

**MEMORANDUM OF UNDERSTANDING  
ON THE IMPLEMENTATION OF THE EEA FINANCIAL MECHANISM  
2004-2009**

between

ICELAND,

THE PRINCIPALITY OF LIECHTENSTEIN,

THE KINGDOM OF NORWAY,

hereinafter referred to as the “EFTA States”

and

THE REPUBLIC OF BULGARIA,

hereinafter referred to as the “Beneficiary State”

together hereinafter referred to as the “Parties”

WHEREAS the Agreement of 14 October 2003 on the Participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area became applicable as of 1 May 2004;

WHEREAS the Agreement of 25 July 2007 on the Participation of the Republic of Bulgaria and Romania in the European Economic Area is applied provisionally as of 01 August 2007;

WHEREAS Protocol 38a to the EEA Agreement established a financial mechanism through which the EFTA States contribute to the reduction of economic and social disparities in the European Economic Area (hereinafter referred to as the “EEA Financial Mechanism”);

WHEREAS the Agreement of 25 July 2007 on the Participation of the Republic of Bulgaria and Romania in the European Economic Area amends and makes Protocol 38a applicable via an Addendum *mutatis mutandis* to the Republic of Bulgaria and Romania, with certain exceptions;

WHEREAS by decision of the Standing Committee of the EFTA States No. 4/2004/SC of 3 June 2004 the EFTA States have established a Financial Mechanism Committee, which shall manage the EEA Financial Mechanism (2004-2009);

WHEREAS the Agreement of 25 July 2007 on the Participation of the Republic of Bulgaria and Romania in the European Economic Area and the EEA Financial Mechanism will strengthen relations between the EFTA States and the Beneficiary State to the mutual benefit of their peoples;

WHEREAS the enhanced co-operation between the EFTA States and the Beneficiary State will contribute to securing a stable, peaceful and prosperous Europe, based on good governance, democratic institutions, the rule of law, respect for human rights and sustainable development;

WHEREAS the Parties agree to establish a framework for cooperation in order to ensure the effective implementation of the EEA Financial Mechanism;

HAVE DECIDED to conclude the following Memorandum of Understanding (hereinafter referred to as the “MoU”):

## **Article 1**

*(Objectives)*

In accordance with Article 1 of Protocol 38a and with reference to Article 1 of the Addendum to Protocol 38a, the EFTA States have established the EEA Financial Mechanism in order to contribute to the reduction of economic and social disparities in the European Economic Area. Accordingly, the Parties to this MoU shall endeavour to select for funding, projects that contribute to the achievement of that objective.

## **Article 2**

*(Legal Framework)*

This MoU, agreed between the EFTA States and the Beneficiary State, shall be read in conjunction with and subject to the conditions in the following documents, which constitute the legal framework of the EEA Financial Mechanism:

- Protocol 38a to the EEA Agreement (hereinafter referred to as “Protocol 38a”), establishing the EEA Financial Mechanism,
- the Addendum to the Protocol 38a to the EEA Agreement,
- the Rules and Procedures on the implementation of the EEA Financial Mechanism (hereinafter referred to as the “Rules and Procedures”) and subsequent amendments thereof. The Rules and Procedures are adopted by the EFTA States in accordance with Article 8 of Protocol 38a,
- the Grant Agreements, which will be concluded between the Financial Mechanism Committee and the Beneficiary State for each project.

## **Article 3**

*(Financial Framework)*

1. In accordance with Article 1 of the Addendum to Protocol 38a, Protocol 38a shall apply *mutatis mutandis* to the Beneficiary State.
2. In accordance with Article 2 of the Addendum to Protocol 38a, the EFTA States’ financial contribution shall be €21,500,000 for the Beneficiary State over the period running from 1 January 2007 to 30 April 2009, inclusive; it shall be made available to the Beneficiary State as from the date of entry into force of the Agreement on the Participation of the Republic of Bulgaria and Romania in the European Economic Area or of an agreement to apply the Agreement provisionally, and be provided for commitment in a single tranche in 2007.
3. In accordance with Article 8 of Protocol 38a, the management costs of the EEA Financial Mechanism shall be covered by the amount referred to above. Further provisions to this effect are set out in the Rules and Procedures.

4. In accordance with Article 1, paragraph 2, of the Addendum to Protocol 38a, Article 6 of Protocol 38a shall not apply. No reallocation to any other Beneficiary State shall be applicable in case of available non-committed funds of Bulgaria and Romania.
5. In accordance with Article 1, paragraph 3, of the Addendum to Protocol 38a, Article 7 of Protocol 38a shall not apply.
6. In accordance with Article 1, paragraph 4, of the Addendum to Protocol 38a, contributions to non-governmental organisations and social partners may be up to 90 percent of project costs.

#### **Article 4**

##### *(Roles and Responsibilities)*

1. The EFTA States shall make funds available in support of eligible projects proposed by the Beneficiary State and agreed on by the Financial Mechanism Committee within the priority sectors listed in Article 6 of this MoU.
2. The Beneficiary State shall assure the full co-financing of projects that benefit from support from the EEA Financial Mechanism.
3. The Financial Mechanism Committee shall manage the EEA Financial Mechanism and take decisions on the granting of financial assistance.
4. The Financial Mechanism Committee shall be assisted by the Financial Mechanism Office (hereinafter referred to as the “FMO”). The FMO shall be responsible for the day-to-day operations of the EEA Financial Mechanism and shall serve as a contact point.
5. The Beneficiary State has authorized a National Focal Point, designated in Annex A, to act on its behalf. The National Focal Point shall have overall responsibility for the management of the EEA Financial Mechanism’s activities in the Beneficiary State, including financial control and audit and serve as a contact point. Its managerial setup is contained in Annex A.
6. The National Focal Point shall be responsible and accountable for the identification, planning, implementation and monitoring of projects as well as for the use of funds under the EEA Financial Mechanism in accordance with the Rules and Procedures. It shall report on these activities to the FMO. Any irregularities shall be reported to the FMO without delay.
7. The Beneficiary State shall be responsible for the financial control and audit of approved projects. The Bulgarian National Audit Office carries out independent control activities.
8. As a general rule and based on the nature of the project, the gathering of project applications shall be carried out by open calls for proposals.

9. The National Focal Point shall ensure that the project promoters are fully committed and equipped to ensure successful project implementation.

## **Article 5**

### *(Annual Meetings and Reporting)*

1. In order to ensure the effective implementation of the EEA Financial Mechanism, the Parties agree to hold semi-annual meetings between the Financial Mechanism Committee and the National Focal Point. The National Focal Point shall at the meeting present a report, which shall amongst other things address:

- the progress made towards the achievement of the overall objective of the EEA Financial Mechanism,
- the progress of project identification in the Beneficiary State,
- the reporting of ongoing project implementation against established criteria,
- financial progress pertaining to commitments and disbursements,
- fields of intervention and measures for the following period.

2. The National Focal Point shall organise the meetings, in cooperation with the FMO. The Commission of the European Communities may be invited to observe the meetings.

3. Annexes A, B and C may be subject to review in the semi-annual meetings. Amendments to the Annexes agreed upon at such meetings do not require a formal change to this MoU. Such amendments shall be confirmed through an exchange of letters between the EEA Financial Mechanism Committee and the National Focal Point.

4. The minutes of the meetings shall be drafted by the National Focal Point.

5. The first meeting shall be held no later than six months after the signing of this MoU.

## **Article 6**

### *(Priority Sectors)*

1. In accordance with Article 3 of Protocol 38a, grants shall be available for projects in any or all of the following priority sectors:

- (a) Protection of the environment, including the human environment, through, inter alia, reduction of pollution and promotion of renewable energy;
- (b) Promotion of sustainable development through improved resource use and management;
- (c) Conservation of European cultural heritage, including public transport, and urban renewal;

(d) Human resource development through, inter alia, promotion of education and training, strengthening of administrative or public service capacities of local government or its institutions as well as the democratic processes, which support it;

(e) Health and childcare.

2. Academic research may be eligible for funding in so far as it is targeted at one or more of the priority sectors.

## **Article 7**

*(Focus areas)*

With a view to ensuring effective use of the EEA Financial Mechanism funding provided for individual projects, it shall be concentrated within the focus areas outlined in Annex B to this MoU.

## **Article 8**

*(Specific Forms of Grant Assistance)*

1. In accordance with the Priority Sectors referred to in Article 6, the Parties have agreed to establish, within the overall amount referred to in Article 3, the Specific Forms of Grant Assistance listed in Annex C.

2. The Parties shall conclude Grant Agreements laying down the terms and conditions of each grant commitment.

## **Article 9**

*(Control and Access to Information)*

The EEA Financial Mechanism Committee, the EFTA Board of Auditors and their representatives have the right to carry out any technical or financial mission or review they consider necessary to follow the planning, implementation and monitoring of projects as well as the use of funds. The Beneficiary State shall provide all necessary assistance, information and documentation.

## **Article 10**

*(Coordination)*

All projects submitted to the EEA Financial Mechanism shall be consistent with the Beneficiary State's national priorities and relevant arrangements with the European Union.

**Article 11**

*(Governing Principles)*

1. The implementation of this MoU shall in all aspects be governed by the Rules and Procedures of the EEA Financial Mechanism and subsequent amendments thereof.
2. The Parties agree to apply the highest degree of transparency and accountability in the implementation of the EEA Financial Mechanism, as well as objectives and principles of good governance, sustainable development and gender equality. The Beneficiary State shall take proactive steps in order to ensure adherence to these principles at all levels involved in the implementation of the EEA Financial Mechanism.

**Article 12**

*(Entry into Force)*

This MoU shall enter into force on the day the Agreement on the Participation of the Republic of Bulgaria and Romania in the European Economic Area enters into force. Until then, it shall be applied provisionally as from the day of signature.

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The present Memorandum of Understanding is signed in four originals in the English language.

Signed in [place] on [date]

For the Government of Iceland

For the Government of the  
Republic of Bulgaria

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For the Government of the  
Principality of Liechtenstein

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For the Government of the Kingdom of Norway

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## **THE MANAGERIAL SET-UP FOR THE IMPLEMENTATION OF THE EEA FINANCIAL MECHANISM IN THE REPUBLIC OF BULGARIA**

Annex A describes the managerial set-up for the implementation of the EEA Financial Mechanism.

### **A. NATIONAL FOCAL POINT**

The Monitoring of EU Funds Directorate fulfils the tasks of the National Focal Point. The National Focal Point has the overall responsibility for the management and coordination of the EEA Financial Mechanism's activities in Bulgaria, including the overall responsibility for the use of funds, financial control and audit. Additionally, its responsibilities include, but are not limited to, the following:

- have overall responsibility for reaching the EEA Financial Mechanism's objectives and the use of funds, financial control and audit
- identify and select project proposals to be forwarded to Financial Mechanism Office (FMO)
- ensure appropriate implementation and monitoring of projects
- chair the Monitoring Committee
- ensure regular reporting to the FMO on implementation of projects financed by the EEA Financial Mechanism, as well as immediate reporting on irregularities
- ensure information and publicity regarding availability of funds and inform the general public about projects implemented under the EEA Financial Mechanism
- ensure that the project promoters/intermediaries are fully committed and equipped to successfully implement projects and
- store all documents connected with projects realised within the EEA Financial Mechanism in accordance with the Rules and Procedures

In accordance with the Rules and Procedures, the National Focal Point will ensure that financial control and auditing of projects is conducted in compliance with applicable rules. In doing so, the National Focal Point shall ensure:

- efficient and correct use of available funds
- complete and sufficient audit trails in all institutions
- effective financial control and audits of approved projects

## B. DIVISION OF TASKS

While the National Focal Point retains the overall responsibility for the management of the EEA Financial Mechanism's activities in the Beneficiary State, managerial tasks shall be divided as follows:

- **National Focal Point - The Monitoring of EU Funds Directorate with the Administration to the Council of Ministers** is in charge of the overall co-ordination of the planning, management, monitoring and evaluation of the EEA Financial Mechanism and act as the Monitoring Committee's Secretariat. The head of the National Focal Point is the Minister for EU Funds Management.
- **Central Treasury Entity - The National Fund Directorate (NF)** is the central treasury entity in charge of managing the aid granted to Bulgaria by the EEA Financial Mechanisms and executes the functions of a Certifying and Paying Authority.  
The NF is placed under the responsibility of a Deputy-Minister of Finance responsible for the financial management of the EU Funds.
- **Implementing Agency - The Structural Funds and International Educational Programmes (SFIEP) Directorate General** is in charge of ex-ante and ex-post control of public tenders; exercising ex-ante control of contracts; monitoring project implementation; exercising payments to beneficiaries and organising the financial reporting system. The SFIEP Directorate General reports directly to the Minister of Education, Youth and Science.
- **Audit Authority - The Audit of EU Funds Executive Agency (AEUFEA)** is responsible for performing audits of the control systems and project audits on the basis of an appropriate sample, providing assurance that the management and control systems of the funds from the EEA Financial Mechanism are accurate and function effectively and that the mechanism's financial interests are properly protected. The AEUFEA is directly subordinated to the Minister of Finance.

The above structures designated to perform administrative and financial management of the EEA Financial Mechanism are functionally independent from one another.

**1. The National Focal Point** is responsible for the overall coordination and management of the EEA Financial Mechanism. It will:

- serve as a contact point for all activities of the EEA Financial Mechanism in the Beneficiary State
- negotiate changes to the focus areas with the FMO and representatives of the EFTA States
- provide an assessment and prioritisation of the project proposals and submit the approved project proposals to the FMO
- conclude implementation agreements with project promoters and intermediaries
- ensure overall coordination and complementarities of the EEA Financial Mechanism with EU Funds, in cooperation with the relevant national authorities and bodies

- ensure regular monitoring of projects, act as a Secretariat of the semi-annual meetings, prepare report on the progress of the EEA Financial Mechanism and draft the minutes of the meeting
- take the necessary measures to ensure the publicity of the EEA Financial Mechanism
- keep originals of the relevant documents in accordance with the Rules and Procedures

**2. The Structural Funds and International Educational Programmes (SFIEP) Directorate General** is responsible for the preparation of the contracts and the payments to the final beneficiaries. It will:

- perform ex-ante and ex-post verification of public procurement procedures implemented by project promoters as well as ex-ante verification of contracts to ensure compliance with the national Public Procurement Law
- have the right to observe the procurement procedures
- ensure conclusions of contracts with the contractors and subsequent implementation and monitoring
- check the factual and formal correctness of requests for payment submitted by the final beneficiaries
- ensure payments to intermediaries and project promoters
- maintain appropriate accounting system that ensure audit trail for funds spent under the EEA Financial Mechanism
- prepare and submit regular reports to the NF in the required format as a basis of the request for transfer of funds from the NF to the SFIEP Directorate General.
- prepare the necessary information for the monitoring reports
- keep originals of relevant documents in accordance with the Rules and Procedures

## **Auditing**

**3. The Audit of EU Funds Executive Agency (AEUFEA)** is the unit responsible for financial control and audit of approved projects. It is directly subordinated to the Minister of Finance and functionally independent from the Monitoring of EU Funds Directorate. It will:

- organise the auditing of the management and control systems of the administration and execute project audits on the basis of an appropriate sample. The audits may be performed by auditors of the AEUFEA or by external auditors financed by the Technical Assistance referred to in Annex C, working under the supervision of the AEUFEA and using the methodology approved by AEUFEA
- present to the FMO via the National Focal Point the annual audit plan once a year. The annual audit plan is based on the results of the risks assessment and indicates the areas and objects subject to auditing
- submit each year to the FMO via the National Focal Point a report summarising the outcome of the audits conducted over the reporting period
- provide the FMO via the National Focal Point with copies of audit reports as requested

## **Disbursements**

### **4. The National Fund Directorate (NF) performs the functions of a Paying Authority for the EEA Financial Mechanism. It will:**

- coordinate the development, implementation and maintenance of the procedures concerning financial management and control
- open a bank account for the transfer of funds from the FMO to the Republic of Bulgaria
- certify, based on the verification of the SFIEP Directorate General, that the national co-financing allocated to projects is available
- certify, based on the verification of the SFIEP Directorate General, that the national co-financing allocated to the project has been paid
- certify to the FMO that expenditure declarations are made on the basis of reliable and verified documents
- submit certified requests for disbursements to the FMO accompanied by the necessary documentary evidence demonstrating fulfilment of the conditions for each disbursement, or, if appropriate, submit requests for advance payments
- transfer funds on the basis of SFIEP Directorate General requests supported by documents on payments executed or, if appropriate by requests for advance payments
- report found and suspected case of irregularities as well as measures taken thereto to the FMO
- ensure reimbursement of unused or unduly paid funds to the FMO
- prepare the necessary financial information for the monitoring reports
- keep original of relevant documents in accordance with the Rules and Procedures

## **C. ADDITIONAL IMPLEMENTING STRUCTURES**

### **Monitoring Committee**

The Monitoring Committee will assist the National Focal Point in the selection and monitoring of projects. It shall consist of representatives of the National Focal Point, the Audit of EU Funds Executive Agency, the National Fund Directorate and the SFIEP Directorate General, relevant line ministries and governmental bodies, representatives of regional and local authorities, social and economic partners, and NGOs. The Minister of Finance will appoint the members of the Monitoring Committee. The appointment of representatives of the relevant ministries and governmental bodies will on the basis of proposals from the respective ministries.

The Monitoring Committee's responsibilities include, but are not limited to, the following:

- adopt the Selection Criteria after consultation with the FMO
- provide recommendation to the National Focal Point on project proposals to be forwarded to the FMO
- review overall progress towards the achievement of the overall objective of the EEA Financial Mechanism and financial reports

- review the progress of project identification
- review the ongoing project implementation against established criteria
- examine and approve periodical reports on the use of financial resources – commitments and disbursements
- ensure that the National Focal Point is fully informed about the progress of programmes, projects and other specific forms of grant assistance and compliance with terms and conditions of the grant

The FMO, the EFTA States and, where appropriate, representatives of other institutions and organisations, will be invited to observe the meetings of the Monitoring Committee.

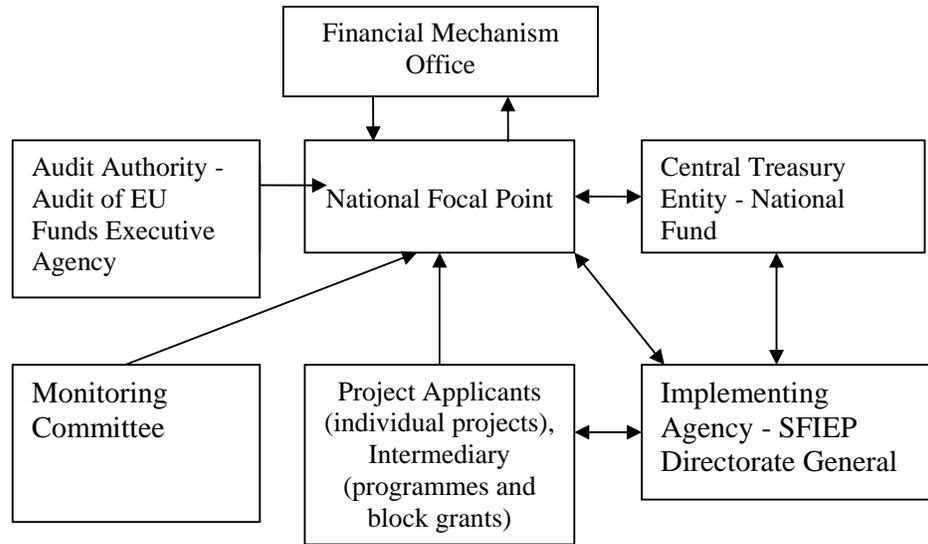
#### **D. APPLICATION PROCEDURE**

The National Focal Point arranges for an open call for projects within the agreed priority areas. Applications shall be submitted to the National Focal Point which arranges for their evaluation. Evaluation of formal and eligibility criteria shall be performed by the National Focal Point. If any faults are found, applications shall be corrected by the applicants upon request from the National Focal Point. Applicants whose applications are rejected based on the formal or eligibility criteria may within a reasonable time request the National Focal Point to review such a decision.

Applications will be evaluated according to technical and content-related criteria by the expert evaluators, which award points to the projects. The procedure results in the preparation of a ranking list of eligible projects, including justification. The list is forwarded to the Monitoring Committee through the National Focal Point. The Monitoring Committee reviews the list and, based on the ranking, the justification of the experts, as well as other relevant and justified reasons, provides the National Focal Point with a ranked list of project that it recommends for submission to the FMO. The National Focal Point forwards the applications, along with its reasoned opinion, to the FMO. The National Focal Point shall notify applicants of its decision to reject or forward their applications.

According to the Rules and Procedures, the FMO makes recommendations on the proposals and submits them to the Financial Mechanism Committee, which makes the final decision on the co-financing of the project. On the basis of a positive decision, a Grant Agreement will be concluded between the Financial Mechanism Committee and the National Focal Point. The National Focal Point shall notify the applicant of the approval or rejection of projects by the Financial Mechanism Committee.

### Chart



## THE FOCUS AREAS REFERRED TO IN ARTICLE 7 OF THE MEMORANDUM OF UNDERSTANDING

The EEA Financial Mechanism aims to contribute to the reduction of economic and social disparities in the European Economic Area and strengthen the bilateral relations between Bulgaria and the EEA EFTA States.

	PRIORITY AREAS	FOCUS AREAS
1	<b>Protection of the environment, including the human environment, through, inter alia, the reduction of pollution and the promotion of renewable energy</b>	<ul style="list-style-type: none"> <li>• Supporting biodiversity and nature reserves</li> <li>• Developing sustainable forest management</li> <li>• Protecting ground water, managing waste water, and reducing air pollution, including monitoring systems</li> <li>• Developing sustainable waste water collection and promoting recycling systems</li> <li>• Developing sustainable energy production, incl. renewable energy, geothermal energy, hydropower and energy efficiency</li> </ul>
2	<b>Human resource development through, inter alia, promotion of education and training, strengthening of administrative or public service capacities of local government or its institutions and the democratic processes that support it</b>	<ul style="list-style-type: none"> <li>• Increasing the competence and administrative capacity of central, regional and local authorities / municipalities, including the use of information technology</li> <li>• Developing cadastre through the establishment of a system as a basis for the Spatial Data Infrastructure</li> <li>• Promotion of the social dialogue</li> </ul>
3	<b>Health and childcare</b>	<ul style="list-style-type: none"> <li>• Supporting children at risk</li> <li>• Rehabilitating buildings, modernisation of equipment and managerial systems</li> <li>• Implementing preventive measures to reduce drug and alcohol abuse and promote a healthy lifestyle</li> <li>• Preventing and improving treatment of communicable diseases (HIV/AIDS and TB)</li> </ul>
4	<b>Conservation of European cultural heritage</b>	<ul style="list-style-type: none"> <li>• Preservation and rehabilitation of cultural and historic heritage</li> <li>• Use of new technologies for improved management of archaeological, historic and religious collections</li> </ul>

**SPECIFIC FORMS OF GRANT ASSISTANCE REFERRED TO IN ARTICLE 8  
OF THE MEMORANDUM OF UNDERSTANDING**

The parties have agreed on the following specific forms of grant assistance to be further developed for final approval:

**1. NGO FUND**

NGO Fund will support the strengthening of the non-governmental, non-profit organizations as an active partner in the public debate and the involvement of NGOs in the priority areas outlined in Article 6 of the Memorandum of Understanding.

**2. TECHNICAL ASSISTANCE**

The assistance will enhance the administrative capacity for the implementation of the EEA Financial Mechanism in the beneficiary state. It will support measures relating to the implementation of the EEA Financial Mechanism, such as preparation of the implementation, evaluation of projects, financial flows and monitoring, costs related to meetings of the Monitoring Committee (including cost of working groups and experts), meetings with the EFTA States related to the implementation, promotional and information activities, as well as audits, monitoring and spot checks.

**3. FUND FOR SUPPORT OF CO-OPERATION AMONG SCHOOLS/  
SCHOLARSHIPS**

A grant scheme will be developed to support co-operation programmes for training courses, lecturers and experts of secondary, high schools and universities between the relevant institutions of the Republic of Bulgaria and the EFTA States in the priority areas outlined in Article 6 of the Memorandum of Understanding.