PHARE 2001
STANDARD SUMMARY PROJECT FICHE

1. Basic Information

1.1 Désirée Number: RO-0105.01

1.2 Title: Support for the Development of Improved Management of Municipal Services

1.3 Sector: Public Administration

1.4 Twinning Component: N/A

1.5 Location: Romania, Ministry of Public Administration

2. Objectives

2.1 Overall Objective:

The overall objective is to improve the standards of municipal services, focusing principally on water and wastewater services, and enhance the environment by promoting compliance with EU environmental directives.

2.2 Project purpose:

- The creation of a sound and clear legal basis for the provision of municipal services and the development of policies for municipal services which are in accordance with the requirements of EU environmental directives and include appropriate regulation of increased private sector participation.
- The development of training and advisory facilities for the preparation of private sector participation (PSP) contracts and the creation of a financial facility to support the preparation of contracts for the participation of private companies in the provision of municipal services

2.3 Accession Partnership and NPAA priority

The project will assist compliance with EU environmental directives related to municipal services, in particular water supply and wastewater collection, treatment and disposal.

3. Description

3.1 Background and justification:

The EU donates 120 MEUR each year for investments, mainly in water and wastewater infrastructure. It appears from ISPA project preparation that international
companies are interested in contracts for developing and operating municipal services in Romania. However, the legal background is unclear and subject to interpretation, and the Romanian Government has asked for further support in regulating the sector. It is worthwhile for the EU to continue to support the sector as the Law on Municipal Services, which is pending approval from Parliament, was also finalised with Phare support under MUDP II.

As part of the reorganisation of the ministries after the election in November 2000, a directorate with the responsibility for municipal services was created in the Ministry of Public Administration (MAP). The responsibilities of this ministry, as defined in Government Decision Nr 8/2001, include:

- reviewing regulations on municipal services and proposing improvements;
- issuing drafts of legal norms for the law on municipal services;
- drafting the methodology for the regulation of prices and tariffs for municipal services;
- initiating conditions for externally financed programmes for municipal infrastructure and monitoring their implementation;
- supporting local authorities to attract external finance;
- supporting public authorities in the privatisation of municipal services.

The proposed project will support the Ministry of Public Administration to follow up the requirements of the municipal services law and develop other tasks begun under the PCU/PIU Support Project.

(i) Legal basis and policies for development of municipal service provision

The PCU/PIU Support Team provided assistance to the Ministry of Public Works in preparing amendments to the municipal services law and in drafting special water and wastewater legislation. The municipal services law is expected to be passed by parliament and issued during 2001. The government is then required to issue secondary legislation within two months. For water and wastewater services, this will be based on that drafted under the PCU/PIU Support Project; for other services it is likely that only essential framework regulations will be issued. More comprehensive secondary legislation will be required for the district heating, solid waste and public transport sectors. Further secondary legislation may be needed for the water and wastewater sector to comply with new EU directives and to ensure consistency with new legislation developed by other ministries responsible for the implementation of EU environmental directives.

The municipal services law also makes provision for the establishment of a regulatory authority for all municipal services which are natural monopolies. The work under the ongoing Phare funded technical assistance to MUDP II has developed proposals for regulating water and wastewater services. These proposals envisaged the establishment of an authority committed to light handed regulation based on licensing operators, monitoring levels of service and identifying poor performers. The establishment of the authority will help to prevent exploitation by unqualified private operators, provide incentives for operators to improve their performance, ensure that tariffs reflect the full cost of supply without overcharging consumers, and encourage investment in improved services by establishing a
balanced regulatory regime that reflects the needs of consumers and investors. Where appropriate it will encourage competition and the control of tariffs by market forces.

The PCU/PIU Support Team also assisted the Ministry of Public Works in identifying the most important EU directives and developing a programme of activities in relation to the adoption of legislation. The role of the Ministry of Public Works was envisaged as overall planning and monitoring implementation of improvements to municipal services necessary to comply with the legislation adopted. These programmes will be spread over several years and ongoing assistance is needed to help implement them. Co-ordination with other ministries will be essential, including the Ministry for Water and Environment (the lead for most wastewater directives) and the Ministry of Health (the lead for the drinking water directive).

(ii) Support for the Preparation of Contracts for Private Sector Participation

Under the current legislation local authorities are obliged to reorganise existing Regii Autonome into Commercial Societies. These companies will operate under concession contracts with the local authority. The contracts may be awarded directly to a company formed from the reorganisation of the Regia, otherwise the concession is to be awarded by competitive bidding. Once a Commercial Society is established, however, shares in the company may be sold to private investors by whatever means a local authority feels is appropriate. It is understood that existing companies operate either without a formal contract or with very weak concession contracts. Assistance is needed to provide support to local authorities preparing and negotiating concession contracts and, if they are considered, other forms of contract with commercial companies such as lease or management contracts. Two distinct situations may apply:

- contracts with municipally owned companies;
- contracts where private investors are involved.

Many utility providers appear to be too small to develop efficient cost effective schemes. Municipal associations may help small communities to improve the management of services, strengthen their bargaining power in negotiating the delegation of management of services and make contracts more attractive to private investors. Although the general legal framework on local public administration makes provision for local communities to associate, very few such associations exist. There is a need to assist local communities to set up such associations and develop appropriate contracts, including those with private investors.

3.2 Linked activities:

The PCU/PIU Support Project, RO9710.02.01, assisted the Ministry of Public Works in the preparing the Municipal Services Law and in drafting the secondary legislation relating to water and wastewater services, including the establishment of a regulatory authority for those services. The Government is expected to pass the Municipal Services Law during 2001, and then secondary legislation, based on that already drafted under MUDP II, may be issued. This will formally establish a regulatory authority for municipal services.
Technical assistance under MUDP II has prepared guidelines for concession contracts. These identify the requirements of current Romanian legislation as well as the basic needs of concession contracts for water and wastewater operators. More limited proposals were prepared for other sectors and other forms of contracts.

A project is being funded by the Department for International Development (DfID) of the British Government to assist local governments make rational decisions on private sector participation.

Under the MUDP II programme, the PCU/PIU Support Team has provided assistance to the Ministry of Public Works in identifying the most important EU directives and developing its programme of activities in relation to these.

The Ministry of Water and Environment has presented a proposed project fiche for assistance in strengthening the environmental administration to implement and enforce the environmental Acquis under Phare 2001. This covers the adoption of legislation, monitoring the environment and reporting on the state of the environment. It interfaces with the proposed project which will assist in identifying and implementing the investments needed in public services to meet required environmental standards.

3.3 Results:

The project is expected to result in the following:

- Secondary legislation in the district heating, solid waste and transport sectors, together with any further secondary legislation for the water and wastewater sector required to comply with EU directives.

- A clear division of tasks in relation to the implementation of all relevant EU directives among the participating ministries, a comprehensive list of tasks for MAP and a programme for undertaking MAP’s tasks.

- An assessment of likely investment needs in municipal services to comply with the relevant EU directives and meet standards required by the Ministry of Environment, identification of possible sources of funding for these investments, a preliminary programme for the necessary works, and plans for monitoring implementation of the works.

- The mission, internal organisation and financing of the regulatory regime for municipal services will have been clearly defined.

- A training and advisory capacity will be available to assist local governments in preparing contracts for private sector participation and the establishment of intercommunity associations for the development and operation of municipal services.

- At least four contracts for private companies to participate in the development and operation of municipal services. These may include, if appropriate, pilot plans and contracts for an association of more than one municipality.

3.4 Activities:
The project will comprise technical assistance to draft secondary legislation, to develop municipal services to meet EU standards, to formulate and implement sound policies for municipal services, and to develop sound contracts for delegated management of municipal services, including associations of municipalities or utilities where appropriate. The technical assistance will include the following activities:

(i) **Assistance in Drafting Secondary Legislation.**
- Drafting the special legislation required in the fields of district heating, solid waste and public transport, including regulatory requirements, the definition of the rights and responsibilities of municipalities, service providers and consumers in each sector, and specific technical legislation for each sector.
- Drafting further secondary legislation for water and wastewater services as required to meet EU directives or new Romanian legislation implementing these directives.

The consultants will liaise closely with other line Ministries and in particular with the Ministry of Water and Environmental Protection (MoWEP) in order to ensure a close co-ordination. To this respect, several interministerial meetings will be organised during the implementation of this component.

(ii) **Assistance in Developing Policies for Municipal Services to Implement EU Environmental Directives.**
- Identifying, together with the Ministry of Water and Environment, the implications of any new EU directives for municipal services. This will include the Water Framework Directive.
- Ongoing development of the database of municipal services, and identifying investment needs to meet the requirements of EU environmental directives.
- Reviewing and updating investment programmes in the field of water supply, wastewater, district heating and solid waste.
- Updating cost estimates, reviewing funding needs, identifying sources of funds and assisting with financial planning.
- Establishing and helping to implement procedures for monitoring investment programmes and their impacts.
- Advising on the establishment of a sound regulatory body for municipal services, including its mission, organisation and structure, and financing; writing job descriptions and recruitment of staff; introductory training for senior management; relations with other organisations; database requirements; policies on competition; guidelines for assessment of fair tariffs; and its operating procedures.
- Assisting contacts with the EU, especially the Taiex.

(iii) **Training and support in the preparation of contracts applicable to the delegation of the management and operation of municipal services, especially water and wastewater services.**
a) General training of MAP, regulatory and local government staff:

- Public finance legislation, the use of private finance and determining concession fees.
- The possible role of inter-community associations, the current legislation governing these associations, alternative structures and how to identify what is best suited to particular needs.
- Understanding the fundamentals of contracts, especially concession contracts and those for other forms of private sector participation.
- Potential weaknesses in concession and other PSP contracts.
- The preparatory work needed for PSP contracts.
- Guidelines for concession contracts, other PSP contracts and association agreements. These will use the specific contracts under (c) below as case studies

The items under (a) above will involve preparation of policy papers, followed by training courses and workshops. A training and advisory capacity will be developed in an institution associated to MAP, although this will be based on outsourcing specialist consultancy services as required.

b) Operation of PSP Financial Facility

- Preparation of Terms of Reference for consultancy assignments (as described under (c) below) for the preparation of tender documents together with advice on tendering and tender evaluation for contracts for the delegation of municipal services to private operators for four municipalities. (These are provisionally identified as for water and wastewater services in Craiova, Timisoara and Brasov and for solid waste in Piatra Neamț).
- Assistance in the evaluation of consultants’ proposals and advice on the award of contract.
- Advice on the management of the separate consultancies for the preparation of PSP contracts.

The four municipalities will be confirmed before the start of the main consultancy so that the preparation of tender documents may commence as soon as the consultant has mobilised.

c) Specific Contracts:

For the development of each PSP contract to be supported from the financial facility, technical assistance will be provided for the following:

- Identification of a long term plan and the optimum role of the private sector.
- Identification of the special needs of the concession, lease, BOT or management contract, as appropriate.
- Identifying the information required and how to collect it.
- Defining investment needs.
• Defining the private sector partner’s performance criteria.
• Embodying the requirements of the local authority in a sound contract document.
• Advising on tendering, tender evaluation, negotiation and contract award.

Items under (c) above will be provided to several (between 3 and 5 – indicative) specific municipalities wishing to look for private investors. At present it is expected that the contracts to be awarded will be concessions for water and wastewater systems in Craiova, Timisoara and Brasov, and for solid waste facilities in Piatra Neamt. The technical assistance will be provided under separate consultancy contracts and work closely with the training and advisory body developed under (a), including the provision of workshops using the contracts being prepared as case studies. The implementation of these activities will lead to an assessment of the level of demand from Romanian municipalities for advisory services relating to private sector partnership for provision of municipal services. In the event that a strong demand is found to exist for such services, it is expected that further Phare financing under future years’ Phare programmes may be provided for the financial facility set up under this project.

4. Institutional Framework

The project will be implemented through the Ministry of Public Administration (MAP), which will provide a counterpart team and facilitate contacts with other organisations.

The activities under this project will be closely co-ordinated with those under the project Phare 2001 “Assistance for the implementation of environmental policies in Romania” implemented by the Ministry of Environment. Co-ordination is particularly required in relation to components 1 and 2 of the present project relating to development of legislation and policies for municipal services in line with EC environmental directives. In particular, an inter-ministerial steering committee will be set up to ensure the coherence of the activities under the two projects, and avoid possible overlaps in their respective areas of activity.

It is expected that the project will be undertaken by a main consultancy for the overall programme, and which will undertake all activities under items (i), (ii), (iii)a and (iii)b in Section 3.4 above (one single contact worth 2.6 MEUR is expected). Further consultancies will be let as soon as possible to prepare specific contracts and undertake activities listed under item (iii)c above.

The main consultant team will be based in the Ministry of Public Administration (MAP). The project will also work closely with any regulatory body established under MAP, liaise with the Association of Municipalities and develop relationships with other ministries responsible for implementation of measures to comply with EU environmental directives, including the Ministry of European Integration and the Ministry of Water and Environment. Separate consultancies for the preparation of PSP contracts will be based in the local municipal councils, but report on progress to the MAP.
The institutional framework described assumes that:

- MAP is responsible, directly or indirectly, for the regulation of municipal services.
- MAP takes over the expected role of the municipal services directorate of the former Ministry of Public Works in respect of the development of municipal services to comply with EU directives.

5. Detailed Budget, in MEUR

<table>
<thead>
<tr>
<th>COMPONENT</th>
<th>Phare support</th>
<th>Total Phare (I+IB)</th>
<th>National co-financing</th>
<th>IFI</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Main consultancy.</td>
<td>2.6</td>
<td>2.6</td>
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<td>2. PSP Contracts</td>
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<td>5.6</td>
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</table>

6. Implementation Arrangements

6.1 Implementing Agency

The Project shall be managed under the Decentralised Implementation System (DIS). The Romanian Implementing Agency is the Central Finance and Contracts Unit (CFCU), which retains overall responsibility for the implementation of the project (approval of Terms of Reference, of tender documents, of evaluation criteria, of evaluation of offers, signature of contracts, authorisation and payments of invoices).

The Romanian Implementing Authority is the Ministry of Public Administration (MAP), which is responsible towards the Implementing Agency for the operational management of the project: preparation of Terms of Reference, of tender documents, of evaluation criteria, of evaluation of offers, of contracts.

6.2 Non-standard aspects

There are no “non-standards aspects”. The “Practical Guide to Phare, Ispa and Sapard contract procedures” will strictly be followed.

6.3 Contracts

The assistance will be provided under a main consultancy contract with an expected value of 2.6 MEUR, and at several (between 3 and 5 – indicative) subsidiary consultancy assignments for the preparation of specific PSP contracts for a total expected amount of 3 MEUR.

7 Implementation Schedule
<table>
<thead>
<tr>
<th>Start of tendering</th>
<th>Start of project activities</th>
<th>Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 2001</td>
<td>May 2002</td>
<td>July 2004</td>
</tr>
</tbody>
</table>

8 **Equal Opportunity**

Equal opportunity for men and women to participate in all the components of the project will be ensured.

9 **Conditionality and sequencing**

- The Government remains committed to maintaining the leading role of the Ministry of Public Administration in policy formation and planning and monitoring the development of municipal services. Policy as regards municipal services will maintain a commitment to the development of private sector participation as an essential element in the provision of municipal services.

- The Ministry of Public Administration will prepare and promote the necessary secondary legislation for implementation of the Municipal Services Law.

- During the implementation of this project, several inter-ministerial meeting will be organised with relevant line ministries in order to ensure a close coordination.
## Annex 1: Logframe Matrix for Project: RO0105.01

### Support for Improved Management of Municipal Services

<table>
<thead>
<tr>
<th>Overall Objective</th>
<th>Indicators of Achievement</th>
<th>Sources of Information</th>
<th>Assumptions</th>
</tr>
</thead>
</table>
| • Improvement of municipal services, focusing on water and wastewater, and enhancement of the environment by promoting compliance with EU environmental directives | • Increased coverage of water and wastewater services  
• Water and wastewater quality complies with EU standards  
• Pollution incidents reduced | • Water company records  
• Ministry of Environment records | |

<table>
<thead>
<tr>
<th>Project Purpose</th>
<th>Indicators of Achievement</th>
<th>Sources of Information</th>
<th>Assumptions</th>
</tr>
</thead>
</table>
| • Creation of sound and clear legal basis for the provision of municipal services and the development of policies for municipal services in accordance with the requirements of EU environmental directive, and including appropriate regulation of increased PSP in municipal services.  
• The development of training and advisory facilities for the preparation of PSP contracts and the creation of a financial facility for the preparation of contracts for the participation of private companies in the provision of municipal services | • Legislation issued  
• Identification of investments required  
• Implementation programme for the works.  
• Establishment of regulatory regime.  
• Training courses and advisory facilities available  
• Number of contracts signed | • Official Gazette  
• Ministry records  
• Personnel records  
• Regulator’s publications  
• Ministry records  
• Ministry records or regulator’s database | • Municipal services law passed  
• Availability of data  
• Availability of qualified personnel  
• Commitment from municipalities and utilities |

<table>
<thead>
<tr>
<th>Results</th>
<th>Indicators of Achievement</th>
<th>Sources of Information</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Secondary legislation prepared for district heating, solid waste and transport sectors, and any additional legislation required for the water and wastewater sector.</td>
<td>• Government decisions and/or implementing norms issued</td>
<td>• Official gazette</td>
<td></td>
</tr>
</tbody>
</table>
- A list of tasks for MAP for the implementation of EU directives related to municipal services; an assessment of investment needs in municipal services to comply with EU directives, identification of possible funding sources, a preliminary programme for the works and plans for monitoring implementation of the programme.

- Regulatory regime for municipal services launched.

- Assistance available to local governments to prepare PSP contracts.

- The signature of at least four contracts with private companies to participate in the provision of municipal services

<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistance in drafting further detailed secondary legislation for the municipal services law, including</td>
<td>About 130 man months of a main consultant, including experts in municipal</td>
<td>Availability of qualified and experienced staff</td>
</tr>
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</table>

Annex 1: Logframe Matrix for project: RO0105.01
<table>
<thead>
<tr>
<th>provisions for regulation of services where appropriate</th>
<th>engineering, public administration, law, finance, environment and training</th>
<th>as counterparts, local trainers, etc. in the Ministry and its associated institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Assistance in developing policies for municipal services in accordance with EU directives</td>
<td>• Four separate consultancies for the preparation of PSP contracts, each having about 70 man months of experts in municipal engineering, contracts, law, finance, and environment</td>
<td>• Commitment of local governments and private companies to PSP initiatives</td>
</tr>
<tr>
<td>• Development of a database on municipal services, identification of future investment needs and potential sources of finance</td>
<td>• Advice on the establishment of a sound regulatory regime for municipal services</td>
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<tr>
<td>• Training and support in the preparation of contracts for the delegation of management of municipal services</td>
<td>• Preparation of tender documents, and assistance in tendering and evaluation and award of contract for at least four contracts for the participation of private companies in the provision of municipal services</td>
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<tr>
<td>Components</td>
<td>2001</td>
<td>2002</td>
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<td></td>
<td>J</td>
<td>A</td>
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<tr>
<td>Main Consultancy</td>
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<tr>
<td>- Policy advice</td>
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<tr>
<td>- Legislative review &amp; drafting</td>
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<td>- EU accession requirements</td>
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<tr>
<td>- Training in the preparation of contracts for PSP</td>
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<td>- Preparation and management of PSP consultancies</td>
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<tr>
<td>PSP contracts</td>
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D = Design/Tender preparation  
C = Contracting  
I = Implementation/works  
R = Review/evaluation
### Annex 3 – Cumulative contracting and disbursement schedule by quarter for project: RO0105.01

**Project: Support for Improved Management of Municipal Services**

#### Cumulative contracting schedule by quarter in MEUR (planned)

<table>
<thead>
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<th>2003</th>
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<td><strong>Total contracting:</strong></td>
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#### Cumulative disbursement schedule by quarter in MEUR (planned)

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<th></th>
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<th>2004</th>
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<tr>
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