

MEMORANDUM OF UNDERSTANDING

between the European Community and Romania

on the participation of Romania in the Culture 2000 programme in 2005 and 2006

THE COMMISSION OF THE EUROPEAN COMMUNITIES, hereinafter referred to as "the Commission", on behalf of the European Community,

of the one part, and

THE GOVERNMENT OF ROMANIA,

of the other part,

Whereas:

- (1) Decision No 1/2002 of the EU-Romania Association Council of 18 February 2002¹ establishes the general principles for the participation of Romania in Community programmes, leaving the Commission and the competent authorities of Romania to determine the specific terms and conditions, including financial contribution, with regard to such participation in each particular programme.
- (2) The Culture 2000 programme was established by Decision No 508/2000/EC of the European Parliament and of the Council of 14 February 2000², and was extended for two years until 31 December 2006 by Decision No 626/2004/EC of the European Parliament and of the Council of 31 March 2004³.
- (3) Romania participated in the Culture 2000 programme from 1 January 2001 to 31 December 2004 according to the terms and conditions set out in Decision No 6/2001 of the EU-Romania Association Council of 17 October 2001⁴,

HAVE AGREED AS FOLLOWS:

Article 1

Romania shall participate in 2005 and 2006 in the Culture 2000 programme (hereinafter called « the Programme »), in accordance with the conditions laid down in Decision No 1/2002 of the EU-Romania Association Council of 18 February 2002 establishing the general principles for the participation of Romania in Community programmes, and under the terms and conditions set out in the Annexes I, II and III of this Memorandum of Understanding.

¹ OJ L 91, 6.4.2002, p.20

² OJ L 63, 10.3.2000, p.1

³ OJ L 99, 3.4.2004, p.3

⁴ OJ L 304, 21.11.2001, p.17

Article 2

This Memorandum of Understanding shall apply for the duration of the Programme as extended by Decision No 626/2004/EC of the European Parliament and of the Council of 31 March 2004, starting from 1 January 2005. Nevertheless, should the European Community decide to extend again the duration without any substantial change within the Programme, this Memorandum would also be extended correspondingly and automatically if no party denounces it.

Annexes I, II and III form an integral part of this Memorandum of Understanding.

This Memorandum of Understanding may only be amended in writing by common consent of the parties.

This Memorandum of Understanding shall take effect from 1 January 2005.

Done at Brussels

Done at Brussels

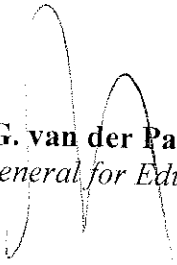
on 4 April 2005

on 4 April 2005

For the Government of Romania

*For the Commission,
on behalf of the European Community,*


Lazar Comanescu
*Ambassador, Head of the Mission of
Romania to the European Union*


Nikolaus G. van der Pas
Director General for Education and Culture

ANNEX I

Terms and conditions for the participation of Romania in the Culture 2000 programme

- (1) Romania will participate in the activities of the Culture 2000 programme (hereinafter called "the Programme") in conformity, unless otherwise provided in this Memorandum of Understanding, with the objectives, criteria, procedures and deadlines as defined in Decision No 508/2000/EC of the European Parliament and of the Council of 14 February 2000 establishing this Community programme.
- (2) To participate in the Programme, Romania will pay each year a contribution to the general budget of the European Union according to the modalities described in Annex II. If necessary in order to take into account Programme developments, or the evolution of Romania's absorption capacity, this contribution may be adapted in writing by common consent of the parties, so as to avoid budgetary imbalance in the implementation of the Programme.
- (3) The terms and conditions for the submission, assessment and selection of applications related to eligible institutions, organisations and individuals of Romania will be the same as those applicable to eligible institutions, organisations and individuals of the Community. Romanian experts may be taken into consideration by the Commission when appointing independent experts according to the relevant provisions of the decision establishing the Programme to assist it in the project evaluation.
- (4) With a view to ensure the Community dimension of the Programme, to be eligible for Community financial support, cooperation projects will have to include at least a partner from one of the Member States of the Community.
- (5) The maximum amount of financial support for the activities of the Cultural Contact Point will not exceed 50 % of the total budget for its activities.
- (6) Without prejudice to the responsibilities of the Commission of the European Communities and the Court of Auditors of the European Communities in relation to the monitoring and evaluation of the Programme, the participation of Romania in the Programme shall be continuously monitored on a partnership basis involving the Commission of the European Communities and Romania. Romania shall submit to the Commission relevant reports and take part in other specific activities provided for by the Community in that context.

The rules concerning financial control, recovery and other antifraud measures are laid down in Annex III
- (7) The language to be used in all sorts of contacts with the Commission, as regards the application process, contracts, reports to be submitted and other administrative arrangements for the Programme, will be one of the official languages of the Community.
- (8) The Community and Romania may terminate activities under this Memorandum of Understanding at any time upon twelve months' notice in writing. Projects and

activities in progress at the time of termination shall continue until their completion under the conditions laid down in this Memorandum of Understanding.

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ANNEX II**Financial contribution of Romania to "Culture 2000"**

- (1) The annual financial contribution to be paid by Romania to the budget of the European Union to participate in the "Culture 2000" programme will be € 709 536.
- (2) Romania will pay the contribution mentioned above, partly from Romania's State budget, and partly from Romania's PHARE National Programme, subject to PHARE annual programming procedures. The requested PHARE funds will be transferred to Romania each year according to a Phare Financing Memorandum. Together with the part coming from Romania's State budget, these funds will constitute Romania's national contribution, out of which it will make payments in response to annual calls for funds from the Commission.
- (3) The provisional schedule concerning the PHARE funds is the following (in €):

Year 2005 (Phare National Programme 2004)	Year 2006 (Phare National Programme 2005)
318 000	317 540

Should these indicative amounts not be confirmed in the Phare annual programming procedure, the national budget will cover the difference between the total financial contribution indicated in point 1 above and the Phare support available.

- (4) The financial regulation applicable to the general budget of the European Union will apply, notably to the management of the contribution of Romania.
- Travel costs and subsistence costs incurred by representatives and experts of Romania for the purposes of taking part as observers in the work of the committee referred to in Article 5 of Decision No 508/2000/EC of the European Parliament and of the Council of 14 February 2000 or other meetings related to the implementation of the Programme shall be reimbursed by the Commission on the same basis as and in accordance with the procedures currently in force for nongovernmental experts of the Member States of the European Union.
- (5) After the entry into force of this Memorandum of Understanding and at the beginning of each following year, the Commission will send to Romania a call for funds corresponding to its contribution to the budget of the programme under this Memorandum of Understanding.

This contribution shall be expressed in Euros and paid into an Euro bank account of the Commission.

Romania will pay its contribution by 1 May, provided that the call for funds is sent by the Commission before 1 April, or at the latest one month after the call for funds is sent if later.

Any delay in the payment of the contribution shall give rise to the payment of interest by Romania on the outstanding amount from the due date. The interest rate

corresponds to the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Communities, in force on the first calendar day of the month in which the due date falls, increased by 3.5 percentage points.

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ANNEX III
Financial control, Recovery and other Antifraud measures

I. CONTROLS AND ANTIFRAUD MEASURES BY THE COMMUNITY

- (1) In accordance with Regulations (EC, Euratom) No 1605/2002 of 25 June 2002 and (EC, Euratom) No 2342/2002 of 23 December 2002 and with the other rules referred to in this Memorandum of Understanding, the contracts concluded with beneficiaries of the programmes established in Romania shall provide for financial or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by Commission agents or by other persons mandated by the Commission.
- (2) Commission agents and other persons mandated by the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts concluded to implement the instruments referred to in this Memorandum. The European Court of Auditors shall have the same rights as the Commission.
- (3) Within the framework of this Memorandum, the Commission/OLAF (the European Anti Fraud Office) shall be authorised to carry out on-the-spot checks and inspections on Romania's territory, in accordance with the procedural provisions of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996.

These checks and inspections shall be prepared and conducted in close collaboration with the competent Romanian authorities designated by the Romanian authorities, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help.

If the Romanian authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly with them.

Where the participants in the programmes resist an on-the-spot check or inspection, the Romanian authorities, acting in accordance with national rules, shall give Commission/OLAF inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

Commission/OLAF shall report as soon as possible to the Romanian authorities any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event Commission/OLAF shall be required to inform the above-mentioned authority of the result of such checks and inspections.

II. INFORMATION AND CONSULTATION

- (1) For the purposes of proper implementation of this Annex, the competent Romanian and Community authorities shall regularly exchange information and, at the request of one of the Parties, shall conduct consultations.
- (2) The competent Romanian authorities shall inform the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts concluded in application of the instruments referred to in this Memorandum.

III. ADMINISTRATIVE MEASURES AND PENALTIES

Without prejudice to application of Romanian criminal law, administrative measures and penalties may be imposed by the Commission in accordance with Regulations (EC, Euratom) No 1605/2002 of 25 June 2002 and (EC, Euratom) No 2342/2002 of 23 December 2002.

IV. RECOVERY

Decisions taken by the Commission within the scope of this Memorandum which impose a pecuniary obligation on persons other than States shall be enforceable in Romania. The enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of Romania shall designate for this purpose and shall make known to the Commission. When these formalities have been completed on application by the Commission, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority. The legality of the Commission decision shall be subject to control by the Court of Justice of the European Communities.

Judgments given by the Court of Justice of the European Communities pursuant to an arbitration clause in a contract within the scope of this Memorandum shall be enforceable on the same terms.

V. DIRECT COMMUNICATION

The Commission shall communicate directly with the participants in the Culture 2000 programme established in Romania and with their subcontractors. They may submit directly to the Commission all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Memorandum and of the contracts concluded to implement them.

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