

TRANSFER AGREEMENT

Date 01/02/2008

Between

THE CENTRAL FINANCE AND CONTRACTING UNIT represented by Minister of Finance, Mr. Ivan Šuker (hereinafter: "the CFCU" or "the Transferor", as the case may be)

and

THE CENTRAL FINANCE AND CONTRACTING AGENCY FOR THE EUROPEAN UNION PROGRAMMES AND PROJECTS represented by the temporary director of the Agency, Mrs. Vladimira Ivandić, MSc (hereinafter: "the CFCA" or "the Transferee", as the case may be)

and

THE EUROPEAN COMMUNITY
Represented by the Commission of the European Communities

PREAMBLE

- (A) On 13 February 2003, the Commission concluded with the Government of the Republic of Croatia a Memorandum of Understanding on the establishment of a Central Finance and Contracting Unit (hereafter: "the CFCU").
- (B) The CFCU is defined in the Memorandum of Understanding as an implementing body within the national administration of the Republic of Croatia to which the Commission entrusts certain tasks in the event that the latter decides to establish a decentralized implementation system for the management of the European Communities financial assistance to the Republic of Croatia.
- (C) Since the conclusion of the Memorandum of Understanding, the European Communities financial assistance provided to the Republic of Croatia during the years 2003 and 2004 under *inter alia* Council Regulation (EC) No 2666/2000 of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EC and 1999/311/EC (hereafter: "the Cards Regulation"), has been partially decentralized on a project-by-project basis with *ex ante* controls carried out by the European Commission.
- (D) The European Communities financial assistance provided to the Republic of Croatia under *inter alia* Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid for certain countries of Central and Eastern Europe (hereafter: "the Phare Regulation"), has been decentralized with *ex ante* controls carried out by the European Commission.
- (E) The European Communities financial assistance provided to the Republic of Croatia under *inter alia* Council Regulation (EEC) No 1267/1999 of 21 June 1999 establishing and instrument for Structural Policies for Pre-accession (hereafter: "the Ispa Regulation"), has been decentralized with *ex ante* controls carried out by the European Commission.
- (F) On 23 August 2007, the Government of the Republic of Croatia adopted a Regulation on the establishment of a Central Finance and Contracting Agency (hereafter: "the CFCA").
- (G) The CFCA is established to take over all the commitments, rights, obligations and responsibilities delegated to the CFCU for the management of the European Communities financial assistance programmes to the Republic of Croatia enumerated in the Annex to this Transfer Agreement.
- (H) The taking over by the CFCA of those commitments, rights, obligations and responsibilities entrusted to the CFCU shall take the form of a Transfer Agreement between the CFCU and the CFCA, in accordance with Article 14, paragraph 4, of the Regulation mentioned in paragraph (F) above, and shall be authorized by the European Commission by becoming a party thereto.

HAVE AGREED AS FOLLOWS:

1. Authorization of transfer

1.1 The European Commission hereby

- a) empowers the Transferor to authorize the transfer of the delegating powers entrusted upon it by the European Commission for the implementation of the European Communities financial assistance from the Transferor to the Transferee;
- b) empowers the Transferor to authorize the transfer of the contracts covered by the programmes which are set out in the Annex to this Transfer Agreement (hereafter: the Annex) as amended from time to time together with other contracts, agreements and documents pertaining thereto from the Transferor to the Transferee;
- c) empowers the Transferor to authorize the transfer of the grant agreements covered by the programmes which are set out in the Annex as amended from time to time together with other contracts, agreements and documents pertaining thereto from the Transferor to the Transferee;

1.2 In accordance with clause 1.1 a) above, the Transferor hereby authorizes the transfer of the delegating powers entrusted upon it by the European Commission for the implementation of the European Communities financial assistance from the Transferor to the Transferee;

1.3 In accordance with clauses 1.1 b) and c) above, the Transferor hereby authorizes the transfer of the contracts and grant agreements covered by the programmes which are set out in the Annex as amended from time to time together with other contracts, agreements and documents pertaining thereto from the Transferor to the Transferee.

2. Transfer of the delegating powers

2.1 The Transferee confirms that it has full knowledge of the delegating powers entrusted upon the Transferor by the European Commission for the implementation of the European Communities financial assistance.

2.2 With effect from the Effective Event defined in clause 8.2 of this Transfer Agreement, the Transferor hereby transfers to the Transferee and the Transferee hereby assumes all of the Transferor's commitments, rights and obligations under or in connection with the delegating powers entrusted upon it by the European Commission for the implementation of the European Communities financial assistance.

3. Transfer of the residual contracts and grant agreements

- 3.1 The Transferee confirms that it has full knowledge of the contracts and grant agreements mentioned in clause 1 above.
- 3.2 With effect from the Effective Event defined in clause 8.2 of this Transfer Agreement, the Transferor hereby transfers to the Transferee and the Transferee hereby assumes all of the Transferor's commitments, rights and obligations under or in connection with the contracts and grant agreements mentioned in clause 1 above whereby:
- a) each of the contractors and/or final grant beneficiaries, and the Transferor shall be released from further obligations towards one another under or in connection with the contracts and grant agreements mentioned in clause 1, and their respective rights against one another shall be cancelled (**Discharge Rights and Obligations**); and
 - (b) each of the contractors and/or final grant beneficiaries, and the Transferee shall assume obligations towards one another and/or acquire rights against one another under or in connection with the contracts and grant agreements mentioned in clause 1.
- 3.3 The Transferor and the Transferee shall each take such further steps and execute such further documents as may be necessary so that the Transferee may assume, to the fullest extent permitted by the relevant contracts and grant agreements mentioned in clause 1 and this Transfer Agreement, all the rights and obligations of the Transferor with respect to each contract and grant agreement mentioned in clause 1, prior to, from and after the Effective Event defined in clause 8.2 of this Transfer Agreement.

4. Liabilities

The Transferee assumes responsibilities to the European Commission for

- a) the sound management of the delegating powers transferred upon it by the Transferor for the implementation of the European Communities financial assistance;
- b) the legality, validity, effectiveness, adequacy and enforceability of the contracts and grant agreements mentioned in clause 1, or any other documents relating thereto;
- c) the performance and observance by any contractor and/or final grant beneficiary of its obligations under the contracts and grant agreements mentioned in clause 1, or any other documents relating thereto;
- d) the accuracy of any statements (whether written or oral) made in or in connection with any of the contracts and grant agreements mentioned in clause 1, or any other documents relating thereto;
- e) the financial condition of any contractor and/or final grant beneficiary.

5. Visibility

- 5.1. The Transferee must take all necessary steps to publicize the fact that the European Community has delegated implementation tasks in connection with the management of Community pre-accession assistance.
- 5.2. In particular, the Transferee shall ensure that the European Communities' financial assistance to the Republic of Croatia is mentioned in information given to local and international financial actors, as well as to candidates, tenderers and grant applicants, in its annual report and in any dealings with the media. It shall display the EC logo wherever appropriate.

6. Communication; amendments

- 6.1 Any communication in connection with this Transfer Agreement must be in writing. Each one must be signed and must be supplied as an original document or by fax.
- 6.2 Any communication in connection with this Transfer Agreement must be sent to the following addressees:

For the Transferor:

MINISTRY OF FINANCE
Attn. Mr. Ivan Šuker
Katančićeve 5
HR-10000 Zagreb, Croatia

For the Transferee:

CFCA
Attn. Mrs. Vladimira Ivandić
Katančićeve 5
HR-10000 Zagreb, Croatia

For the EC

EC DELEGATION TO CROATIA
Attn. Mr. Vincent Degert
Trg žrtava fašizma 6
HR-10000 Zagreb, Croatia

- 6.3 Any amendment to this Transfer Agreement must be in writing in accordance with clause 6.1, and it shall obtain the explicit written prior approval of the European Commission.

7. Partial invalidity and unintentional gaps

- 7.1 If a provision of this Transfer Agreement is or becomes invalid or if this Transfer Agreement contains unintentional gaps, this will not affect the validity of the other provisions of this Transfer Agreement. The Parties will replace any invalid provision by a valid provision which comes as close as possible to the purpose of and intent of the invalid provision.
- 7.2 The Parties will fill any unintentional gap by a provision which best suits the purpose and intent of this Transfer Agreement, in compliance with the Cards, Phare and Ispa Regulations and associated European Union instruments applicable to the European Communities financial assistance to candidate and potential candidate countries to accede to the European Union.

8. Interpretation

- 8.1 Subject to any express provision to the contrary in clause 8.2 or otherwise in this Transfer Agreement or unless the context otherwise requires, the terms used in this Transfer Agreement shall bear the same meaning as attributed to them in the Cards, Phare and Ispa Regulations and associated European Union instruments applicable to the European Communities financial assistance to candidate and potential candidate countries to accede to the European Union.
- 8.2 *Definitions: Effective Event:* the date in which the Memorandum of Understanding dated 13 February 2003 between the Commission and the Government of the Republic of Croatia establishing the CFCU is amended to reflect the transfer of Transferor's commitments, rights and obligations under or in connection with the delegating powers entrusted upon it by the European Commission for the implementation of the European Communities financial assistance to the Transferee.
- 8.3 Subject to any express provision to the contrary in this Transfer Agreement, references to this Transfer Agreement are references to such Transfer Agreement as amended, supplemented or replaced from time to time.
- 8.4 Headings in this Transfer Agreement have no legal significance and do not affect its interpretation

9. Annexes

The Annex shall be enclosed to this Transfer Agreement and shall be deemed an integral part thereof.

This Transfer Agreement shall be made in six copies. The Minister, the Agency and the European Commission shall each keep two copies.

Done at Zagreb on 01 February 2008

**CFCA, represented by its
TEMPORARY DIRECTOR**

**CFCU, represented by THE
MINISTER OF FINANCE**

Vladimira Ivandić, MSc

Ivan Šuker

**THE EUROPEAN COMMUNITY,
represented by
THE COMMISSION OF
THE EUROPEAN COMMUNITIES**

Vincent Degert
HEAD OF EC DELEGATION
TO CROATIA

ANNEX

EUROPEAN COMMUNITIES FINANCIAL ASSISTANCE PROGRAMMES TO THE REPUBLIC OF CROATIA

No:	Title	Code
1.	CARDS 2002 Annual Action Programme	073-277
2.	CARDS 2003 Annual Action Programme	117-242
3.	CARDS 2004 Annual Action Programme	116-792
4.	CROATIA 2005 PHARE National Programme	PHARE/2005/017-655
5.	CROATIA 2006 PHARE National Programme	PHARE/2005/018-113
6.	Programme for Community support in the field of Nuclear Safety for Croatia	2005/17-519.02
7.	Programme for Community support in the field of Nuclear Safety for Croatia	2006/018-411.02
8.	Cross-Border Co-operation between Croatia, Slovenia and Hungary, PHARE CBC/INTERREG IIIA – Neighbourhood Programme	PHARE/2005/017-633
9.	Adriatic Cross-Border Co-operation between Croatia and Italy, PHARE CBC / INTERREG IIIA – Adriatic New Neighbourhood Programme (ANNP)	PHARE/2005/017-634
10.	Cross-Border Co-operation between Croatia, Slovenia and Hungary, PHARE CBC/INTERREG IIIA – Neighbourhood Programme	PHARE/2006/017-971
11.	Adriatic Cross-Border Co-operation between Croatia and Italy, PHARE CBC / INTERREG IIIA – Adriatic New Neighbourhood Programme (ANNP)	PHARE/2006/017-972
12.	Karlovac Water and Waste Water Programme	2005 HR 16 P PE 001
13.	Vinkovci to Tovarnik to State Border Railway Rehabilitation	2005/HR/16/P/PT/001
14.	Bikarac Regional Waste Management Centre	2005 HR 16 P PE 003
15.	IPA Project Pipeline Preparation (Environment)	2005/HR/16/P/PA/003
16.	IPA Project Pipeline Preparation (Transport)	2005/HR/16/P/PA/002
17.	Support to the CFCU and NIC	2005/HR/16/P/PA/001