

**STANDARD PROJECT FICHE**  
as part of  
**Transition facility programme for Romania**  
*Support for strengthening the Insolvency mechanism*

**1. Basic Information**

- 1.1. CRIS Number: **2007/19343.01.07**
- 1.2. Title: Support for strengthening the insolvency mechanism
- 1.3. Sector: Justice and Home Affairs
- 1.4. Location: Romania
- 1.5. Duration: 12 months

**2. Objectives**

**2.1. Overall Objective:**

To create an efficient and transparent business environment in Romania.

**2.2. Project purpose:**

Improving the enforcement of the insolvency legislative framework .

**2.3. Justification**

A competitive business environment for all the economic actors is one of the major commitments within Romania's accession to European Union and even a more important objective to be achieved so as to ensure a fully functional market after the accession.

This objective cannot be attained without a functional insolvency mechanism sustained by an adequate legislative framework, which should be able to influence in a positive manner the Romanian business environment. Moreover, the area of insolvency has been an area of particular concerns in Romania, as stated also by the Country Reports of the European Commission. In order to address some of the issues identified as existing in the insolvency field, significant developments have been already registered. As such, due to the amendments of bankruptcy law introduced in 2005, the share of bankruptcy cases solved by liquidation increased further and the overall rate of case resolution increased moderately. The number of completed liquidations increased significantly and the rate of cases solved between six months and two years from their initiation increased slightly.

Although progress was registered in this direction, the **Comprehensive Monitoring Reports** on the Romania preparations for membership (CMR) issued by the Commission in May and September 2006, stated that financial discipline should be further enhanced in order to create a level playing field for Romanian business environment. Thus, improvements in the functioning of the judiciary are further recommended because the bankruptcy framework still suffers from shortcomings, creditor protection remains weak and new arrears are still

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accumulating, due in particular to the relatively long time and low recovery rate of bankruptcy.

Furthermore, the **Directive 2002/74/EC** of the European Parliament on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer, and the **Council regulation (EC) No 1346/2000** on insolvency proceedings, state that the proper functioning of the internal market requires the efficient and effective operation of the cross-border insolvency proceedings. Many cross-border insolvency aspects are related to the activities undertaken in other member states. The process of undertaking causes economic and juridical cross-border effects, which are increasingly being regulated by Community law. While the insolvency of such undertakings also affects the proper functioning of the internal market, there is a need for a better coordination of the measures to be taken at the level of the member states, regarding an insolvent debtor's assets.

Moreover, the European Commission currently promotes at European level the **Better Regulation initiative**, a broad strategy to improve the regulatory environment in Europe that contains a range of initiatives to consolidate, codify and simplify **existing legislation** and improve the quality of **new legislation** (see, *inter alia*, Communication from the Commission to the Council and the European Parliament - Better Regulation for Growth and Jobs in the European Union). In the **Strategic Review for Better Regulation** (Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - A strategic review of better regulation in the European Union) the European Commission identifies, in this context, as a main objective for the Member States, the improved application of EU law, that can be attained by transposing and implementing EU law in the legal systems of the Member states and by increasing the quality of national and regional regulation. Furthermore, in order to make legislation more accessible and easier to enforce, codification of existing legislation and recasting are techniques considered to be working to this effect as they greatly facilitate access to legislation and reduce the volume of texts. Thus, Romania, as a new member state, has to assume its role to play in better regulation, and to mirror, with regard to national legislation, efforts made at European level, especially in specifically technical and complex domains such as insolvency and commercial law.

Consequently, the project on European Transition Facility Programme aims at elaborating a consolidated Insolvency mechanism able to obviate the shortcomings, which still exist in the bankruptcy field, and to guard the functionality of the markets mechanisms. The project will attain its objective by elaborating an Insolvency Code and by training the insolvency practitioners. It will also be the basis for further developments of the enforcement of the insolvency legal and institutional framework. In the end, all this actions will contribute at ensuring the efficiency and transparency of the business environment in Romania.

TA was specifically chosen as a mean for implementing this project, as opposed to twinning, so as to allow the further development of the system and expertise in this field already created through the previous Phare 2002 TA project – “Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy”. This tool will allow room for the involvement in the project of specialists and professionals working in the Romanian law enforcement environment, their expertise and knowledge representing a precondition for the success of the proposed activities, especially those relating to codification.

Twinning was not considered to be an appropriate tool because the development of a general framework on insolvency has already taken place and as such an exchange of expertise

between the administrations of an another Member State and Romania, most suited in the early stages of creating a system, is neither necessary nor sufficient. Furthermore comparative studies on best practices in Member States and the EU regulatory framework have already been performed under the Phare 2002 project. As such, the TA would be more appropriate as to ensure a fine-tuning of the system and further enhancements.

### 3. Description

#### 3.1 Background and justification

A competitive business environment for all the economic actors is one of the major commitments within Romania's accession to European Union and even a more important objective to be achieved so as to ensure a fully functional market after the accession.

Important achievements in this field have been the result of the implementation of the PHARE 2002 Project "Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy". The objective of this project was to improve the legal and institutional framework on bankruptcy in order to render more effective procedures. As a result, the new Law on Insolvency (Law no.85/2006) was adopted and numerous and substantial changes to the insolvency procedure were introduced. Thus, measures have been taken in order to reduce the duration of proceedings, eliminate the procedure's vices and ensure better protection for the creditors' interests. The new law on insolvency (Law no. 85/2006) has brought relevant developments in the field of bankruptcy and it had already at least one year time to work and to create relevant jurisprudence

Furthermore, within the above-mentioned project, a Best Practice Manual on Insolvency for the use of all practitioners in insolvency and a specific software application for this field to be used by the courts and the practitioners involved in insolvency proceedings were developed. In order to ensure the adequate enforcement of the new law on insolvency, extensive training was also provided to judges, clerks and insolvency practitioners.

The implementation stage of the above-mentioned project identified further necessary actions which need to be taken in order to improve this domain and ensure a proper functioning mechanism related to insolvency, able to support accordingly the development of the business environment according to European standards.

As important developments have been brought to the legislative framework, further fine-tuning is still needed so as to ensure a fully functional framework on insolvency. As such an evaluation of the working in practice of the law will be performed through this project from the point of view of the practitioners and professionals involved in the insolvency procedures.

According to the recommendations provided in the Final Report on PHARE Project RO-2002/000- 586.04.17- "Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy" the new insolvency law should function for at least 2 years before the next set of amendments is brought, in order to correct not only theoretical flaws but the practical ones as well. Furthermore it was recommended to organise new training sessions for mixed training groups (judges/ practitioners) in about an year from the enactment of the new Insolvency Law.

The Final Report of the above-mentioned Phare project mentions also the necessity of codification of the legislative framework on insolvency: Thus, it was recommended that the new insolvency code should contain rules on the general insolvency procedure, as well as separate chapters for the particular areas where some of the insolvency rules are justified to differ, such as agriculture, financial institutions, insurance companies and public companies. The code shall contain also separate chapters on the insolvency practitioners, such as a regulation similar to the Governmental Ordinance no. 79/1999 and the ethical code.

Furthermore, insolvency related issues are regulated in various pieces of regulation that come to complete the legislative framework in this field, framework having as hard core the Law no. 85/2006 on insolvency. Due to the specificity of the domain a need of codification of all pieces of legislation has been identified. Therefore the elaboration of an Insolvency Code would be most welcomed in facilitating the activity of all professionals involved by providing annotation of all the relevant legislation as well as an integrated approach to this wide-reaching domain. The legislation covering this field is of the competence of various institutions having legislative initiative and for this reason some discrepancies might appear between the different laws and regulations. In ensuring the harmonious regulation of the field, the necessity of elaborating legislative amendments to be brought to the various normative acts in order to ensure the correlation between all pieces of legislation to be included in the Insolvency Code should also be investigated, with due consideration to relevant European legislation and EU best practices.

Moreover, although extensive training has already been provided immediately after the new Law on insolvency has been enacted, further training is still needed to enable a more detailed transfer of knowledge and also to cover EU related issues on insolvency (i.e. cross-border insolvency). Furthermore, as the training will take place after the Law on insolvency has had time to work it is envisaged for the training curricula to be more specialised and focused on practical issues rising from the actual implementation of the law. This training will also try to ensure setting up mixed training groups (judges/practitioners) in order to allow interaction and exchanges of experience and best practices between peers. In order to ensure continuity of the PHARE 2002 project, the trainers' network on insolvency will be further consolidated by means of Train the Trainers courses in order to extend their area of expertise to EU related topics as well and further involvement of the trainers in the training to be provided to trainees. These trainings will ensure that the newly created legislative framework will be properly implemented by a core of well prepared professionals.

*Regarding the Structural Funds and other post-accession EU financial assistance, it has to be mentioned that the justice sector does not constitute either a priority axis or a main area of intervention within the Romanian Sector Operational Programmes and within the Romanian National Development Plan. Consequently, neither is the insolvency mechanism. Thus, it can be clearly stated that there could not be any overlapping between the objectives envisaged by the present project and the objectives of any other projects that could benefit of the EU financial assistance mentioned previously.*

### 3.2. Linked Activities

#### **1. PHARE RO- 2002/000- 586.04.17- "Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy"**

This project improved the legal and institutional framework on bankruptcy in order to render more effective procedures, created a best practice manual and a software application in the

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bankruptcy field to be used by courts (tribunals and appeal courts) and the practitioners involved in insolvency proceedings (judges, syndic judges, liquidators, creditors, lawyers) and improved the skills of syndic (bankruptcy) judges and of other parties involved in the enforcement of insolvency legislation in order to create a uniform jurisprudence in bankruptcy field.

The project on European Transition Facility for Romania will continue the reform in the field of insolvency through the elaboration of the Insolvency Code and the training sessions which will be organised for the practitioners in this field. Thus, there will be neither overlapping results nor activities within these projects.

### 3.1.Results

**Result 1** – Systematized and correlated legislative framework on insolvency - elaboration of an Insolvency Code.

**Result 2** – Improved insolvency related competences of the professionals concerned

### 3.2.Activities

#### Activities under result 1:

Activity 1.1. Establishing a working group comprised of representatives of all relevant players in the insolvency field (i.e. liquidators, judges, insurance companies, credit institutions, Trade Register) to be involved in screening all relevant legislation to be included in the Insolvency Code.

Estimated overall cost: 34.500 Euro

Experts involved: Team Leader, STE

Activity 1.2. Identification of all insolvency related laws, regulations and other secondary legislation to be included in the Insolvency Code.

Estimated overall cost: 77.000 Euro

Experts involved: Team Leader, Key Expert 2, STE

Activity 1.3. Annotation of the pieces of legislation to be included in the Insolvency Code, in the sense of including the interpretation of relevant articles, links and references between various provisions, relevant domestic and EU case-law.

Estimated overall cost: 161.500 Euro

Experts involved: Team Leader, Key Expert 2, STE

Activity 1.4. Elaboration of the Insolvency Code and dissemination of information regarding this document.

Estimated overall cost: 179.000 Euro

Experts involved: Team Leader, Key Expert 2, STE

#### Activities under result 2:

Activity 2.1. Elaborate the training plan (schedule, groups of participants, etc).

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Estimated overall cost: 19.000 Euro  
Experts involved: Team Leader, Key Expert 3

Activity 2.2. Elaborate the training curricula according to individual modules of the training sessions (insolvency law, civil procedure, business law, economy etc).  
Estimated overall cost: 10.550 Euro  
Experts involved: Team Leader, Key Expert 3, STE

Activity 2.3. Train approximately 56 trainers (16 clerks, 24 judges, 16 liquidators) in the field of insolvency. The training experts of the consultant will deliver this activity.  
Estimated overall cost: 92.450 Euro  
Experts involved: Key Expert 3, STE

Activity 2.4. Evaluate the level of the competences acquired by the trained trainers in the field of insolvency, after each training session.  
Estimated overall cost: 3.500 Euro  
Experts involved: Key Expert 3, STE

Training activities under activity 2.3 and 2.4 will also focus on EU related issues (i.e. cross-border insolvency), according to the latest European law provisions in this field.

Activity 2.5. Complete at the end of each training session a report comprising the most important issues relating to the applicability of the law on insolvency brought into discussion during the training session and the recommendations given by the participants.  
Estimated overall cost: 31.500 Euro  
Experts involved: Key Expert 2, Key Expert 3, STE

Activity 2.6. Organise a workshop with representatives of the practitioners in the field of insolvency for discussing the conclusions of the reports completed after the training sessions and for providing recommendations for further improvements to be brought to the legislative framework on insolvency.  
Estimated overall cost: 45.000 Euro  
Experts involved: Team Leader, Key Expert 2, STE

Activity 2.7. Complete a final report comprising an SWOT-type analysis of the legal framework in the field of insolvency and recommendations for further improvement of the legal framework in this field according to the conclusions of the training sessions and the workshop.  
Estimated overall cost: 31.000 Euro  
Experts involved: Team Leader, Key Expert 2, STE

Means: Technical Assistance Contract (TA)

#### *Key experts*

#### **Key expert 1: Team Leader**

The team leader will be responsible for all matters relating to the management and supervising the project implementation of the project, including the coordination of activities

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of all the other experts (long term and short-term) and the in-country management of the project. He/she will have the following profile:

**Qualifications and skills:**

- University degree
- Excellent competences in managing a team composed of specialists in various fields
- Excellent inter-personal and communication skills
- Abilities in organising and overseeing administrative and logistical support.
- Supervise and co-ordinate all aspects of a contract
- Capacity to communicate in English
- Computer skills

**General professional experience:**

- Previous experience in project management and/or consultancy in international projects
- General professional experience of minimum 12 years

**Specific professional experience:**

- At least 5 years of work experience in the commercial and/ or business area
- Experience of minimum 2 years in project management
- Coordination of at least 2 international projects
- Previous experience in legal drafting

**Key expert 2 – Senior Law specialist**

**Qualifications and skills:**

- University degree in Law
- Excellent inter-personal and communication skills
- Computer skills
- Capacity to communicate in English

**General professional experience:**

- Professional experience of at least 10 years

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- Previous consultancy experience in international projects would be a plus
- Relevant experience in working with judiciary

**Specific professional experience:**

- At least 5 years of experience in commercial law (including in the field of insolvency law)
- Experience in legal research and drafting.

**Key expert 3 – Senior Training specialist**

**Qualifications and skills:**

- University degree or equivalent in legal or social science or economics
- Excellent inter-personal and communication skills
- Ability to supervise and coordinate training activities
- Ability in drafting reports
- Computer skills
- Capacity to communicate in English

**General professional experience:**

- At least 10 years of professional experience
- Experience in project management

**Specific professional experience:**

- At least 5 years of experience in commercial field
- Coordinating of at least 2 previous projects involving training activities (preferably in legal matters)
- Previous experience in carrying out training activities

**3.3.Lessons learned:**

*See annex 5*

**4. Institutional Framework**

The institutions involved in the project are the Ministry of Justice, the courts, the National Institute for Magistrates (NIM) and the National School of Clerks (NSC), the liquidators as



well as other institutions that will be involved in the elaboration of the insolvency code (i.e. Trade Register, credit institutions etc.)

There are 41 tribunals (county courts) and Bucharest tribunal, having jurisdiction upon bankruptcy cases. Many of these courts have specialized commercial sections. Each year, the president of the court designates the syndic judges that will solve the bankruptcy cases. It is possible that the assessment of the institutional framework done through the WB study would recommend specific measures in order to speed up the bankruptcy procedures.

The NIM is a specialized educational body of training the law graduates for becoming judges and prosecutors (initial training) and of continuous training for sitting magistrates. The significance of the training provided by the NIM is considerable and offers the opportunity of combining the theoretical and practical aspects. The NIM and its regional centres will assure the national coverage of the training courses by involving representatives of judges from all the courts.

The NSC is a specialized institution for training of the clerks. The School is in charge with both initial and continuous training for clerks. Other institutions involved in the project, are the National Union of Practitioners in Reorganisation and Liquidation in Romania and the National Office of the Trade Register.

## 5. Detailed Budget

MEuro	Transition Facility Support			Co-financing			Total cost (TF plus co-financing)
	Investment Support	Institution Building	Total Transition Facility (=I+IB)	National Public Funds (*)	Other Sources (**)	Total co-financing of the project	
<b>Total</b>	<b>0.00</b>	<b>0.52 MEuro</b>	<b>0.52 MEuro</b>	<b>0.17** MEuro</b>	<b>0.00</b>	<b>0.17** MEuro</b>	<b>0.69 MEuro</b>

\*\* Joint co-financing (out of which 0.081 MEuro incidental expenditures and 0.089 MEuro for fees).

Contributions from the Romanian administration for effective implementation of the twinning/twinning light/TA may be further detailed in the twinning contract/terms of references.

To ensure smooth implementation of the project, the beneficiary will provide adequately equipped office space with telephone, PC (Internet) and fax. Photocopier and access to the necessary information as well as secretarial support will be ensured during the project life-time. In addition the beneficiary will provide space and facilities for workshops (training), consultations and seminars. The national co-financing will be specified in the twinning contract.

VAT is not an eligible expenditure under both the Transition Facility and national cofinancing funds indicated in the above budget table. Where contracts are subject to VAT due to provisions of national legislation, these funds have to be provided from national resource outside and in addition to the amounts indicated in the budget table.

## **6. Implementation Arrangements**

### **6.1. Implementing Agency**

The Implementing Agency is the Central Finance and Contracts Unit (CFCU) which will be responsible for tendering, contracting, administration, accounting, payments and financial reporting.

PAO:

Carmen ROSU, Director CFCU  
030669 Bucharest, Sector 3  
Mircea Voda Boulevard 44, Entrance B  
Telephone: +40 (21) 3260202  
Fax: +40 (21) 3268730; 3268709  
E-mail: [carmenrosu@cfcu.ro](mailto:carmenrosu@cfcu.ro)

The Implementing Authority (IA)

The responsibility for technical project preparation, implementation and control will remain with the beneficiary institution, i.e. the Ministry of Justice. The PIU from the MoJ will be responsible for overall procedural and administrative management of the project. Responsible persons for each component will be appointed from the institutions directly involved in the respective components.

SPO:

Diana Mihaela POPESCU, Director of the Department for European Programmes,  
Ministry of Justice,  
Bucharest, Sector 5,  
Apollodor St., no.17  
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Fax: +40 (21) 3146407  
E-mail: [dpopescu@just.ro](mailto:dpopescu@just.ro)

### **Steering committee:**

The Steering Committee (consisting of representatives of the Ministry of Justice, Superior Council of Magistracy, National School of Clerks, National Institute of Magistracy, National Union of Practitioners in Reorganisation and Liquidation (UNPRL) and National Trade Register Office) will be responsible for approving the progress reports and will meet every three month in order to review project progress.

### **6.2. Twinning**

NA

### **6.3. Non-standard aspects**

The National Procurement Rules will be strictly followed.

### **6.4. Contracts**

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1 TA Contract – in total value 0.69 Meuro

## **7. Implementation Schedule**

7.1. Start of tendering/call for proposals

October 2007

7.2. Start of project activity

July 2008

7.3. Project completion

July 2009

## **8. Sustainability**

The investment will be sustainable in long term and will improve the insolvency legislative framework enforcement by integrating the 56 trainers trained during the implementation of the project into the national training network. Thus, continuous professional training of the practitioners in the field of insolvency will be ensured, according to further necessities of the judiciary system.

Resources in terms of staff and budget to secure the sustainability of the project after its completion will be ensured.

## **Conditionality and sequencing**

### Most important milestones:

Identification of the laws and legislation to be included in the Insolvency Code  
Annotation of the most important legislative provisions on insolvency framework  
Insolvency Code agreed at the level of Ministry of Justice  
Specialised training for trainers provided

## **Annexes to project Fiche**

1. Logical framework matrix in standard format (compulsory)
2. Detailed implementation chart (compulsory)
3. Contracting and disbursement schedule by quarter for full duration of programme (including disbursement period) (compulsory)
4. List of relevant Laws and Regulations (optional)
5. Lessons learnt from previous years (compulsory)
6. Budget Breakdown
7. Activities breakdown

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**Log frame**  
**Transition Facility programme for Romania**

LOGFRAME PLANNING MATRIX FOR Project Fiche			Programme name and number <b>2007/19343.01.07</b>	
<b>Title of the project</b> <i>Support for strengthening the Insolvency mechanism</i>			Contracting period expires 15 12 2009	Disbursement period expires 15 12 2010
			Total budget : 0,69 MEuro	TF budget : 0,52 MEuro
<b>Overall objective</b>	<b>Relates to Copenhagen criterion and acquis chapter<sup>1</sup></b> A functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the EU. The ability to take on the obligations related to membership, including adherence to the aims of economic union.		<b>List of other projects with same objective</b>	
To create an efficient and transparent business environment in Romania			RO-2002/000-586.04.17 – Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy	
<b>Project purpose</b>	<b>Objectively verifiable indicators</b> The number of debtors who were the subjects of the simplified insolvency procedure increased with at least 20% from 2007 to 2011 The number of debtors who were the subjects of "judicial reorganisation" and who maintained themselves on the market due to the judicial reorganisation procedure increased with at least 10% from 2005 to 2011. Duration of solving an insolvency case(dossier) reduced with at least 25% from 2005 to 2011 Critics on the enforcement of the insolvency legislative framework provided by practitioners(i.e		<b>Sources of Verification</b> Governmental reports, annual reports; Evaluation of the improvement of activity in courts; statistics; biannual Evaluation forms (during the project implementation) Quarterly and final project reports National Trade Register Office statistics National Union of Liquidators' reports ONRC website (www.onrc.ro; www.buletinulinsolventei.ro)	<b>Assumptions</b> Good collaboration between the relevant institutions in their activity for enforcing the legislation in the field of insolvency
Improving the enforcement of the insolvency legislative framework				

<sup>1</sup> Please specify here the recommendation made in Comprehensive Monitoring Report or other relevant documents (SIGMA (financial control, procurement, Peer Reviews, Evaluation reports, Final reports of TW projects)

	liquidators, lawyers) collected at the beginning of the project and at one year upon the project completion			
<b>Results</b>		<b>Objectively verifiable indicators</b>	<b>Sources of Verification</b>	<b>Assumptions</b>
Result 1 Systematized and correlated legislative framework on insolvency - elaboration of an Insolvency Code.		By the end of the project, an Insolvency Code will be elaborated.	Project quarterly and final reports Ministry of Justice reports Ministry of Justice web site	Good collaboration between the representatives of the institutions involved in the elaboration process of the Insolvency Code.
Result 2 - Improved insolvency related competences of the professionals		56 trainers (16 clerks, 24 judges, 16 liquidators) on insolvency At least 50% of the overall number of trainers have succeeded in the evaluation test	Training seminars participation lists Project quarterly and final reports National Institute of Magistracy reports Evaluation reports produced after each training session	The knowledge grasped through the training is put into practice by the trainees
<b>Activities</b>		<b>Means</b>		<b>Assumptions</b>
Result 1: 1.1 Establishing a working group comprised of representatives of all relevant players in the insolvency field (i.e. liquidators, judges, insurance companies, credit institutions, Trade Register) to be involved in screening all relevant legislation to be included in the Insolvency Code. 1.2 Identification of all insolvency related laws, regulations and other secondary legislation to be included in the Insolvency Code. 1.3. Annotation of the pieces of legislation to be included in the Insolvency Code, in the sense of including the interpretation of relevant articles, links and references between various provisions, relevant domestic and EU case-law. 1.4. Elaboration of the Insolvency Code and dissemination of information regarding this document.		Technical assistance		Proper collaboration between the involved institutions.

<p>Result 2:</p> <p>2.1 Elaborate the training plan (schedule, groups of participants, etc.)</p> <p>2.2 Elaborate the training curricula according to individual modules of the training sessions (insolvency law, civil procedure, business law, economy etc)</p> <p>2.3. Train approximately 56 trainers (16 clerks, 24 judges, 16 liquidators) in the field of insolvency</p> <p>2.4 Evaluate the level of the competences acquired by the trained trainers in the field of insolvency after each training session</p> <p>2.5. Complete at the end of each training session a report comprising the most important issues relating to the applicability of the law on insolvency brought in discussion during the training session and the recommendations given by the participants..</p> <p>2.6. Organise a workshop with representatives of the practitioners in the field of insolvency for discussing the conclusions of the reports completed after the training sessions and for providing recommendations for further improvements to be brought to the legislative framework on insolvency</p> <p>2.7. Complete a final report comprising an SWOT-type analysis of the legal framework in the field of insolvency and recommendations for further improvement of the legal framework in this field according to the conclusions of the training sessions and the workshop.</p>		<p>Interest of the participants to become trainers on insolvency</p> <p>Willingness and active interest of the participants</p>
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**Annex 3a - Cumulative contracting schedule**

	31/03/07	30/06/07	30/09/07	31/12/07	31/03/08	30/06/08	30/09/08	31/12/08	31/03/09	30/06/09	30/09/09	31/12/09
CONTRACTED Technical assistance						0.52 MEuro						
NB: All contracting should normally be completed within 6-12 months and must be completed within 24 months of signature of the FA.												

**Annex 3b - Cumulative disbursement schedule**

	31/03/08	30/06/08	30/09/08	31/12/08	31/03/09	30/06/09	30/09/09	31/12/09	31/03/010	30/06/010	30/09/010
DISBURSEMENT Technical assistance			0.10 MEuro	0.20 MEuro	0.31 MEuro	0.41 MEuro	0.52 MEuro				
NB: All disbursements must be completed within 36 months of signature of the FA.											



Annex 5 - LESSONS LEARNT FROM PREVIOUS YEARS

Identified Gaps or Recommended courses of intervention	Methodological Example		
	Action for covering the Gap or implement the recommended intervention	Phare Programming (Project Reference)	Transition Facility
<p>- "The new insolvency law should function for at least 2 years before the next set of amendments is brought." - Final Report of "RO-2002/000-586.04.17-Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy, Romania"</p> <p>- "Financial discipline should be further enhanced. The group of monitored large state-owned companies still builds up new arrears. Shortcomings persist in the bankruptcy framework and creditor protection remains weak, due in particular to the relatively long time and low recovery rate of bankruptcy cases. This underscores the importance of a successful implementation of the recent amendment to the bankruptcy framework. Overall, further progress was made in improving financial discipline and noteworthy progress was observed in bankruptcy proceedings, even if the accumulation of new arrears continued and shortcomings in the bankruptcy framework persist." - Comprehensive Monitoring Report, 2006</p>	<p>- recommendations for further improvement of the legal framework in this field elaborated</p>	Not applicable	<p>"Support for strengthening the Insolvency mechanism" T4</p>
		2004-2006	

<p>- "The new version of the Insolvency Law does not provide for specialised bankruptcy sections anymore, although for many reasons (high complexity of the cases whose subject is the judicial reorganisation and bankruptcy procedure; necessity of specialisation of the persons within the courts which work within this field (judges, clerks, archivers, liquidators, debtors, creditors, other persons in interest); the time-limits which are clearly set by the legal provisions and, as a rule, short enough in order to carry out the procedural acts), such sections should be established." -- Final Report of RO-2002/000-586.04.17, "Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy, Romania"</p> <p>- "Documents need to be grouped together according to the type of issue that they relate to (for example the petition for insolvency, creditors' claims or the Insolvency Practitioner's appointment)." -- Final Report of RO-2002/000-586.04.17, "Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy, Romania"</p>				
<p>- "The very essence of a codification is a certain stability of the legal rules included in the code, resulting in a much more certain environment for the participants in the proceedings."</p> <p>"We envisage the code to gather all the existing insolvency related laws and regulations. However, they will not be put together in an automatic manner but will be amended to the extent necessary for them to fit as much as possible not only with each other but also with the European best practice and guidelines. The core of such code would be the new Insolvency Law. It follows that the contents of the other chapters will be amended so as to be compatible with the core. Moreover the respective chapter would make reference to the core procedure whenever possible (..)</p> <p>We envisage the new insolvency code to contain rules on the general insolvency procedure, as well as separate chapters for the particular areas where some of the insolvency rules are justified to differ, such as agriculture, financial institutions, insurance companies, and public companies." - Final Report of RO-2002/000-586.04.17, "Support for the improvement and the</p>	<ul style="list-style-type: none"> <li>- Asses the relevant laws and regulations in the field of insolvency and their corroboration with the new law on insolvency.</li> <li>- Elaborate an insolvency code.</li> </ul>			

enforcement of legislation and judicial decisions on bankruptcy, Romania					
- "It is mandatory ensuring the maintenance of the insolvency software, in order to follow the most recent development of BPM, otherwise the software risks becoming obsolete and the insolvency procedure will be seriously affected." – Final Report of RO-2002/000-586.04.17, "Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy, Romania"	-Asses the current functionality of the insolvency software and the opportunity for its further improvement and updating.				
- "Organisation of new training sessions in about an year from the enactment of the new Insolvency Law; quite a number of the feedback forms suggested mixed training groups (judges/practitioners)" – Final Report of RO-2002/000-586.04.17, "Support for the improvement and the enforcement of legislation and judicial decisions on bankruptcy, Romania"	- Organise training sessions for trainers and trainees from amongst insolvency practitioners (judges, clerks and liquidators)				

**Note:** The table should summarize all the interventions aimed at the application of the recommendations of the comprehensive Monitoring Report, SIGMA (financial control, procurement, Peer Reviews, Evaluation reports, Final reports of TW projects, specifying the sources of financing of the intervention, i.e. IFIs or state budget (see the examples in the table).

Please insert in the table only those gaps/recommendations relevant for the interventions planned for current exercise, in a most synthetic way.

Obviously, the column for PHARE 2004-2006 will be completed only if the intervention spans over all the three programming years – i.e. there are projects to be financed from Phare 2004, respectively 2005 and 2006 under the same recommendation.

LB

## BUDGET BRAKEDOWN

Assistance in creating an efficient and transparent business environment in Romania	Notes	Estimated number of working days	Fee rate (€ per working day)	Amount
				€
<b>FEES (including overheads):</b>	1			
<i>Long-term experts</i>	2,4			
- Team leader		184,00	700,00	128800,00
- Senior experts		312,00	600,00	187200,00
- Junior experts				
<i>Short-term experts</i>	3,4			
- Senior experts		576,00	500,00	288000,00
- Junior experts				
<b>Total fees (including overheads)</b>				604000,00
<b>PROVISION FOR INCIDENTAL EXPENDITURE*:</b>	5			81000,00
<b>PROVISION FOR EXPENDITURE VERIFICATION</b>	6			5000,00
<b>MAXIMUM CONTRACT VALUE</b>				<u><u>690000,00</u></u>

### NOTES:

#### 1 All fee rates must cover:

- the remuneration actually paid to the experts concerned per working day
- administrative costs of employing the relevant experts, such as relocation and repatriation expenses, accommodation, expatriation allowances, leave, medical insurance and other employment benefits accorded to the experts by the Consultant
- the margin, covering the Consultant's overheads, profit and backstopping facilities

2 Experts working for more than 6 consecutive months on the contract

3 Experts working for less than 6 consecutive months on the contract

4 The annual leave entitlement of experts must not exceed 60 calendar days

Note that the input of experts must be given in full working days

#### 5 Provision for incidental expenditure:

- all incidental expenditure incurred in the course of the contract as required by the Terms of Reference is to be invoiced at actual cost.
- any cost related to the payment of an incidental expenditure is included, such as bankcharges.

- supporting documentation need not be submitted at the time interim invoices are presented for payment but must be retained for seven years after the final payment is made by the Contracting Authority.
- the provision for incidental expenditure does not cover travel to/from the beneficiary country for experts (other than for missions identified in the Terms of Reference)
- any long distance air travel must be by economy class while long distance train travel may be by 1st class
- the subsistence paid to experts on missions requiring an overnight stay away from the base of operations in the beneficiary country must be a maximum of the per diem rate published on the Procedures page of the Web site [http://europa.eu.int/comm/europeaid/index\\_en.htm](http://europa.eu.int/comm/europeaid/index_en.htm) for each night away

The financial evaluation of tenders only considers the total fees, since the provision for incidental expenses must be the amount stated in Clause 6.5 of the Terms of reference. Please refer to Section 6 of the Terms of reference to identify what is to be included in fees and what may be covered by the provision for incidental expenditure in this contract. An audit certificate provided by a suitably qualified auditor will be required before the final payment is made.

#### **6 Provision for expenditure verification**

- must cover expenditures incurred in the course of the contract for expenditure verifications undertaken by external auditors cannot be decreased in the course of the contract

**\*To be covered from the national joint cofinancing.**

## ACTIVITIES BRAKEDOWN

Activities of the experts	TOTAL working days	Total activity Euro
1.1 Establishing a working group comprised of representatives of all relevant players in the insolvency field (i.e. liquidators, judges, insurance companies, credit institutions, Trade Register) to be involved in screening all relevant legislation to be included in the Insolvency Code.	56	34500
1.2 Identification of all insolvency related laws, regulations and other secondary legislation to be included in the Insolvency Code	130	77000
1.3. Annotation of the pieces of legislation to be included in the Insolvency Code, in the sense of including the interpretation of relevant articles, links and references between various provisions, relevant domestic and EU case-law.	285	161500
1.4. Elaboration of the Insolvency Code and dissemination of information regarding this document.	310	179000
2.1 Elaborate the training plan (schedule, groups of participants, etc).	30	19000
2.2 Elaborate the training curricula according to individual modules of the training sessions (insolvency law, civil procedure, business law, economy etc).	16	10550
2.3 .Train approximately 56 trainers (16 clerks, 24 judges, 16 liquidators) in the field of insolvency.	80	92450
2.4 Evaluate the level of the competences acquired by the trained trainers in the field of insolvency, after each training session.	5	3500
2.5. Complete at the end of each training session a report comprising the most important issues relating to the applicability of the law on insolvency brought in discussion during the training session and the recommendations given by the participants.	45	31500
2.6. Organise a workshop with representatives of the practitioners in the field of insolvency for discussing the conclusions of the reports completed after the training sessions and for providing recommendations for further improvements to be brought to the legislative framework on insolvency.	65	45000
2.7. Complete a final report comprising an SWOT-type analysis of the legal framework in the field of insolvency and recommendations for further improvement of the legal framework in this field according to the conclusions of the training sessions and the workshop.	50	31000
<b>Sub - total</b>	<b>1072</b>	<b>685000</b>
<b>TOTAL (including expenditure verifications )</b>		<b>690000</b>