

FINAL VERSION

1. Basic information

1.1 CRIS Number: 2009/021-665

1.2 Title: Assistance to the Commission for Protection of Competition (CPC) for State Aid Control

1.3 ELARG Statistical code: 2.08

1.4 Location: Skopje

Implementing arrangements:

1.5 Implementing Agency:

The Central Finance and Contracting Department (CFCD) will be the contracting authority and will be responsible for all administrative and procedural aspects of the tendering process, contracting matters and financial management including payment of project activities, upon conferral of management. The Head of CFCD will act as the Programme Authorizing Officer (PAO) of the project.

Mrs. Radica Koceva (PAO)
Central Financing and Contracting Department
Ministry of Finance
Tel: +389-2-3231 219
Fax: +389-2- 3106 612
E-mail: radica.koceva@finance.gov.mk

1.6 Beneficiary (including details of SPO):

The beneficiary is the Commission for Protection of Competition (CPC). Other beneficiaries are the state aid providers which are the Government, state administrative organs, units of local self-government and other organs or institutions providing or planning to provide State aid.

Mr. Jovan Todorov
Head of State Aid Control Department
Dame Gruev 1, 1000 Skopje
Tel: +389 2 3298-666
Fax: +389 2 3296 466
e-mail: jovan.todorov@kzk.gov.mk

Financing:

1.7 Overall cost (VAT excluded)¹: EUR 1 000 000

1.8 EU contribution: EUR 950 000

1.9 Final date for contracting:

Two years from the date of the conclusion of the Financing Agreement

1.10 Final date for execution of contracts:

Two years from the final date for contracting

1.11 Final date for disbursements:

One year from the final date for execution of contracts

2. Overall Objective and Project Purpose

2.1 Overall Objective:

The overall objective is to promote and strengthen market competition through improvement of the state aid system thereby favouring continuing economic growth in the country.

2.2 Project purpose:

The purpose of the project is to enhance the capacity of CPC to manage and enforce EU state aid policies, to raise knowledge and understanding by state aid providers and to improve the overall planning, reporting and monitoring of state aid.

2.3 Link with AP/ NPAA/ EP/ SAA

2.3.1 Link with AP

The **Accession Partnership** (2007) includes among the key priorities: "Enhance the general business environment by further improving the rule of law, strengthening the independence of regulatory and supervisory agencies, speeding up legal procedures and continuing registration of property rights." The short-term priorities in the area of competition policy are:

- Establish effective ex-ante control of state aid.
- Strengthen the administrative capacity of the CPC and provide the adequate budget and staff.
- Fully ensure the transparent and non-discriminatory application of competition law.

The following medium-term priorities are identified:

- Further align the legislation with the EU anti-trust and state aid acquis.
- Further improve the enforcement record in the areas of anti-trust and state aid control.
- Increase awareness among government institutions, business and the general public.

¹ The total cost of the project should be net of VAT and/or other taxes. Should this not be the case, the amount of VAT and the reasons why it should be considered eligible should be clearly indicated

2.3.2 Link with NPAA

The NPAA envisages training to strengthen the capacities of the CPC to carry out investigative procedures for granting state aid and other responsibilities; improving the procedures for investigating state aid, and strengthening the awareness of the governmental institutions and the business sector for the state aid through organising seminars, training, campaigns, conferences and other events.

2.3.3 Link with SAA

The **Stabilisation and Association Agreement (SAA)** between the EC and the former Yugoslav of Macedonia foresees, in Article 69 that any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain products incompatible with the proper functioning of the Agreement, insofar as they may affect trade between the Community and the beneficiary country: (iii).The parties agreed that the duration of the provision of article 69 point iii shall be prolonged and that any public aid granted by the former Yugoslav Republic of Macedonia shall be regarded as an area identical to those areas of the Community described in Article 87(3) (a) of the Treaty establishing the European Community. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty establishing the European Community. Each Party shall ensure transparency in the area of public aid, inter alia by reporting annually to the other Party on the total amount and the distribution of the aid given and by providing, upon request, information on aid schemes. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.

2.3.4 Link with Progress report

The **European Commission's 2007 Progress Report** underlined that: "*Enforcement in the antitrust field* has improved, but still needs to be strengthened and should concentrate on the most serious infringements of competition (cartels and abuse of a dominant position). Concerning *enforcement*, the CPC must make further efforts to put in place an effective system of ex-ante state aid control. The CPC prepared a partial inventory of state aid measures for the period 2001-06. Unauthorised state aid granted by several government institutions was approved retroactively. On the basis of this inventory, aid schemes need to be aligned. As regards *administrative capacity*, additional employees were recruited, but their number and level of training remain insufficient in order to perform the complex task of monitoring state aid."

The **European Commission's 2008 Progress Report** underlined that: The regional State aid schemes have been developed and are aligned with the State aid legislation.

The decisions of the CPC on State aid are respected. The CPC compiled the inventory of State aid measures for the period January-June 2008. The inventory includes decisions on compatibility of State aid approved in 2006 and 2007. However, the administrative capacity is not sufficient for proper monitoring of State aid: the number of staff of the CPC is still not adequate to respond to its complex tasks. An effective and comprehensive system for *ex-ante* control of State aid is not yet in place. Some bodies that grant State aid are still reluctant to report on the form and intensity of the State aid that they provide. Overall, preparations in the area of State aid are advanced.

2.4 Link with MIPD

In the **Multi-annual Indicative Planning Document (MIPD) 2007-2009** for the former Yugoslav Republic of Macedonia, the state aid enforcement project fiche fits into **Component I – Transition Assistance and Institution Building**:

Main priorities and objectives under 3.2 - Economic development and social cohesion include: activities related to supporting to ability to assume the obligations of membership (see below) add essentially to enhanced development and cohesion by introducing European standards into national legislation and thus upgrading the framework for the functioning of the market economy. In the field of **internal market and competition** areas of attention include strengthening the administrative capacity for protection of competition.

Expected results underline that: 'markets will have become more efficient and competitive as a result of closer compliance with the EC acquis and EU best practice (e.g. market for electronic communications, energy market, financial services, general service activities, etc.);

2.5 Link with National Development Plan

The activity for improving business area in the **NDP** specifically says that "markets will have to become more efficient and competitive as a result of closer compliance with the EC acquis and EU best practice (e.g. market for electronic communications, energy market, financial services, general service activities, etc.)".

2.6 Link with national/sectoral investment plans

n/a

3. Description of project

3.1 Background and justification

In 2005 the existing Monopoly Authority which had been established in 1999 was renamed the Commission for Protection of Competition (CPC).

The basic competences of the CPC include the enforcement of provisions stipulated in the law on protection of competition and the law on state aid: to monitor and analyse the conditions on the market to the extent necessary for the development of free and efficient competition, to conduct procedures and make decisions according to the legal provisions. The Commission is an independent state body with the status of a legal entity, independent in its work and decision-making process. It consists of a President and four members appointed for a five-year period by Parliament, with the right to reappointment. The President and at least two members are professionally engaged in the Commission's operations. The investigative and other expert activities are performed by the professional staff, which is organised in four departments with two units in each department all managed by a secretary general, appointed by the Commission. The CPC has altogether 14 qualified staff.

In March 2003, Parliament adopted the Law on State Aid. In December 2003, the Government adopted three Regulations: Regulation on the Forms and Procedure of Notification to the State Aid Commission and for Assessment of State Aid; Regulation on Establishing Conditions and Procedure for Granting Regional Aid; and Regulation on Establishing Conditions and Procedure for Granting Aid for Rescue and Restructuring of Firms in Difficulty. Additionally, in December 2007, the Government adopted a Regulation on Establishing Conditions and Procedure for Granting Horizontal Aid. This Regulation determines the conditions and the procedure on granting state aid in the areas of research and development, environmental protection, employment, training, services of general economic interest and risk capital. In this way the legal framework was established.

By amendments to the Law on State Aid, adopted in 2006, the control and approval of the state aid, became the competence of the Commission for Protection of Competition. The Act stipulates the jurisdiction of the CPC over the granting, monitoring of implementation and return of general and individual state aid, with the exception of those in the field of agriculture and fisheries.

Hence, the CPC is facing the task of adjusting its internal structure to the jurisdiction conferred on it. This implies amongst other aspects:

- establishment of the new internal structure of the CPC capable of handling aid issues;
- employing both expert and support staff;
- and education programmes for the staff.

More information about the activities of the CPC and recent research in the field of state aid can be found in its annual report of 2007.

The legislation in the area of state aid is mostly in line with the *acquis*. Some of the *acquis* related to state aid for setting a methodology for the level of compensation for companies performing services of general economic interest, has yet to be transposed.

The number and the level of training staff remains insufficient to perform the complex task of monitoring state aid. Measures have been taken to increase awareness among state institutions and cooperation between the various aid providers and the CPC. Still, the notification by some of the state aid providers is unsatisfactory. The reports that the CPC sends to DG Competition are limited to a modest number of notified and approved state aid cases.

Administrative capacity, independence, transparency and the accountability of the competition authority in the field of state aid have been strengthened in the last couple of years. However, the CPC still needs more, better qualified staff and adequate funding. Further efforts are also needed to increase awareness of the benefits of competition policy among the general public, and especially in the understanding of the state aid control system among state aid providers.

The project should help the CPC carry its tasks in the field of state aid. This will improve the enforcement record in the field of state aid control. Training of state aid staff will contribute to the more efficient knowledge about procedure and enforcement related to the state aid issues and effective implementation in the daily practise. However, this project will have great meaning for the state aid providers in the sense of better cooperation with the CPC. By raising awareness of all stakeholders in this area, it will also significantly aid the process of better allocation of resources and market competition.

Due to insufficient awareness and cooperation by the state aid providers, there has been insufficient information regarding state aid from the state aid providers themselves. The main reason is the lack of knowledge on state aid in the legal acts prepared by the ministries. With the project, this lack of understanding of state aid issues should be significantly addressed. This project will achieve general improvement for the state aid providers, which shall then result in better handling of state aid.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact

By strengthening capacities of the CPC and state aid providers to enforce legislation, the project is expected to contribute to the development of effective state aid policy and ex-ante monitoring.

Further improvement of the accountability and transparency in state aid programming will have a positive influence on increasing trust of the general public for the budget management system, and for increasing of the competitiveness of the economy.

The project will upgrade the level of professional competence of the CPC staff in the area of state aid control and will furthermore ensure effective enforcement of EU competition and state aid policy.

The achievements of a Twinning project (with its mandatory results) should be a permanent asset to the CPC and appropriately mechanisms should be put in place by the Commission in order to disseminate and consolidate the results of the project.

The enhanced capacity of the CPC staff will be long lasting depending on the effective knowledge transfer to be developed by the Twinning and also by the efforts to be made by the Government to retain qualified staff.

3.3 Results and measurable indicators

Results and measurable indicators in relation with Component 1 - Strengthened institutional and administrative capacity of the CPC, in line with EU acquis and European good practice in the field, through establishment of a functioning State Aid monitoring, notification and control system in the country

The specific results to be achieved under Component 1 are:

- Complement the existing legal gap analysis (in case of detected necessity);
- Improved capacity of the CPC to monitor state aid;
- Put into function an operational state aid database;
- Developed national state aid schemes;
- Improved transparency and reliability of data and improved annual reports of the CPC.

Measurable indicators for component 1:

- Legal draft analysis;
- Legal, economic or sector specific training analysis;
- Training on state aid inventory concluded;
- Training and seminars on state aid policy rules for CPC, study tours (two seminars for two expert-staff members and one study trip for two expert-staff members to member-state authority in order to familiarise with up-to-date state aid practice.

Results and measurable indicators in relation with Component 2 – Improved state aid awareness making the CPC recognisable in the wider public, and improve control and enforcement in state institutions, government agencies, regional and local government, the judiciary, and the business sector

The specific results to be achieved under component 2 are:

- Established procedures of reporting and information flows from state aid providers to the CPC, including local government units and state funds and agencies;
- Enhanced awareness of the state aid with the state aid providers and the business community;
- Raised capacity of the business sector in dealing with state aid issues;
- Enhanced awareness on state aid within judiciary.

Measurable indicators for activity 2:

- Trained staff;
- Awareness raising campaigns conducted including surveys;
- Seminars and in-house workshops for expert staff members of the state aid providers
- Workshops for members of the Administrative Court in order to familiarize with up-to-date judiciary state aid practice.

3.4 Activities

(This set of proposed activities will be further developed with the Twinning partner when drafting the Twinning work plan, keeping in mind that the final list of activities will be decided with the Twinning partner in line with twinning norms.

The activities are closely interlinked and need to be sequenced accordingly.)

Component 1: Strengthened institutional and administrative capacity of the CPC, in line with EU acquis and European good practice in the field, through establishment of a functioning State Aid monitoring, notification and control system in the country

The project foresees the following activities:

- Providing of legal gap analysis;
- The MS Partner will together with CPC staff create structures of co-operation related to state aid inventory, state aid annual reports, development of state aid schemes, and state aid decision making in particular in sensitive sectors (procedures); create ex-ante notification discipline and ex-post monitoring of CPC's decisions and opinions
- On-the-job training of CPC staff in order to deepen and specialise the knowledge in state aid case law, economics and procedures;
- Study trips and seminars in EU member states.

Component 2: Improved state aid awareness making the CPC recognisable in the wider public, and improved control and enforcement in state institutions, government agencies, regional and local government, and the business sector

The project foresees the following activities:

- Assessment of the capacity of CPC to meet its awareness raising obligations;
- Deliver training with state institutions and local government units on state aid policy and rules, including reporting and operation of the inventory; increase awareness of aid providers and disseminate information to the CPC and the public;
- Provide expertise on structuring of inventory on a local level;
- Deliver training to business sector specifically targeted at sectors receiving state aid;
- Develop, organise, and deliver training to government officials, mainly targeting the bodies implementing state aid policy in related areas;

- Consolidate the development of training, organize and deliver the training to judiciary. This training component will be delivered in cooperation with the Administrative Court;
- Awareness raising activities concerning state aid policy targeting the business sector and public companies.

Management and contracting arrangements

The Beneficiary Country (BC) Project Leader shall be the main counterpart in the BC, and will be directly responsible for co-ordination and management of the project from the beneficiary side and will support the Twinning project team in organisational and technical matters.

Commission for Protection of Competition
Contact persons and contact details:

BC Project Leader

Chedomir Kraljevski,
President of the Commission
Dame Gruev 1, 1000 Skopje
Tel: +389 2 3298 666
Fax: +389 2 3296 466
e-mail: cedomir.kraljevski@kzk.gov.mk

RTA counterpart

Jovan Todorov,
Head of State Aid Control Department
Dame Gruev 1, 1000 Skopje
Tel: +389 2 3298 666
Fax: +389 2 3296 466
e-mail: jovan.todorov@kzk.gov.mk

The contracting arrangements are as follows:

One Twinning contract and it is expected that the services under this arrangement to be delivered within 16 - 18 months. The contract value will be approx. EUR 1 000 000 out of which IPA contribution will amount to EUR 950 000 while national contribution will amount to EUR 50 000. The procurement procedure should start 2Q 2010.

Means/Input from MS Partner Administration The project will be implemented in the form of a Twinning contract between the country and an EU Member State. The implementation of the project requires one project leader with responsibility for the overall coordination of project activities, one resident Twinning adviser to manage project activities and short-term experts (number to be proposed by the Member State). It is essential that the team have sufficiently broad expertise to cover all the areas included in the project description. The interested Member State institution shall include in its proposal the CVs of the designated project leader, resident twinning adviser and the proposed short-term experts and the specific tasks to which they will be assigned.

Profile and Tasks of the Project Leaders

The MS project leader will detail, coordinate and control the overall thrust of the project, lead project activities, and ensure attainment of the projected output. He/she is expected to ensure that all the support from the management and staff of the EU side is available for the project. The project leader is fully responsible for co-ordination of the work of the experts. He/she should be a *senior official* from the respective MS body and is expected to devote a minimum of 3 days per month to the project in his/her home administration with an on-site visit at least every 3 months. In addition, he/she should coordinate, from the Member State side, the Project Steering Committee (PSC), which will meet in Skopje every three months. The project leader will co-manage the implementation of the project with the Project leader from the Beneficiary Country.

BC project leader

The BC project leader will act as the counterpart of the Member State PL and will ensure close cooperation in the overall steering and co-ordination of the project. The PL's seniority will ensure his/her ability to mobilise the necessary staff in support of the efficient implementation of the project. He/she will also coordinate the Project Steering Committee (PSC) from the BC side.

RTA Counterpart

An RTA Counterpart will be assigned by the CPC. Ideally, this person should have at least 3 years of employment with the CPC.

Profile and tasks of the RTA

Duration of the RTA secondment: 16 -18 months

Qualifications and skills

- Education at least up to University degree (where university degree has been awarded on completion of four years study in a university or equivalent institution), or at least 7 years of general professional experience;
- Knowledge of relevant EU projects, rules and procedures.

Professional experience (minimum 3 years relevant professional experience):

- Background in drafting and implementing strategies, policies and regulations in the field of competition and state aid;
- Practical experience from a Member State aid monitoring agency;
- Fluent written and spoken English.

Additional assets are:

- Practical experience from a Member State competition agency;
- Experience in implementing *acquis* requirements in EU Member states legislation in practice;
- Previous experience as project coordinator/ project manager;
- Sound knowledge of the situation in recent accession countries and/or SAA countries regarding state aid and competition issues.

Profile and tasks of the short term experts:

- All STE's should have at least 3 years of experience, preferably 5 to 8 years in the field they will cover;
- All STEs should be fluent in English and computer literate;
- All STEs should be knowledgeable in the latest development in the EU state aid and competition law.

3.5 Conditionality and sequencing

In order to enable successful implementation of the project, following preconditions must be met before the start of the implementation:

1. Timely allocation of working space and facilities by the beneficiary for the twinning project before the completion of the tender procedure;
2. Participation in the selection process by the beneficiary as per EU Twinning regulations;
3. Appointing counterpart personnel by beneficiary prior to launch of the project fiche;
4. Provision of necessary authorisations for co-operation and sharing of information with all key stakeholders, co beneficiaries and related deployed advisory resources;
5. Appointing relevant staff by the beneficiaries to participate in training activities;
6. Organisation and appointment of members of working groups, steering and coordination committees, as per work plan of the project.

3.6 Linked activities

The project proposal builds on previous Twinning initiative on the Approximation of the legislation in the competition policy and strengthening of the administrative capacity of the body for competition protection, executed in the period February 2006 – September 2007. The project was implemented in cooperation with the relevant German authorities (Bundeskartellamt and Bundesnetzagentur).

An ongoing BERIS (Business Environment Reform and Institutional Strengthening Project) project, which is funded through the World Bank, contributed with supporting of training activities of the employees of the CPC on the relevant seminars and workshops, as well as with providing IT equipment. It should last until March 2010 (if not earlier). There is no overlap between this project and project proposal.

3.7 Lessons learned

The previous twinning initiative has built a solid base for bringing up the implementation of competition policy to the required EU standards. The tasks contained in the overall project were well designed for the purpose to improve the legal situation in the defined areas of concern as well as to strengthen the administrative capacity of the CPC. CPC staff had an on-the-job training and assistance from the experts that were providing training in the country. The project provided also training for business community and for judiciary, as well for the media. It strengthened the (and underlined the importance) of the independence of the CPC in relation to both the business and the government institutions. The project enhanced the autonomy for making independent decisions.

At the end of this twinning an in-house seminar for staff and for state aid providers were organised. The implementation of the project during the 20 months period allowed real progress, in particular with respect to the legal competence of the CPC to impose administrative and misdemeanour fines.

The final report of this project underlines that "...further assistance based on the experiences of the EU Member States should support the national institutions on this way. Despite all the progress which was achieved in the framework of this twinning project, further efforts remain necessary to support the national authorities on their way towards harmonisation with EU standards in competition policy. The instrument of twinning seems to be the best possible approach to realise further strengthening of the administrative and judicial capacities. A new twinning project based on the achieved results is therefore strongly recommended."

4. Indicative Budget (amounts in €)

			SOURCES OF FUNDING												
			TOTAL EXP.RE	TOTAL PUBLIC EXP.RE	IPA COMMUNITY CONTRIBUTION		NATIONAL PUBLIC CONTRIBUTION					PRIVATE CONTRIBUTION			
	IB (1)	INV (1)	EUR (a)=(b)+(e)	EUR (b)=(c)+(d)	EUR (c)	% (2)	Total EUR (d)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/Local EUR (y)	IFIs EUR (z)	EUR (e)	% (3)		
Contract 1. for activities 1 and 2 (twinning Arrangement)			X	-	1 000 000	1 000 000	950 000	95	50 000	5	50 000	-	-	-	-
TOTAL IB					1 000 000	1 000 000	950 000	95	50 000	5	50 000	-	-	-	-
TOTAL INV					-	-	-	-	-	-	-	-	-	-	-
TOTAL PROJECT					1 000 000	1 000 000	950 000	95	50 000	5	50 000	-	-	-	-

NOTE: DO NOT MIX IB AND INV IN THE SAME ACTIVITY ROW. USE SEPARATE ROW

Amounts net of VAT

(1) In the Activity row use "X" to identify whether IB or INV

(2) Expressed in % of the **Public** Expenditure (column (b))

(3) Expressed in % of the **Total** Expenditure (column (a))

In case of local or foreign training the project will fund from incidentals – whenever necessary - the renting of training rooms and equipment, the printing of training material and accessories as well as per diems/allowances for participants in the way and to the level normally financed by the government, but never higher than the per diem rates published by the EU.

5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1	Q2 2010	Q2 2011	Q4 2012

6. Crosscutting issues

6.1 Civil Society development and dialogue

n/a

6.2 Environment

n/a

6.3 Equal opportunities and non-discrimination

Based on the fundamental principles of promoting equality and combating discrimination, participation in the project will be guaranteed on the basis of equal access regardless of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Equal opportunities to participate in the project as well as guarantees of non discrimination will be put in place by the beneficiary. Training activities will include a specific component to train staff in the implementation of the Government Gender Strategy, while reference will be made to the EC Programme of Action for the mainstreaming of gender equality in community development cooperation (2001-06).

6.4 Minority and vulnerable groups'

The main the main reference in the country in relation to minority groups is the Ohrid Framework Agreement, in an EU context, reference is made to the "Race directive" of 2000 (2000/43/EC of 29 June), which has an important impact on employment (incl. vocational training, working conditions, social protection etc.) and is also a crucial aspect of the acquis.

The project will aim to address this issue through assessment of the particular requirements of handling minority and vulnerable group issues within the subject matter of the CPC's mandate – and by aiming to mainstream minority and vulnerable group issues throughout the policy and implementation process. Equally, this issue shall be taken into consideration in view of the development of communication strategies to the wider public.

6.5 Good governance, with particular attention to fight against corruption

The beneficiaries will endeavour to integrate equally best practice in good governance and in the fight against corruption within the various project training activities. An efficient and modern competition and state aid authority plays a key role in the maintenance of good governance and also in the on-going fight against corruption.

ANNEXES

- 1- Log frame in Standard Format
- 2- Amounts contracted and Disbursed per Quarter over the full duration of Programme
- 3- Description of Institutional Framework
- 4 - Reference to laws, regulations and strategic documents:
 - Reference list of relevant laws and regulations
 - Reference to AP /NPAA / EP / SAA
 - Reference to MIPD
 - Reference to National Development Plan
 - Reference to national / sector investment plans
- 5- Details per EU funded contract (*) where applicable:
 - For *TA contracts*: account of tasks expected from the contractor
 - For *twinning covenants*: account of tasks expected from the team leader, resident twinning advisor and short term experts
 - For *grants schemes*: account of components of the schemes
 - For *investment contracts*: reference list of feasibility study as well as technical specifications and cost price schedule + section to be filled in on investment criteria (**)
 - For *works contracts*: reference list of feasibility study for the *constructing works* part of the contract as well as a section on investment criteria (**); account of services to be carried out for the *service part* of the contract

(*) non standard aspects (in case of derogation to PRAG) also to be specified

(**) section on investment criteria (applicable to all infrastructure contracts and constructing works):

- Rate of return
- Co financing
- compliance with state aids provisions
- Ownership of assets (current and after project completion)

ANNEX 1: Log frame in Standard Format (see separate document)

LOGFRAME PLANNING MATRIX FOR THE PROJECT FISH: Assistance to the Commission for Protection of Competition for State Aid Control (CPC)	Programme name and number: National Programme for the former Yugoslav Republic of Macedonia under the IPA Transition Assistance and Institution Building Component for 2009 CRIS number: 2009/021-665	
	Contracting period expires two years from the date of the conclusion of the Financing Agreement	Execution period expires two years from the final date for contracting
	Total budget: EUR 1 000 000	Disbursement period expires one year from the final date for execution of contracts IPA budget: EUR 950 000

Overall objective	Objectively verifiable indicators	Sources of Verification
The overall objective is to promote and strengthen market competition through improvement of the state aid system thereby favouring continuing economic growth in the country.	Enforcement records of competition and state aid acquis in line with Internal Market practise.	<ul style="list-style-type: none"> - CPC records ; - EU Commission reports ; - NPAA ; - State Aid Annual Report.

Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
The purpose of the project is to enhance the capacity of CPC to manage and enforce EU state aid policies, to raise knowledge and understanding by state aid providers and to improve the overall planning, reporting and monitoring of state aid.	<ul style="list-style-type: none"> Increased number and improved quality of decisions taken by the CPC; Improved public perception of the Competition authority as a protector of a free market competition; Implementation of effective compliance Programme. 	<ul style="list-style-type: none"> - Annual report of the CPC; - EU Commission's Regular Report - other CPC records; - Project reports; - Court records; - Survey of public perception; - State Aid Annual Report. 	Good and continuous interaction between the CPC and other stakeholders relevant to the enforcement of state aid and competition rules.

Results	Objectively verifiable indicators	Sources of Verification	Assumptions
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<p>The specific results for component 1 -</p> <ul style="list-style-type: none"> - Complement the existing legal gap analysis (in case of detected necessity); - Improved capacity of the CPC to monitor state aid; - Put into function an operational state aid database; - Developed national state aid schemes; - Improved transparency and reliability of data and improved annual reports of the CPC. 	<p>The measurable indicators for activity 1 are:</p> <ul style="list-style-type: none"> - Legal draft analysis; - Legal, economic or sector specific training analysis; - Training on state aid inventory concluded; - Training and seminars on state aid policy rules for CPC, study tours (two seminars for two expert-staff members and one study trip for two expert-staff members to member-state authority in order to familiarise with up-to-date state aid practice. 	<ul style="list-style-type: none"> - Project reports; - CPC records; - State Aid Annual Report; - New visual identity of the CPC. 	<p>Continuation of keeping records including interchange of information on court decisions etc. CPC has the budget, staff etc. required for enhancing capacity.</p>
<p>The specific results for component 2 are:</p> <ul style="list-style-type: none"> - Established procedures of reporting and information flows from state aid providers to the CPC, including local government units and state funds and agencies ; - Enhanced awareness of the state aid with the state aid providers and the business community; - Raised capacity of the business sector in dealing with state aid issues; - Enhanced awareness on state aid within judiciary. 	<p>The measurable indicators for activity 2 are:</p> <ul style="list-style-type: none"> - Trained staff; - Awareness raising campaigns conducted including surveys; - Seminars and in-house workshops for expert staff members of the state aid providers; - Workshops for members of the Administrative Court in order to familiarize with up-to-date judiciary state aid practice; 	<ul style="list-style-type: none"> - CPC records; - Project reports; - New state aid database; - CPC records (number of antitrust decisions brought). 	<p>Continuation of keeping records including interchange of information with state aid providers, etc. CPC has the budget, staff etc. required for enhancing capacity.</p>

Activities	Means	Costs	Assumptions
<p>Component 1: Strengthened institutional and administrative capacity of the CPC, in line with the EU acquis and European good practice in the field, through establishment of a functioning State Aid monitoring, notification and control system in the country:</p> <ul style="list-style-type: none"> - Providing of legal gap analysis; - The MS Partner will together with CPC staff create structures of co-operation related to state aid inventory, state aid annual reports, development of state aid schemes, and state aid decision making in particular in sensitive sectors (procedures); create ex-ante notification discipline and ex-post monitoring of CPC's decisions and opinions; - On-the-job training of CPC staff in order to deepen and specialise the knowledge in state aid case law, economics and procedures; - Study trips and seminars in EU member states. <p>Component 2: Improved state aid awareness making the CPC recognisable in the wider public, and improved control and enforcement in state institutions, government agencies, regional and local government, and the business sector:</p> <ul style="list-style-type: none"> - Assessment of the capacity of CPC to meet its awareness raising obligations; - Deliver training with state institutions and local government units on state aid policy and rules, including reporting and operation of the inventory; increase awareness of aid providers and disseminate information to the CPC and the public; 	<p>Twinning arrangement</p>	<p>Total budget EUR 1 000 000</p> <p>IPA budget: EUR 950 000</p>	<p>Project will be building on achieved results of the 2004 CARDS twinning project on approximation of the legislation in the competition policy and strengthening of the administrative capacity of the body for competition protection.</p>

<ul style="list-style-type: none"> - Provide expertise on structuring of inventory on a local level; - Deliver training to business sector specifically targeted at sectors receiving state aid; - Develop, organise, and deliver training to government officials, mainly targeting the bodies implementing state aid policy in related areas; - Consolidate the development of training, organize and deliver the training to judiciary. This training component will be delivered in cooperation with the Administrative Court; - Awareness raising activities concerning state aid policy targeting the business sector and public companies. 			
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ANNEX 2 - Amounts (in €) contracted and disbursed by quarter over the full duration of the project (IPA funds only)

	2010				2011				2012			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Contracted												
<u>Twinning</u>						950 000						
<u>Cumulated</u>						950 000						
Disbursed												
<u>Twinning</u>						506 666				348 334		95 000
Cumulated						506 666				855 000		950 000

ANNEX 3: Description of Institutional Framework

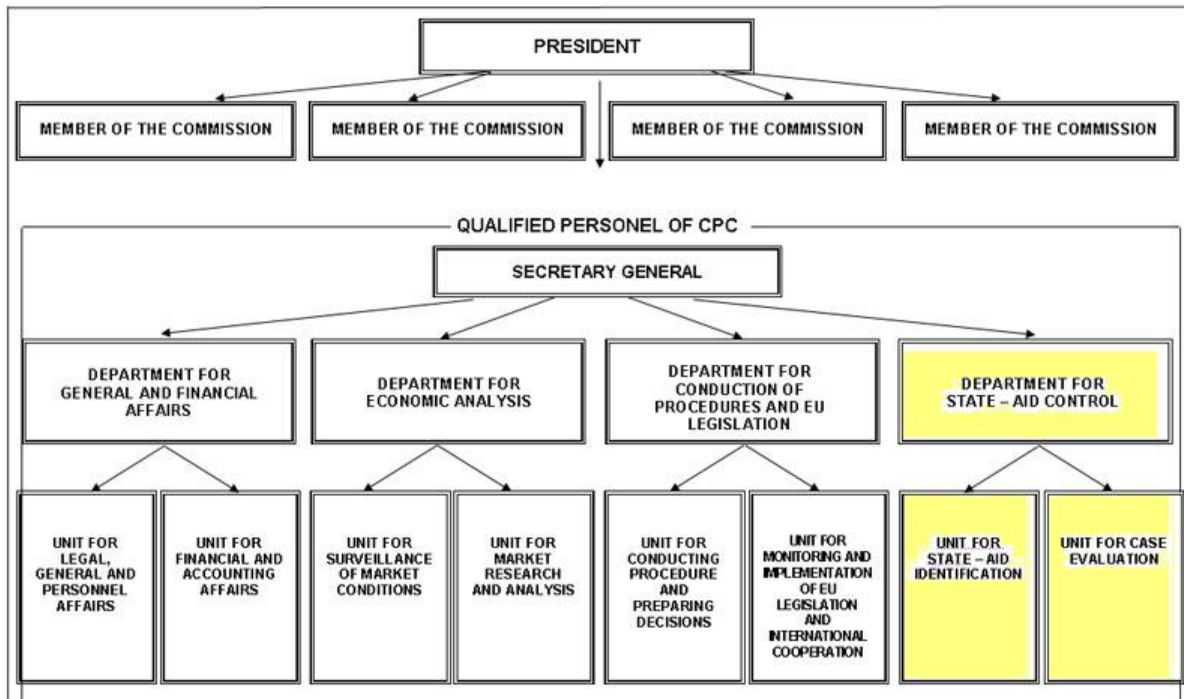
The monitoring and control of State aid in the former Yugoslav Republic of Macedonia is competence of the Commission for Protection of Competition (CPC). The reason for assigning this competence to the CPC is the direct impact of the state aid on the impediment of the competition. Namely, the uncontrolled granting of state aid would lead to favouring of the enterprises that receive the aid and their better position on the market compared to the participants in the market struggle that compete without state subsidies. Due to this, the CPC has the legal opportunity to impose return of the state aid that has been unlawfully granted. The state aid in itself is very complex matter and its identification and control involves set of activities that need to be undertaken by the CPC and the providers of state aid, in order to determine whether any measure contains elements of state aid.

The Law on State Aid, adopted in April 2003 and the amendments to the Law, adopted in 2006, regulates the field of control of state aid in the former Yugoslav Republic of Macedonia. It provides a legal framework that regulates the procedure and monitoring of granted state aid with aim of implementing the principles of commitments undertaken by international agreements ratified by the country, containing state aid provisions.

The act for amendments to the Law on State aid, adopted in 2006, stipulates the jurisdiction of the CPC over the granting, monitoring of implementation and return of general and individual state aid, with the exception of those in the field of agriculture and fisheries. The monitoring and control of state aid is also strength with the Regulation on Form and Procedure of Notification to the State aid Commission and for Assessment of State aid; Regulation on Establishing Conditions and Procedure for granting Regional aid; Regulation on Establishing Conditions and Procedure for granting Rescue and Restructuring of Firms in Difficulty and Regulation on Establishing Conditions and Procedure for granting Horizontal aid.

The providers of state aid, which are the Government, the bodies of the state administration, the local self-government units and all other institutions which provide or plan to provide state aid shall be obligated to observe the provision of the legislation concerning the state aid. The state aid bodies shall submit their plans and projects for granting of state aid to the CPC. It shall evaluate their eligibility against the criteria laid down in the legal acts and shall decide either to approve and grant the state aid in accordance with the requirement or to refuse granting of state aid.

COMMISSION FOR PROTECTION OF COMPETITION



The organisational chart of the CPC is consisted of four Departments: Department for general and financial affairs; Department for economic analysis; Department for conduction of procedure and EU legislation; and Department for State Aid Control. Department for State Aid Control is consisted of Unit for State Aid Identification and Unit for Case Evaluation.

The work of the Unit for identification of state aid is connected with the cooperation of this Unit with all state aid providers. State aid providers are obliged to notify planning state aid and the aim of this unit is to determine if there are elements of state aid. Also, the task of this Unit is after receiving the notification for planning state aid from the state aid provider, by analysing of the concrete case, to appoint if there is state aid in the case involved. This Unit makes identification of the state aid in accordance with the Law on state aid as a way on proceeding try the procedure if there is established that elements of state aid are involved.

After the determinations of elements of state aid, Unit for evaluation brings a draft-decision about compatibility with the Law on State Aid. After the evaluation of the cases, the Unit of CPC for evaluation may ask for additional information from the state aid provider for the purpose of making final decision. The task of this Unit is by analysing of the concrete case, to determine if the planning aid is compatible with the Law on state aid or not. In bought cases, CPC brings a decision about compatibility of the aid. This Unit for evaluation, by making draft of final decisions, controls the state aid in the country by not letting unlawful aid to be granted.

The project proposed should contribute to the more efficient fulfilment of the tasks the CPC has in the field. This will improve the enforcement record in the field of state aid control.

Training of the state aid staff will contribute to the building more knowledge about procedures and enforcement related to the state aid issues and so helping more effective implementation in the daily practise.

ANNEX 4: Reference to laws, regulations and strategic documents

Reference list of relevant laws and regulations

- Law on protection of competition (Official Gazette No. 4/05);
- Law amending the law on protection of competition (Official Gazette No.70-06);
- Law amending the law on protection of competition (Official Gazette No.22/07);
- Regulation on block exemption granted to technology transfer agreements licence know-how (06.06.2006);
- Regulation on block exemption of granted to agreements on distribution and servicing of motor vehicles (06.06.2006);
- Regulation on block exemption granted to horizontal specialisation agreements (06.06.2006) ;
- Regulation on the form and the content of the notification and criteria on concentrations' evaluation (06.06.2006) ;
- Regulation on block exemption granted to vertical agreements (06.06.2006);
- Regulation on block exemption granted to agreements in the insurance sector (06.06.2006) ;
- Regulation on block exemption of horizontal RD agreements (06.06.2006);
- Regulation on Agreements of minor importance (06.06.2006);
- Law on state aid (Official Gazette No. 24/03);
- Law amending the law on state aid (Official Gazette No. 70/06);
- Law amending the law on state aid (Official Gazette No. 55/07);
- Regulations on procedures and forms of notification of state aid (Official Gazette No. 81/03);
- Regulations establishing conditions and procedures for granting aid for rescue and restructuring of firms in difficulty (Official Gazette No. 81/03 & 83/07);
- Regulations establishing conditions and procedures for granting regional aid (Official Gazette No. 81/03);
- Regulations establishing conditions and procedures for granting horizontal aid (Official Gazette No. 157/07);
- Annual Report of the Commission for Protection of Competition for 2007.

Reference to AP /NPAA / EP / SAA

Reference to AP

The **Accession Partnership** (2007) includes among the key priorities: "Enhance the general business environment by further improving the rule of law, strengthening the independence of regulatory and supervisory agencies, speeding up legal procedures and continuing registration of property rights."

The short-term priorities in the area of competition policy are:

- Establish a credible enforcement record in the area of anti-trust and focus on the most serious infringements of competition law;
- Establish effective ex-ante control of state aid;
- Strengthen the administrative capacity of the Commission for Protection of Competition and provide the adequate budget and staff;
- Fully ensure the transparent and non-discriminatory application of competition law.

On medium-term the following priorities are identified:

- Further align the legislation with the EU anti-trust and state aid acquis;

- Further improve the enforcement record in the areas of anti-trust and state aid control;
- Increase awareness among government institutions, business and the general public.

Reference to NPAA

The NPAA envisages trainings for strengthening the capacities of CPC for carrying out investigative procedures for granting state aid and other responsibilities; improving the procedures for investigating state aid, and strengthening the awareness of the governmental institutions and the business sector for the state aid through organising seminars, trainings, campaigns, conferences and other events. In the area of competition the NPAA foresees development of a credible enforcement record in the area of protection of competition and further harmonisation of the national legislation with the *acquis*.

Reference to SAA

The **Stabilisation and Association Agreement (SAA)** between the EC and the Former Yugoslav Republic of Macedonia foresees, in Article 69 that any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain products incompatible with the proper functioning of the Agreement, insofar as they may affect trade between the Community and beneficiary country: (iii).The parties agreed that the duration of the provision of article 69 point iii shall be prolonged and that any public aid granted by the Former Yugoslav Republic of Macedonia shall be regarded as an area identical to those areas of the Community described in Article 87(3) (a) of the Treaty establishing the European Community. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty establishing the European Community. Each Party shall ensure transparency in the area of public aid, *inter alia* by reporting annually to the other Party on the total amount and the distribution of the aid given and by providing, upon request, information on aid schemes. Upon request by one Party, the other Party shall provide information on particular individual cases of public aid.

Reference to Progress reports

The **European Commission's 2007 Progress Report** underlined that: "*Enforcement in the antitrust field* has improved, but still needs to be strengthened and should concentrate on the most serious infringements of competition (cartels and abuse of a dominant position). Concerning *enforcement*, the CPC must make further efforts to put in place an effective system of *ex-ante* state aid control. The CPC prepared a partial inventory of state aid measures for the period 2001-06. Unauthorised state aid granted by several government institutions was approved retroactively. On the basis of this inventory, aid schemes need to be aligned. As regards *administrative capacity*, additional employees were recruited, but their number and level of training remain insufficient in order to perform the complex task of monitoring state aid."

The **European Commission's 2008 Progress Report** underlined that: The regional State aid schemes have been developed and are aligned with the State aid legislation.

The decisions of the CPC on State aid are respected. The CPC compiled the inventory of State aid measures for the period January-June 2008. The inventory includes decisions on compatibility of State aid approved in 2006 and 2007. However, the administrative capacity is not sufficient for proper monitoring of State aid: the number of staff of the CPC is still not adequate to respond to its complex tasks. An effective and comprehensive system for *ex-ante* control of State aid is not yet in place. Some bodies that grant State aid are still reluctant to report on the form and intensity of the State aid that they provide. Overall, preparations in the area of State aid are advanced.

Reference to the MIPD

In the **Multi-annual Indicative Planning Document (MIPD) 2007-2009** for the former Yugoslav Republic of Macedonia, the state aid enforcement project fiche fits into **Component I – Transition Assistance and Institution Building**:

- *Main priorities and objectives under 3.2. Economic development and social cohesion* include: activities related to supporting to ability to assume the obligations of membership (see below) add essentially to enhanced development and cohesion by introducing European standards into national legislation and thus upgrading the framework for the functioning of the market economy. In the field of ***internal market and competition*** areas of attention include strengthening the administrative capacity for protection of competition.
- *Expected results* underline that: ‘markets will have become more efficient and competitive as a result of closer compliance with the EC acquis and EU best practice (e.g. market for electronic communications, energy market, financial services, general service activities, etc.);’

Reference to the National Development Plan

The activity for improving business area in the **NDP** specifically says that "markets will have to become more efficient and competitive as a result of closer compliance with the EC acquis and EU best practice (e.g. market for electronic communications, energy market, financial services, general service activities, etc.)".

Reference to the national/ sectoral investment plans: n/a

ANNEX 5: Details per EU funded contract

Management and contracting arrangements

The Beneficiary Country (BC) Project Leader shall be the main counterpart in the BC, and will be directly responsible for co-ordination and management of the project from the beneficiary side and will support the Twinning project team in organisational and technical matters.

Commission for Protection of Competition
Contact persons and contact details:

BC Project Leader

Chedomir Kraljevski,
President of the Commission
Dame Gruev 1, 1000 Skopje
Tel: +389 2 3298 666
Fax: +389 2 3296 466
e-mail: cedomir.kraljevski@kzk.gov.mk

RTA counterpart

Jovan Todorov,
Head of State Aid Control Department
Dame Gruev 1, 1000 Skopje
Tel: +389 2 3298 666
Fax: +389 2 3296 466
e-mail: jovan.todorov@kzk.gov.mk

The contracting arrangements are as follows:

One Twinning contract and it is expected that the services under this arrangement to be delivered within 16 - 18 months. The contract value will be approx. EUR 1 000 000 out of which IPA contribution will amount to EUR 950 000 while national contribution will amount to EUR 50 000. The procurement procedure should start Q2 2010.

Means/Input from MS Partner Administration

The project will be implemented in the form of a Twinning contract between the country and an EU Member State. The implementation of the project requires one project leader with responsibility for the overall coordination of project activities, one resident Twinning adviser to manage project activities and short-term experts (number to be proposed by the Member State). It is essential that the team have sufficiently broad expertise to cover all the areas included in the project description. The interested Member State institution shall include in its proposal the CVs of the designated project leader, resident twinning adviser and the proposed short-term experts and the specific tasks to which they will be assigned.

Profile and Tasks of the Project Leaders

The MS project leader will detail, coordinate and control the overall thrust of the project, lead project activities, and ensure attainment of the projected output. He/she is expected to ensure that all the support from the management and staff of the EU side is available for the project. The project leader is fully responsible for co-ordination of the work of the experts. He/she

should be a *senior official* from the respective MS body and is expected to devote a minimum of 3 days per month to the project in his/her home administration with an on-site visit at least every 3 months. In addition, he/she should coordinate, from the Member State side, the Project Steering Committee (PSC), which will meet in Skopje every three months. The project leader will co-manage the implementation of the project with the Project leader from the Beneficiary Country.

BC project leader

The BC project leader will act as the counterpart of the Member State PL and will ensure close cooperation in the overall steering and co-ordination of the project. The PL's seniority will ensure his/her ability to mobilise the necessary staff in support of the efficient implementation of the project. He/she will also coordinate the Project Steering Committee (PSC) from the BC side.

RTA Counterpart

A RTA Counterpart will be assigned by the CPC. Ideally, this person should have at least 3 years of employment with the CPC.

Profile and tasks of the RTA

Duration of the RTA secondment: 16-18 months

Qualifications and skills

- Education at least up to University degree (where university degree has been awarded on completion of four years study in a university or equivalent institution), or at least 7 years of general professional experience;
- Knowledge of relevant EU projects, rules and procedures.

Professional experience (minimum 3 years relevant professional experience)

- Background in drafting and implementing strategies, policies and regulations in the field of competition and state aid;
- Practical experience from a Member State aid monitoring agency;
- Fluent written and spoken English.

Additional assets are:

- Practical experience from a Member State competition agency;
- Experience in implementing *acquis* requirements in EU Member states legislation in practice;
- Previous experience as project coordinator/ project manager;
- Sound knowledge of the situation in recent accession countries and/or SAA countries regarding state aid and competition issues.

Profile and tasks of the short term experts

- All STEs should have at least 3 years of experience, preferably 5 to 8 years in the field they will cover;
- All STEs should be fluent in English and computer literate;
- All STEs should be knowledgeable in the latest development in the EU state aid and competition law.