

FINANCING AGREEMENT¹

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 Agreement. 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 between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this Agreement 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:

Programme number: **BG 2005/017-682**

Title: **Phare Special Programme to Support the Decommissioning of Nuclear Power Plants and Consequential Measures in the Energy Sector in Bulgaria in 2005**

Duration: **Until 31 December 2006**

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of **50 M€** hereinafter referred to as "**THE EC GRANT**".

¹ The Financing Agreement structure is as follows : 1. the cover pages with the references to the country concerned, amount and authority to sign, 2. Framework Agreement incl. Annex A and Annex B; Annex C – Special Conditions (the text of the adopted financing proposal starting from **Description and Objectives** onwards; and Annex D 'Visibility/Publicity).

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until **31 December 2006**, for the conclusion of the Contribution Agreement with the EBRD, subject to the provisions of this Agreement.

The deadline for execution of contracts of THE EC GRANT is **30 November 2011**. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the contract execution period, should this be requested in due time and properly justified by THE RECIPIENT. Disbursements of funds may continue for up to 12 months after the deadline for the execution of contracts to meet liabilities properly incurred through the execution of the contracts entered into under this programme. This Financing Agreement shall expire once those disbursements have been completed. All the funds which have not been disbursed by that time shall then 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

9 Moskovska Str
PO Box 668
BG-1000 Sofia
Bulgaria

Tel: (+359 2) 933 5252
Fax: (+359 2) 933 5233

for THE RECIPIENT:

Mr Lyubomir Datzov

Deputy Minister of Finance
102 Rakovski St
BG-1040 Sofia
Bulgaria

ARTICLE 5 - NUMBER OF ORIGINALS

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

ARTICLE 6 - ENTRY INTO FORCE

This Agreement 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 Agreement.

Done at
Date

Done at
Date

for THE RECIPIENT

for THE COMMUNITY

Encl.

1. Framework Agreement (incl. Annexes A & B)
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)

ANNEX C TO THE FINANCING AGREEMENT

Phare Special Programme to support the decommissioning of nuclear power plants and consequential measures in the energy sector in Bulgaria in 2005

1. OBJECTIVES AND DESCRIPTION

1.1 General objectives

The overall objective of the ‘Special Programme’ is to assist Bulgaria’s preparation for membership of the EU in relation to the nuclear and energy sectors, especially by facilitating the preparation and implementation of Bulgaria’s early closure decision of the designated units and the short-term priorities of the Accession Partnership in these areas. This assistance is used to finance a range of projects in relation to the decommissioning process and the energy sector.

This is achieved through support to the decommissioning of the units 1 to 4 at the Kozloduy Nuclear Power Plant (KNPP), and measures required for the necessary restructuring, upgrading and modernisation of the energy production, transmission and distribution sectors, and improving energy efficiency.

The ‘Special Programme’ contributes to the international efforts to share the financial implications of early closure with the Bulgarian authorities.

1.2 Specific objectives

The purpose of the Fund is to finance or co-finance, through specific grants, two main areas of work:

- (i) the “nuclear window”: decommissioning activities concerning the units 1 to 4 of the KNPP;
- (ii) the “non-nuclear window”: measures which are consequential to the decision taken to close and decommission the units 1 to 4 and which would assist the necessary restructuring, upgrading and modernisation of the energy production, transmission and distribution sectors as well as to improve energy efficiency.

This assistance covers the provision of supply, works and services.

1.3 Kozloduy International Decommissioning Support Fund

The Kozloduy International Decommissioning Support Fund was established by the EBRD’s Board of Directors’ approval on 12 June 2000. It is governed by the Assembly of Contributors providing strategic guidance, in a manner compatible with the rules.

The EBRD, as Fund Manager, provides technical, project management, financial, legal and administrative services. Project financing is conditional upon the Assembly of Contributors

being satisfied that Bulgaria is in compliance with its closure commitments. Any member of the EBRD and any interested country may contribute to the Fund. Several countries have pooled their contributions. The minimum individual initial contribution is € 1.5 million. Contributions may be earmarked for one of the purposes of the Fund but not for specific projects.

The EBRD's procurement policies and rules apply to the use of funds with the general rule that procurement is limited to the countries of the contributors or the countries of operations of the EBRD. The Fund remains in force for a period of ten years unless terminated earlier by a decision of the Assembly. The Assembly may also extend the Fund for an additional period, if required to complete the objectives of the Fund.

On 15 June 2001, the Kozloduy International Decommissioning Support Fund held its first Assembly of Contributors to kick off the Fund's activities. A Framework Grant Agreement was signed in June 2001 between the EBRD and the Republic of Bulgaria and the work plan and first budget were endorsed. The Bulgarian Parliament ratified the framework agreement in March 2002. With numbers increasing, currently 10 Contributors support the fund, mainly Member States of the European Union as well as other European States. As the representative of the European Community, the largest contributor to the Fund, the European Commission chairs the Assembly of Contributors. Since 2001, the Assembly has met twice per year.

1.4 Activities of the Fund

1.4.1 "Nuclear window"

The implementation of the projects within the Initial Decommissioning Investment package is progressing well. Physical protection projects (n°3) were completed and closed out at the end of 2004. All other projects, with the exception of Project 5, are on schedule for completion between December 2005 and June 2006.

A very important milestone was achieved when Kozloduy NPP requested the Project Management Unit consortium (PMU) to submit a proposal for the update of the existing decommissioning strategy and identification of the resulting project pipeline. The update of the strategy will complement the "Technical Design for Decommissioning" developed by Belgatom/EWN/Energoproject and financed by the EC PHARE programme. The emphasis, inter alia, will be on dismantling, economical separation of the decommissioned part of the plant from operation, the shutdown and decommissioning of Units 3 and 4 and the management of the radioactive backlog, accumulated at the decommissioned part of the site.

An independent expert review of the draft update of the strategy and associated projects is planned for November 2005.

List of projects

<p><i>Project 1: Design and Implementation of the Dry Spent Fuel Storage Facility (DSFSF)</i></p>	<p>Completion date: 9 January 2009. The reactors of Units 1 and 2 have been offloaded since January 2003. The transportation of the fuel assemblies can start as scheduled and the first offload from the spent fuel pools of reactor units 1-2 to the Wet Storage Facility will be completed by the end of this year</p>
<p><i>Project 2: Facility for Cleaning and Conditioning of Liquid Radioactive Waste of Low Activity</i></p>	<p>Completion date: 1 January 2006</p>
<p><i>Project 3: Physical Separation of the decommissioning and Changes in the Organisation of Access Regime of the Plant</i></p>	<p>Project completed in compliance with the project schedule by the end of 2004</p>
<p><i>Project 4: Facility for decontamination of Pools, Tanks of Large Volume and Cleaning the Water</i></p>	<p>Completion date: 1 December 2005. The main parts (cleaning pump equipment, underwater monitoring device) have already been manufactured. The manufacturing of shielded containers for transportation and disposal of highly active sludge wastes started in May.</p>
<p><i>Project 5: Facility for Conditioning of Solid Radioactive Waste and Ion Exchange Resins with High Volume Reduction Factor</i></p>	<p><i>Project 5a - Retrieval and Conditioning of on Ion Exchange Resins:</i> More than 300 m³ of Ion Exchange Resins (IER) of low and intermediate level radioactivity are stored. These resins have partly become solidified and the removal requires special devices.</p> <p><i>Project 5b - Conditioning for Solid Radioactive Waste with High Volume Reduction Factor:</i> The implementation strategy has been agreed. Kozloduy NPP is considering a site location within an existing KNPP building, which may simplify the process and reduce the costs.</p>
<p><i>Project 6: Facility for Free Release Measurement</i></p>	<p><i>Project 6a – Measurement Facility</i> The technical design was approved. Completion date: 1 February 2006.</p> <p><i>Project 6b – Alpha – beta – gamma surface measurement device</i> This device will take samples from the surface of equipment, to be analysed in laboratory before release. Completion date of the project : 1 April 2006.</p>
<p><i>Project 7: Facility for Personnel Redressing and Decontamination</i></p>	<p>The Radiation Protection design approach was approved.</p>

It has to be noted that the PMU will update the existing decommissioning strategy and will prepare Project Identification Sheets for new decommissioning projects. The completion of this mission is scheduled for end October 2005.

In this regard, the “nuclear” window will be focused in 2005-2006 on:

- Implementing the projects within the Initial Decommissioning Investment Package;
- Updating the Existing Decommissioning Strategy;
- Preparing Project Identification Sheets for new decommissioning projects.

1.4.2 “Non-nuclear window”

KIDSF supports energy efficiency and renewable energy projects in Bulgaria in three forms:

(a) pure grant financing: assistance in pilot projects for demonstrating the potential of the country in a specific field (replacement of electricity metering devices; implementation of energy efficiency measures in public buildings);

(b) co-financing: assistance in large rehabilitation projects, where the Bulgarian Government considers the project would have not taken place without KIDSF grant support (Sofia District Heating with EBRD; Pernik District Heating Rehabilitation);

(c) blended financing: where the Bulgarian Government believes that the grant assists through incentives to overcome those barriers, which would otherwise prevent the programme from starting (EBRD energy efficiency credit line facility; EBRD residential energy efficiency credit line facility).

Projects in the energy and energy efficiency sector have been developed with good results. A conservative projection is that KIDSF grants of approximately €80 million would generate energy savings equivalent to more than 250 MW of generating capacity, as well as a substantial reduction in the emission of pollutants.

Three credit line facilities have been settled covering widely the needs of the Bulgarian “customers” :

- The Bulgarian Energy Efficiency and Renewable Energy Credit Line (BEERECL) targeted on the private sector (SMEs);
- The energy efficiency measures in municipalities aiming at improving 36 selected public buildings (hospitals, schools);
- The Residential Energy Efficiency Credit Line Facility providing support for the households.

List of projects:

<p><i>Project 1. Bulgaria Energy Efficiency and Renewable Energy Credit Line Facility (BEERECL)</i></p>	<p>There are 15 projects under implementation within the credit line facility and 5 projects have already been completed. The balance between the energy efficiency and renewable energy project is 50%/50%. 29 energy efficiency and 42 renewable energy projects are under preparation as 1st July 2005. The value of the project pipeline amounted to €100 million. The success of the facility has lead to grant an additional allocation.</p>
<p><i>Project 2. Pilot Project -For improvements of demand side energy efficiency in Public Buildings</i></p>	<p>The main areas of improvement within the 36 public buildings (hospitals and schools) are specified as replacement of windows, insulation repair, roof and wall insulation, rehabilitation of the boilers, plant and substations of the buildings, rehabilitation radiators and piping, rehabilitation of air conditioning and ventilation.</p>
<p><i>Project 3. Rehabilitation of District Heating System Pernik</i></p>	<p>Rehabilitation of the heat transmission network, installation and commissioning of the electric precipitator and systems for monitoring of the flue-gases (both financed by WB loan), rehabilitation of Steam Generator.</p>
<p><i>Project 4. Pilot Project - Residential Energy Efficiency Credit Line Facility</i></p>	<p>As the Facility is now ready for operation, loan agreements with Bulgarian banks are signed or are to be signed shortly.</p>
<p><i>Project 5. Pilot Project – EIB Global Loan Facility</i></p>	<p>This facility which supports energy efficiency improvements within the municipalities more widely than in the project N°2, should be presented to the Assembly in December 2005.</p>
<p><i>Project 6. Contribution of the KIDSF to the Sofia District Heating Rehabilitation project</i></p>	<p>The negotiations between the Ministry of Energy and Energy Resources (MEER) and Toplofikacia Sofia on the management contract have not yet been finalised. Due to this, disbursements for the project have been suspended.</p>
<p><i>Project 7. Implementation Plan and Management of the Energy Efficiency Strategy</i></p>	<p>The task of the Project Preparation Unit is the preparation of the Strategy Implementation Plan (SIP).</p>

The non-nuclear window will continue to contribute to the National strategies recently adopted :

- The National long term EE programme for the period 2005-2015 adopted by the Council of Ministers in July 2005

- The National short term EE programme adopted by the Council of Ministers in September 2005.

Overall programme conditionalities

The granting and disbursement of assistance under the ‘Special Programme’ will be strictly parallel with a timely process of preparation and implementation of the definitive closures of the four designated units of the KNPP in line with the commitments taken by Bulgaria. Clear provisions to this end have also been included in the Fund rules stating that financing will be conditional upon the Assembly being satisfied that the recipient country is in compliance with its closure commitment.

2. BUDGET (IN €MILLION)

2.1. Budget table

Objective	Phare Funding			IFI	Total
	Institution Building (IB)	INV	Phare Total I+IB		
Kozloduy International Decommissioning Support Fund²	0	50	50		50
TOTAL	0	50	50		50

A first contribution of **€25 million** to the ‘Kozloduy International Decommissioning Support Fund’ (KIDSF) had been decided in the year 2000. An institution building project of € 1.85 million to provide support to the Bulgarian nuclear safety regulator in relation to decommissioning work was also provided for.

A further contribution of **€70 million** to the KIDSF was decided in the year 2001.

No contribution was decided in 2002, pending decision of the Bulgarian Government on the early closure of Units 3 and 4.

A further contribution of **€ 60 million** to the ‘Kozloduy International Decommissioning Support Fund’ was decided in the year 2003. An institution building project of €1.9 million to provide support to the Bulgarian nuclear safety regulator in relation to decommissioning work was also provided for.

Finally, a contribution of **€85 million** has been granted for the year 2004.

The financial contribution provided over the period 2000-2005 is :

(in €M)	2000	2001	2002	2003	2004	2005 *	Total
Contribution to KIDSF	25	70	0	60 (+1.9 IB)	85	50	€290M (IB not

² Note that as a payment to the EBRD this is neither IB nor investment as understood by Phare.

	(+ 1.85 IB)						<i>included</i>
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* *provisional*

The Phare Financial package and contributions over the years 2000-2009 is the following:

Pre-accession (2000-2003)	€155 million	Understanding of 1999. Phare Special Programme	€155 million committed.
Additional pre-accession (2004-2006):	€185 million	To be supported by Phare	€85 million committed
Post-accession	€210 million	Included in the financial package	2007: €70 million 2008: €70 million 2009: €70 million
TOTAL	€550 million		

Linked activities

In preceding years, Phare financial assistance has supported the elaboration of decommissioning study for units 1&2 and has provided support for safety programmes in the Kozloduy nuclear power plant and for strengthening of the Nuclear Regulatory Authority.

In the non-nuclear field, Phare support has been directed towards supporting the Bulgarian authorities in their reform of the energy sector, in particular preparation to the energy internal market of gas and electricity and strengthening of the national energy regulator.

At the occasion of the Conference on Accession to the European Union of 18 November 2002, the EU took note of Bulgaria's statement that it expects that the Community will continue to provide financial assistance in support of the closure and decommissioning of certain units of the KNPP and is ready to consider this matter. Within this context, the European Commission and Bulgaria have set up a working group on the consequences and needs, as far as economic, environmental and social aspects are concerned, resulting from the early closure. A specific study, made by independent experts contracted by the European Commission, was completed in this respect in May 2004.

2.2. Co-Financing

The co-financing practice regarding the special decommissioning support programmes is based on the Commission Decision of 6 September 2002, C(2002)3303-2, on the "Review of the Guidelines for Implementation of the Phare Programme in Candidate Countries for the Period 2000-2006 in application of Article 8 of Regulation 3906/89", which specifies that programmes related to nuclear issues are governed by a special regime. Hence the principles governing the Commission's policy on co-financing Community-supported investment projects are not being applied to the Special Programmes.

3. IMPLEMENTING AGENCIES

The funds allocated to support activities in Bulgaria will be made available by means of the “Kozloduy International Decommissioning Support Fund”.

4. IMPLEMENTATION ARRANGEMENTS

The appropriations for the “Kozloduy International Decommissioning Support Fund” will be implemented in joint management with the European Bank for Reconstruction and Development (EBRD), in accordance with the Article 53.1.c of the Financial Regulation applicable to the general budget of the European Communities (Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002). To this end, the Commission will conclude a grant agreement with the EBRD (“Contribution Agreement”).

The EBRD has been appointed Manager of the Fund and entrusted with a number of implementation tasks. These tasks are laid out in the “Rules of the Kozloduy International Decommissioning Support Fund”. They ensure that the Commission takes part in the selection of projects and the ensuing funding decisions through its representation in the governing body of the fund (“Assembly of Contributors”). The Rules also establish, amongst other things, the Fund Manager’s general obligations with regard to administrative and operational support and reporting to the contributors.

Rules on the eligibility of contractors from European Union Member States and Partner States shall be respected.

Phare contributions to the Fund will be disbursed in batches in line with the relevant provisions of the “Contribution Agreement”.

5. MANAGEMENT OF ASSISTANCE

5.1. Deadline for contracting and execution of contracts, programming deadline

The “Contribution Agreement” must be concluded by 31 December 2006. The execution of contracts procured by the Kozloduy International Decommissioning Support Fund must be concluded by 30 November 2011.

5.2. Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive³ are fully applicable for all investment projects under Phare. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive. If a project would fall within the scope of annex 1 or annex 2 of the EIA-directive, the carrying out of the EIA-procedure must be documented⁴.

³ DIR 85/337/EEC; OJ L 175/40; 5.7.1985, as amended

⁴ in Annex EIA to the corresponding investment project fiche.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-directive must be documented⁵.

All investments shall be carried out in compliance with the relevant community environmental legislation. The project fiches will contain specific clauses on compliance with the relevant EU-legislation in the field of the environment according to the type of activity carried out under each investment project.

6. MONITORING AND EVALUATION

The EBRD will prepare reports and technical documentation, including an Annual Report, as required, on the operation of the Fund. These reports will provide a comprehensive overview of the implementation of the Fund's work programme (approved by the Assembly of Contributors) including its relation to compliance with closure commitments, the conditionalities set out in the project grant agreements, the administration of specific projects and eventual problems of relevance to the programme.

7. AUDIT, FINANCIAL CONTROL, ANTI-FRAUD MEASURES, PREVENTIVE AND CORRECTIVE ACTIONS

Internal and external auditors of the EBRD shall audit the financial statements of the Fund. A Contribution Agreement has been signed and further specifies audit requirements in accordance with the European Commission's general provisions and in line with the practice established for similar fund arrangements with the EBRD.

7.1. Supervision and Financial Control by the Commission and the European Court of Auditors

All Financing Memoranda as well as all resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-Fraud Office) and audits by the European Court of Auditors. As long as EDIS is not yet applicable to the Implementing Agencies in the Beneficiary Country, this includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Beneficiary Country.

In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96⁶.

The controls and audits described above are applicable to all contractors and subcontractors who have received Community funds.

Without prejudice to the responsibilities of the Commission and the European Court of Auditors⁷, the accounts and operations of the National Fund and, where applicable, the CFCU

⁵ in Annex Nature Conservation to the corresponding investment project fiche

⁶ Council Regulation (EC, Euratom) 2185/96 of 11. November 1996, OJ L 292; 15.11.1996; p. 2

⁷ as referred to in the General Conditions relating to the Financing Memorandum" attached to the Framework Agreement

and all relevant Implementing Agencies may be checked at the Commission's discretion by the Commission itself or by an outside auditor contracted by the Commission.

7.2. Obligations of the Beneficiary Country

7.2.1 Audit and Financial Control

In order to ensure sound financial management of the Phare funds, the Beneficiary Country must have a system for management and control of assistance in accordance with generally accepted principles and standards in place. This system shall fulfil the requirements set out in Art. 164 of the Financial Regulation, and in particular provide adequate assurance of the correctness, regularity and eligibility of claims on Community assistance.

The Beneficiary Country's management and control systems shall provide a sufficient audit trail, as defined in Art. 7 (2) of Commission Regulation 438/2001⁸.

The competent national financial control authority shall carry out appropriate financial controls of all actors involved in the implementation of the programme.

Each year an audit plan and a summary of the findings and main recommendations of the audits carried out and an outline of the follow-up given to past audit recommendations shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

7.2.2 Preventive Measures

The Beneficiary Country shall take any appropriate measure to prevent and counter active and passive corruption⁹ practises at any stage of the procurement procedure or grant award procedure, as well as during the implementation of corresponding contracts.

7.2.3 Anti-Fraud Measures and Corrective Actions

Beneficiary Countries shall, in the first instance, bear the responsibility to ensure investigation and satisfactory treatment of suspected or actual cases of fraud and irregularities following national or Community controls.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94¹⁰.

In particular, all suspected or actual cases of fraud¹¹ and irregularity¹² as well as all measures related thereto taken by the national authority must be reported to the Commission services

⁸ Commission Regulation (EC, Euratom) 438/2001 of 2 March 2001, OJ L 63; 3.3.2001, p.21

⁹ Active corruption is defined as the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Communities' financial interests.

Passive corruption is defined as the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Communities' financial interests.

¹⁰ Commission Regulation (EC) 1681/94 of 11. July 1994; 12.7.94; p. 43

¹¹ Fraud shall mean any intentional act or omission relating to: the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European

without delay. Should there be no suspected or actual cases of fraud or irregularity to report, the Beneficiary Country shall inform the Commission of this fact within two months following the end of each quarter.

In case of irregularity or fraud, the Beneficiary Country shall make the necessary financial corrections required in connection with the individual irregularity. The corrections made by the Beneficiary Country shall consist in cancelling all or part of the Community contribution. The Community funds released in this way may be re-used by the NF for the purpose of the programme, in compliance with Art. 5 of the MoU on the National Fund.

7.3. Recovery of Funds in Case of Irregularity or Fraud

Any proven irregularity¹³ or fraud¹⁴ discovered at any time during the implementation of the programme or as the result of an audit will lead to the recovery of funds by the Commission.

If, after completing the necessary verifications, the Commission concludes that:

- (a) the Beneficiary Country has not complied with the obligations to prevent, detect, and correct irregularities or
- (b) the implementation of a project appears not to justify either part or the whole of the assistance allocated or
- (c) there are serious failings in the management or control systems which could lead to irregularities,

the Commission may suspend further financing of the programme in question, and, stating its reasons, request that the Beneficiary Country submit comments and, where appropriate, carry out any corrections within a specified period of time.

If no agreement is reached by the end of the period set by the Commission and if the required corrections have not been made, the Commission may – taking into account any comments made by the Beneficiary Country – decide within three months to:

- (a) reduce or cancel any payment for the programme in question, or
- (b) make the financial corrections required by cancelling all or part of the assistance granted to the programme concerned.

The Commission shall, when deciding on the amount of a correction, take into account the principle of proportionality, the type of irregularity and the extent and financial implications of the shortcomings found in the management and control system of the Beneficiary Country.

Communities; non disclosure of information in violation of a specific obligation with the same effect; the misapplication of such funds for purposes other than those for which they are originally granted.

¹² Irregularity shall mean any infringement of a provision of national or Community law, this Financing Memorandum or ensuing contracts, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, by an unjustified item of expenditure. The term “Community law” in this context shall be defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (e.g. the Europe Agreements, Framework Agreements, the MoU on the Establishment of the National Fund etc.)

¹³ see definition above

¹⁴ see definition above

In the absence of a decision to do either (a) or (b), further financing of the programme shall immediately resume.

The National Authorising Officer will ensure the reimbursement of any unused funds or any sum wrongly paid within sixty calendar days of the date of the notification. If the NAO does not repay the amount due to the Community, the Beneficiary Country shall refund this amount to the Commission.

Interest on account of late payment shall be charged on sums not repaid by applying the rules specified in the Financial Regulation.

8. VISIBILITY AND PUBLICITY

The EBRD will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all KIDSF - related activities financed from the programme. This will be done in close liaison with the Commission. The Fund Rules ensure that the necessary measures are taken to ensure appropriate publicity for the EU for all activities that it finances.

9. 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 objectives of the Phare programme.