution building projects.

All contracts must be concluded by 30 November 2001. All disbursements must be made by 30 November 2002.

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 Implementing Agency before the official closure of the programme. The Implementing Agency assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses. The Implementing Agency further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Interests accrued on the funds deposited will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts, and notably of the payments made out of them, and of interests accrued will annually be provided by the NAO to the Commission.

4. **Monitoring and Assessment**

A Joint Monitoring Committee (JMC) will be established. It will include the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds.
The JMC will be assisted by Monitoring Sub-Committees (MSC) and will include the NAC, the PAO of each IA (and of the CFCU where applicable) and the Commission Services. The MSC will review in detail the progress of each programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultant (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring these are effected. The MSC will report to the JMC, to which it will submit overall detailed reports on all Phare financed programmes.

5. Audit and Evaluation

The accounts and operations of the National Fund and the CFCU may be checked at the Commission’s discretion by an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the European Union's Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement.

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

6. Visibility/Publicity

The appropriate Programme Authorising Officer will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the programme. This will be done in close liaison with the Commission Delegation. Further details are at the Annex 5.

7. Special Conditions

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