

## 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 the Republic of Bulgaria, 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 concluded 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:

<u>Programme number:</u>	<b>BG 9907 to BG 9914</b>
<u>Title:</u>	<b>1999 Bulgaria National Programme</b>
<u>Duration:</u>	<b>Until 31 December 2001</b>

### ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of € 40.97 million 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 31 December 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 31 December 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:**

Delegation of the European Commission  
Interpred  
World Trade Center  
36 Blvd Dragan Tsankov  
1040 Sofia  
Bulgaria

Tel: (+359 2) 2-97 33240  
Fax: (+359 2) 2-97 33872

**for THE RECIPIENT:**

Ministry of Foreign Affairs  
Department for European Integration  
2 Al. Jendov Str.  
1040 Sofia  
Bulgaria

Tel: (+ 359 2) 739 922  
Fax: (+ 359 2) 971 2906

#### ARTICLE 5 - NUMBER OF ORIGINALS

This Memorandum is drawn up in duplicate in the English language.

#### ARTICLE 6 - ENTRY INTO FORCE

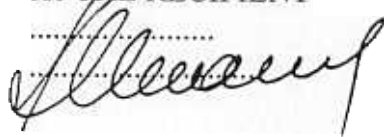
This Memorandum shall enter into force on the date on which it has been signed by both parties. No expenditure incurred before this date is eligible for the EC GRANT.

The Annexes shall be deemed an integral part of this Memorandum.

Done at .....

Date 30.12.1999

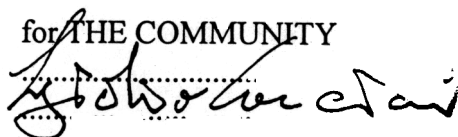
for THE RECIPIENT



Done at .....

Date 30.12.1999

for THE COMMUNITY



Annex 1 Framework Agreement (Annexes A & B)

Annex 2 Special Provisions (Annex C)

## ANNEX C TO THE FINANCING MEMORANDUM

### OBJECTIVES AND DESCRIPTION

#### **Objective 1: Integration of the Roma (political criteria)**

*Project BG 9907: Promoting the integration of the Roma minority*

The overall objective of this project is to facilitate the process of social and economic integration of Roma people into the Bulgarian society on the basis of respect for their ethnic and cultural identity. The immediate objectives are to: (a) increase the educational level of the Roma population as a key factor for social and economic integration; (b) improve living conditions and urban environment in the most disadvantaged Roma quarters; and (b) improve public services to the Roma population through increased Roma involvement in the public administration and improved human rights and cultural awareness of relevant institutions. This will be achieved through increasing Roma children's access to education, improving urban infrastructure in Roma areas and training of Romas to facilitate their employment in the public administration.

#### **Objective 2: Economic Reform**

*Project BG 9908.01: Management Training*

The objective of this project is to increase the competence of Bulgarian managers and improve the performance of companies in order to support the privatisation and functioning of a market economy. The immediate objectives are to: (a) assist enterprises in modernising and improve management and human resource development in the framework of enterprise restructuring and strategic development; and (b) expand and improve management training and consulting services for the business sector.

*Project BG 9908.02: Capacity building for accelerated growth of small and medium size enterprises (SME)*

The wider objective of this project is to promote the growth of the SME sector in order to create new jobs, reduce the costs of transition and strengthen the functioning of a competitive market economy. This will be done through (a) improving the capacity of the national SME Agency to act as policy promoter in particular as concerns further simplification of administrative and legal procedures in favour of entrepreneurship and business development; and (b) improve and expand the services provided by the regional SME business centres in line with best EU practise.

#### **Objective 3: Reinforcement of the institutional and administrative capacity**

*Project BG 9909.01: Training for Public Administration*

The overall objective of the project is to promote the establishment of a professional, efficient and responsible public administration, which would allow Bulgaria to participate

effectively in the EU policy process and would be able to meet the administrative standards of the EU, and implement and enforce the *acquis* effectively. More specifically the immediate objectives are to:

(a) create a national public administration training institution which can pool national expertise and inputs from external donors. The institution - the Institute for Public Administration and European Integration (IPAEI) - will have the function of a catalyst for the development of high quality in-service training programmes;

(b) prepare the civil service for functioning in the EI policy-making system. Bulgaria still relies on a small group of core experts to manage EU affairs in line ministries. In order for Bulgaria to effectively function in the EI policy process, programmes need to be designed and implemented to prepare civil servants at both central and local level for the impending 'Europeanisation' of their daily work. A special programme for training of civil servants will be designed for implementation by the planned Bulgarian Institute of Public Administration and European Integration.

Conditionalities include (i) government decision on the creation of the IPAEI and attribution of budget and building herefor before end of 1999 and (ii) introduction of secondary legislation to implement the Civil Service Law including conditions for transparent, fair and open recruitment procedures based on merit in order to create a politically neutral civil service.

*Project BG 9909.02: Support for implementation of medium-term strategy for the Ministry of Finance*

The wider objective of this project is to strengthen the Ministry of Finance to implement relevant elements of the *acquis*, pursue policies of budgetary stabilisation, management of the public debt and its contribution towards the Government's overall policy of a stable macro-economic framework. The immediate objectives include: (a) help the Ministry of Finance to reform, restructure and modernise itself to ensure successful delivery of the wider objectives, in accordance with the medium term strategy developed and adopted by the Ministry; (b) strengthen human resources management and training, assist in staffing reviews, develop new approaches to budget and expenditure management, including support for introduction of the new budget execution system, strengthen economic forecasting and support the policy to develop a high quality financial services sector; and (c) strengthen the institutional capacity of the General Directorate of Tax Administration to collect tax revenues and manage information through support for the initial stages of the General Directorate's modernisation programme and of the project to establish a system of excise goods bonded warehouses. Components (a) and (b) will be the subject of twinning. Conditionalities include adoption of the new (final) strategy by the Ministry and the corresponding institutional framework by September 1999.

#### **Objective 4: Further integration of Bulgaria into the Internal Market**

*Project BG 9910: Reinforcing the administrative capacity to manage the *acquis* in competition policy and state aids*

The wider objective of the project is to prepare Bulgaria to enter the Internal market by reinforcing its institutional capacity to manage the *acquis* in the field of competition and

to increase transparency, control and credibility of the system of granting state aids. The immediate objectives will be (a) increase the enforcement capacity under the new Law on protection of competition and further develop a consistent, more efficient and effective competition and state aid control authority; (b) improve the awareness of the new rules of competition and developing market and competition culture in the various categories of officials engaged in the application of competition and state aid policy; (c) raise market and competition culture among economic operators; (d) continue the approximation to EU competition legislation, particularly in the field of block exemptions and revise national legislation in particular sectors; (e) strengthen the co-operation with DG IV and to improve the information exchange with the respective institutions of the European Union; (f) establish the legislative framework to adopt the *acquis* in the State Aid area, developing the necessary legislation and rules based on the legislation and experiences in Member States; (g) develop and increase efficiency of the State Aid monitoring system, incl. the regional monitoring system; (h) strengthen the State Aid Monitoring Body; (i) develop a state aid culture among public administration, NGOs, local and regional authorities.

The institution building part of this project will be the subject of twinning. The basic prior conditionality of this project is the full and formally agreed division of responsibility between the Ministry of Finance (State Aid Monitoring Authority) and the Commission for Protection of Competition in relation to state aid policy.

## **Objective 5 : Justice and Home Affairs**

### *Project BG 9911: Institution building projects in the field of Justice and Home Affairs*

The overall objective is to assist in preparing for accession to the European Union by strengthening the legal framework in specific fields of Justice and Home Affairs, bringing it into line with EU requirements and improving the institutional and administrative framework necessary to implement and enforce this legislation. The immediate objectives include:

(a) strengthening border management by introducing operational standards and practices for the Bulgarian Border Police – which is the prime agency of border management -, based upon the best practices of border management in the EU. This assistance will contribute to Bulgaria's preparations for accession to the European Union and ensure that current strategies to counter illegal immigration (and also cross-border crime) are given greater emphasis;

(b) enhance the institutional capacity of the Ministry of the Interior in order to allow the development of police structures in compliance with EU standards and to allow the alignment to the EU *acquis* in this field of JHA. The effort is concentrated on developing information systems and police management issues;

(c) support the Ministry of Justice and European Legal Integration (MJELI) in upgrading the functioning of the judiciary in particular addressing the requirements and recommendations of the Accession Partnership as well as the conclusions of the regular report of November 1998 and of the Justice and Home Affairs experts mission report of May 1998. The institution building components of this project will be the subject of twinnings.

## **Objective 6: Environment**

*Project BG 9912: Institution building and investment project for the Ministry of Environment and Water*

The wider objective is the further alignment of environmental legislation in specific key areas and improving the institutional and administrative framework necessary to implement and enforce this legislation. Immediate objectives include:

- (a) develop environmental policies, harmonise and enforce legislation, strengthen the public administration to transpose and prepare the programme for putting in operation specific EU directives (96/82/EC (Seveso); 96/59/EC (polychlorobiphenyls-PCBs/polychloroterphenyls- PCTs disposal); 94/62/EC (packaging and packaging waste); 96/61/EC (Integrated Pollution Prevention and Control));
- (b) pilot action to assist the municipalities in putting in operation the requirements of air quality management envisaged in the Air Quality Framework Directive (96/62/EC), already transposed by the corresponding Bulgarian regulations;
- (c) support the establishment of the authorities in charge of the river basins management according to the requirements of the Water Act; and
- (d) reduce the urban air pollution by limiting the harmful effects of the exhaust gases from the public transport through the replacement of old engines with new EURO 1 standard dual fuel powered engines for the buses in Sofia. Sub-projects (a), (b) and (c) above will be the subject of twinning.

## **Objective 7: Agriculture**

*Project BG 9913: Development of the administrative capacity to adopt and implement the acquis in the agricultural sector*

The wider objective is to strengthen the national and regional capabilities of the Ministry of Agriculture, Forestry and Agrarian Reform (MAFAR) and its Agencies to undertake the short-term sectoral priorities for EU alignment and market-orientated reforms and development, and begin the medium-term reforms identified in the Accession Partnership (AP) and the NPAA. The immediate objectives will be:

- (a) support to the preparation and adjustment of the veterinary sector in view of the integration with EU, through support to the animal identification and animal holding registration, application of the EUROVET information system, and preventive border control (upgrade of the long-term Veterinary Border Inspection Posts to EU standards at the main border crossing point with Turkey, setting up of a control system for prevention of uncontrolled movement of animals along the green border);
- (b) continue the improvement of the phytosanitary control: establish and strengthening of the administrative structures to implement the harmonised legislation, including border control, production control and laboratories; continue the improvement of the biological testing and pesticides registration capacities; continue the improvement of the control on

raw materials and products of plant origin for chemical and biological contaminants; and building up of an administrative structure and a system for control of the agricultural production through methods of the biological/organic agriculture;

(c) harmonise legislation for seeds and seedling quality, and improve the control system through restructuring and transfer of know how;

(d) improve the compliance of the agricultural statistics to the EU standards, establishment of agro-statistics structure, implementation of a coherent annual programme of statistical surveys applied in line with the acquis, improved management of agricultural policy and implementation of CAP;

(e) co-ordination of the legislative process on the adoption of the acquis in agriculture, fisheries and forestry sectors, development and implementation of a phased programme of other CAP sectoral alignments;

(f) elaboration and adoption of the legislation in the vine and wine sector, in accordance with the acquis; establishment and making fully operational a state and professional control structures in compliance with EU practice; and preparation of a vine cadaster. Sub-projects (b), (c), (e) and (f) will be the subject of twinning.

## **Objective 8: Employment and social affairs**

### *Project BG 9914: Beautiful Bulgaria II: Temporary employment and vocational training*

The overall objective of this project is to reduce urban unemployment and improve the knowledge of, and capacity to, implement projects at both national and local level strengthening capacities in implementing active labour market initiatives. The specific objectives will be to:

(a) preserve and create employment in 11 targeted cities by training some 2,500 unemployed in construction skills to be hired by private construction firms to refurbish an estimated 245 urban sites creating approximately 21,400 man/woman months of direct and indirect temporary occupation and paid vocational training;

(b) enhance the economic viability of the private SME sector, particularly construction, through ILO training in “Improve Your Construction Business” to 70 construction firms, including EU best practice in occupational safety and health and train 500 unemployed in Start Your Business (SYB), promoting entrepreneurial spirit and business initiative among the unemployed;

(c) increase public ownership and awareness of the project, including its occupational safety and health aspects (OSH), and promote local employment creation initiatives and good governance. The project is co-financed with the UNDP and the participating municipalities.

An environmental impact assessment will be carried out for all investment projects.

## **BUDGET: National Programme Bulgaria 1999 (million EURO)**



<b>Project N°</b>	<b>OBJECTIVE AREA: Projects</b>	<b>Budget Total</b>	<b>Institution Building</b>	<b>Investment</b>
BG9907	<b>Objective 1: Integration of the Roma</b> Promoting the social integration of the Roma minority	<b>0.50</b>	0.50	0
BG9908.01 BG9808.02	<b>Objective 2: Economic reform</b> Management training Small and medium size enterprises	<b>4.80</b>	2.80	2.00
BG9909.01 BG9909.02	<b>Objective 3: Reinforcement of institutional and administrative capacity</b> Training for public administration Implementation of medium-term strategy of Ministry of Finance	<b>4.50</b>	4.35	0.15
BG9910	<b>Objective 4: Further integration of Bulgaria into the Internal Market</b> Competition and state aids	<b>2.00</b>	2.00	0
BG9911	<b>Objective 5 : Justice and Home Affairs</b> Institution building projects	<b>9.50</b>	4.80	4.70
BG9912	<b>Objective 6 : Environment</b> Institution building and investment projects	<b>4.90</b>	2.60	2.30
BG9913	<b>Objective 7 : Agriculture</b> Development of the administrative capacity to adopt and implement the acquis	<b>10.27</b>	4.04	6.23
BG9914	<b>Objective 8: Employment and social affairs</b> Beautiful Bulgaria II: Temporary employment and vocational training	<b>4.50</b>	0.90	3.60
	<b>TOTAL</b>	<b>40.97</b>	21.99	18.98

Note: Under separate Financing Memoranda the 1999 Phare programme will provide Bulgaria with an additional 7,248 MEURO for participation in EC Programmes and 2,3 MECU for TEMPUS.

## IMPLEMENTATION ARRANGEMENTS

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures. The National Aid Co-ordinator (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 financial reporting to the European Commission. Appropriate financial control shall be carried out by the competent National Financial 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 Bulgaria on 2 December 1998. Funds will be transferred following request 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 (FAs) between the NF and the Implementing Agencies (IA)/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 PAOs 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.

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 IAs 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 instalment when 70% is disbursed. Save for the prior authorisation of the Commission HQ, no replenishment request may be made if the aggregated of the funds deposited in the NF and the IAs 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.

Implementing Agencies will be responsible for projects as follows:

*Central Finance and Contracts Unit (CFCU):* Projects BG 9907, 9908.01, 9908.02, 9909.01, 9909.02, 9910, 9911, 9914 and the twinning elements of BG 9912 and 9913.

*Ministry of Environment and Water:* Project BG 9912 (except twinning elements).

*Ministry of Agriculture Forestry and Agrarian Reform:* Project BG 9913 (except twinning elements).

The National Fund will transfer funds to IAs, including the Central Finance and Contracts Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NFs and the IAs/CFCU. Each individual FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the IA/CFCU there will be no transfer of funds from the NF to the IA/CFCU. The CFCU and the IAs will each 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/IA.

In the case of project BG 9908.01 the CFCU will contract the implementation of the project to the European Training Foundation which in turn will be responsible for contracting and supervision as required. In the case of project BG 9914 a Memorandum of Understanding will be drawn up between the CFCU and the UNDP setting out the modalities for fund transfers, utilisation and reporting whereby UNDP takes responsibility for the technical implementation and handling of all expenditures under the project.

A separate interest bearing account, denominated in (Euro) 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 procedure will apply to any funds transferred to an IA or the CFCU.

The NAO and the PAOs will ensure that all contracts are prepared in accordance with the procedures set out in the DIS Manual with the exception of projects BG 9908.01 and 9914. All contracts will be greater than €2 million, except those in the following areas: project BG 9907, 9909.01, and 9909.02 (taxation component). All contracts must be concluded by 31 December 2001. All disbursements must be made by 31 December 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/CFCU before the official closure of the programme. The Implementing Agency/CFCU 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/CFCU 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.

## **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 the Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the reallocation of Phare funds.

The JMC will be assisted by Monitoring Sub-Committees (MSC) and will include the NAC, the NAO and 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 consultants (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.

## **AUDIT AND EVALUATION**

The accounts and operations of the National Fund, and where applicable the CFCU and all relevant Implementing Agencies 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.

## **VISIBILITY AND PUBLICITY**

The appropriate Programme Authorising Offices 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 Visibility/Publicity .

## **SPECIAL CONDITIONS**

In the event that agreed commitments are not met for reasons which are within the control of the Government of Bulgaria, 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 objective of the global Phare programme. In order to achieve maximum cost benefits the Bulgarian Government will ensure that all IT equipment envisaged in the projects of the present programme will be jointly tendered in compliance with Phare tendering procedures and rules.