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

between

THE GOVERNMENTS OF:

ICELAND,

THE PRINCIPALITY OF LIECHTENSTEIN,

THE KINGDOM OF NORWAY,

hereinafter referred to as the "EFTA States"

and

THE GOVERNMENT OF ROMANIA,

hereinafter referred to as the "Beneficiary State"

together hereinafter referred to as the "Parties"

(as amended on 27 January 2012)

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 will be 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"):

Artide 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.

Artide 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.

Artide 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 \in 50,500,000 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.

Artide 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 Mechanisms 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.

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.

Artide 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.

Artide 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.

Artide 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.

Artide 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.

Artide 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.

Artide 10

(Coordination)

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

Artide 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.

Artide 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 the last signature.

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

Signed in Brussels on 25 October 2007

Signed in Brussels on 5 November 2007

For the Government of Iceland

For the Government of Romania

For the Government of the Principality of Liechtenstein

For the Government of the Kingdom of Norway

<u>ANNEX A</u>

ROMANIA'S MANAGERIAL SET-UP FOR THE IMPLEMENTATION OF THE EEA FINANCIAL MECHANISM

1. THE NATIONAL FOCAL POINT (NFP)

The EEA Assistance Directorate within the Ministry of European Affaires will act as the National Focal Point (NFP) for the EEA Financial Mechanism. While the National Focal Point retains the overall responsibility for the management of the EEA Financial Mechanism's activities in the Beneficiary State, certain functions of the NFP are delegated to the Ministry of Public Finance, according to the division of responsibilities described below under Section 2.

The National Focal Point has the overall responsibility for managing the activities of the EEA Financial Mechanism in Romania in accordance with this Memorandum of Understanding and the Rules and Procedures adopted by the Financial Mechanism Committee.

Additional responsibilities of the NFP include, but are not limited to, the following:

- have overall responsibility for reaching the EEA Financial Mechanisms' objectives and the use of funds, financial control and audit,
- collect project proposals and submit them with justified opinion to the Financial Mechanism Office (FMO),
- manage financial flows and proof of expenditures according to Grant Agreements,
- ensure the refund of unused or unduly paid funds to the EEA Financial Mechanism,
- ensure a reporting mechanism for irregularities,
- draw up annual reports for submission to the FMO,
- ensure complete and sufficient audit trails in relevant institutions,
- ensure information and publicity on availability of funds.

The roles of the NFP, the Monitoring Committee and the structures within the Ministry of Public Finance are described below and will also be elaborated in the Grant Agreements between the Financial Mechanism Committee and the NFP.

2. DIVISION OF RESPONSIBILITIES

The administrative structure is based on the structure set up for previous EU programmes (Phare / Transition Facility) as well as the Structural and Cohesion Funds. It is made up of the following bodies:

The EEA Assistance Directorate (EAD), which is set up within the Ministry of European Affaires under the direction of the Secretary of State responsible for the national coordination of EU funds (National Aid Coordinator). The EAD has been created by Government Decision no. 1151/2011 in order to undertake the

responsibilities of National Focal Point for the EEA/Norwegian Financial Mechanisms 2009-2014.

The Monitoring Committee (MC), which will assist the NFP in the selection and strategic overseeing of projects. The appointment of representatives of line ministries and governmental bodies will be made on the basis of proposals from the relevant Ministers or Heads of Institutions. Working groups may be set up in order to assist the MC in carrying out its tasks, particularly as regards the selection of projects.

The Certifying and Paying Authority (CPA), which is the executive body of the National Authorising Officer (NAO) for the pre-accession EU funds and Certifying and Paying Authority for the Structural and Cohesion Funds. It is set up under the direction of a Secretary of State in the Ministry of Public Finance, who is responsible for the financial management of EU funds.

The Central Finance and Contracts Unit (CFCU), which is an independent unit directly subordinated to the Secretary of State within the Ministry of Public Finance. The CFCU concludes contracts with intermediaries and project promoters, verifies the expenditure incurred under the approved projects and is responsible for payments to intermediaries and project promoters.

The Central Harmonisation Unit for Public Internal Audit (CHUPIA), which is directly subordinated to the Minister of Public Finance, is responsible for systems verification and independent audit for the approved projects.

2.1 ADMINISTRATION – PROJECT SELECTION – MONITORING

THE EEA ASSISTANCE DIRECTORATE (EAD)

EAD will be responsible for the administration, coordination and the use of funds from the EEA Financial Mechanism. It will:

- a) handle the administration of the NFP
- b) prepare all key documents required by the FMO and other entities
- c) serve as a secretariat for the semi-annual meetings between the Financial Mechanism Committee and the NFP and prepare the Annual Reports
- d) serve as a secretariat of the Monitoring Committee (MC)
- e) prepare proposals of the focus areas and present them to the Financial Mechanism Committee for approval
- f) provide an assessment of project proposals to the MC
- g) submit approved project proposals to the FMO
- h) ensure overall coordination and complementarities of the EEA Financial Mechanism with EU funds and other similar funding, in cooperation with other relevant national authorities and bodies
- i) prepare detailed rules for the preparation, selection, implementation, cofinancing, monitoring and evaluation of projects financed by the EEA Financial Mechanism
- j) assist in the preparation of the Grant Agreements
- k) ensure regular monitoring of projects and prepare monitoring reports
- 1) ensure the overall publicity of the EEA Financial Mechanism

m) keep originals of relevant documents in accordance with the Rules and Procedures.

MONITORING COMMITTEE (MC)

The MC will assist the NFP in the selection and strategic overseeing of projects. It will:

- recommend project proposals to the NFP for submission to the FMO,
- monitor compliance with the Rules and Procedures,
- review overall progress and financial reports,
- approve the Annual Report prepared by the NFP.

The MC will consist of representatives of relevant ministries, other public institutions, economic and social partners, non-governmental organizations, regional and local authorities and other relevant bodies.

Working groups may be set up in order to assist the MC in carrying out its tasks, particularly as regards the selection of projects.

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

2.2. FINANCIAL FLOWS

CERTIFYING AND PAYING AUTHORITY (CPA)

The CPA is the central body responsible for transferring funds between Romania and the FMO. It will:

- a) open a bank account in the National Bank of Romania / Treasury system for the transfer of funds from the EEA Financial Mechanism to Romania
- b) certify, based on the verification of the CFCU, that the national co-financing allocated to projects is available
- c) certify, based on the verification of the CFCU, that the national co-financing allocated to the project has been paid
- d) certify to the FMO that statements of expenditure are made on the basis of reliable and verified documents
- e) 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
- f) transfer funds to the bank accounts of the Ministry of Public Finance administered by the CFCU on the basis of the CFCU request. The request must be supported by documents on payments executed or, if appropriate, by requests for advance payments submitted by intermediaries and project promoters
- g) ensure refund of unused or unduly paid funds to the EEA Financial Mechanism
- h) set and adjust the methodology governing financial flows from the EEA Financial Mechanism
- i) conduct accounting on all financial transactions realised on the accounts of the Ministry of Public Finance, which were opened for funds from the EEA Financial Mechanism
- j) ensure the reporting of irregularities to the FMO
- k) prepare background documentation for the Annual Report

1) keep originals of relevant documents in accordance with the Rules and Procedures.

The CPA will, through fact-finding missions and other means, certify that the systems and procedures of the CFCU regarding verification of payment claims from promoters/intermediaries and supporting documents are sufficient to ensure that funds from the EEA Financial Mechanism are being used efficiently and correctly and in accordance with the principles of sound financial management.

CENTRAL FINANCE AND CONTRACTS UNIT (CFCU)

The CFCU is responsible for the preparation of contracts with intermediaries /project promoters and related payments. It will:

- a) ensure conclusion of contracts with intermediaries and project promoters
- b) check the factual and formal correctness of requests for payment submitted by intermediaries and project promoters
- c) ensure payments to intermediaries and project promoters within 10 days from approval of all the necessary documents by the EAD and CPA
- d) maintain accounting records on all financial transactions realised on behalf of the NFP at the level of CFCU
- e) prepare and submit regular reports to the CPA in the required format as a basis of the request for the transfer of funds to the CPA and CFCU
- f) manage the register of irregularities and its update as well as report irregularities to CHUPIA, CPA and NFP
- g) settle irregularities in its scope of function in accordance with the relevant regulations and instructions
- h) ensure recovery of unduly paid funds to the intermediaries / project promoters
- i) prepare background documentation for the Annual Report
- j) keep originals of relevant documents in accordance with the Rules and Procedures.

2.3. FINANCIAL CONTROL – AUDIT

CENTRAL HARMONISATION UNIT FOR PUBLIC INTERNAL AUDIT (CHUPIA)

The CHUPIA is a general directorate in the Ministry of Public Finance designated to carry out the functions of the central administrative body for internal public audit according to the provisions of the Law 672/2002 on internal public audit. Its tasks in the context of the EEA Financial Mechanism are to:

- a) methodically manage and coordinate the execution of the internal audit within public entities with responsibilities in the implementation of the grant financial assistance provided to Romania under the EEA Financial Mechanism
- b) cooperate with internal audit units from the above-mentioned public institutions and provide advice and training
- c) coordinate the preparation of strategic and annual audit plans based on risk assessment
- d) initiate and coordinate internal audit missions in order to evaluate the efficiency and the effectiveness of the internal control at the level of the bodies involved in the management of the grant financial assistance
- e) prepare an annual report on control of the utilisation of funds, based on the reports sent by the internal audit units from the public entities with responsibilities in the implementation of the EEA Financial Mechanism
- f) inform the Government's Department for Fight Against Fraud and the Romanian Court of Accounts (copy to EAD and CPA) regarding any major irregularity reported by the internal audit units
- g) cooperate within its area of competence with the FMO, the Financial Mechanism Committee and the EFTA Board of Auditors and provide all the necessary information to these bodies
- h) archive originals of relevant documents in accordance with the Rules and Procedures.

In addition, the public internal audit units at the level of the bodies with responsibilities in the implementation of the EEA Financial Mechanism will:

- a) design strategic plans and annual audit plans, based on risk assessment
- b) perform system audit with a view to analysing the efficiency and effectiveness of the internal control systems at the level of the bodies involved in the management of the financial assistance
- c) perform operational audit missions on the approved projects
- d) draft and send to CHUPIA annual reports covering at least an analysis of the degree of fulfilment of the strategic and annual plans and a synthesis of the main dysfunctions identified and of the recommendations issued
- e) inform CHUPIA, CFCU, EAD and CPA regarding possible irregularities identified and submit the information to the relevant inspection units
- f) cooperate with other audit units, mutually providing the needed information/documents

g) archive originals of relevant documents in accordance with the Rules and Procedures.

The NFP will provide the FMO with copies of any reports the CHUPIA makes with regard to the EEA Financial Mechanism.

3. SELECTION PROCESS

The NFP arranges for an open call for projects within the agreed priority areas. The applicants shall submit their proposals to the NFP, which, after an initial review and formal checks, forwards the application for review to the Monitoring Committee. The relevant working groups under the Monitoring Committee prepare a ranked list within their respective priority area(s). The working groups will involve experts as necessary. The ranked lists are forwarded to the Monitoring Committee which reviews them in a plenary session. Based on the lists from the working groups, the Monitoring Committee provides the NFP with a ranked list of project that it recommends for submission to the FMO. If the NFP is satisfied that the recommended projects are in accordance with Protocol 38a, the Rules and Procedures and the applicable guidelines, and is in furtherance of the overall goal of the EEA Financial Mechanism, it will forward the application to the FMO with its reasoned opinion.

The NFP shall notify the applicant of the approval or rejection of projects by the Financial Mechanism Committee. If the application is approved, the NFP, on behalf of the Beneficiary State, signs a Grant Agreement with the Financial Mechanism Committee.

<u>ANNEX B</u>

THE PROGRAMMING FRAMEWORK 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 Romania and the EEA EFTA States.

	PRIORITY SECTORS	Focus areas
1	Protection of the environment, including the human environment, through, inter alia, the reduction of pollution and the promotion of renewable energy	 Supporting biodiversity and nature reserves, including sustainable use of water resources; Monitoring systems for ground water, waste water and air pollution; Reducing water pollution from mining activities Developing sustainable waste water collection and promoting recycling systems; Enhancing flood prevention Strengthening integrated coastal area management Developing renewable energy sources, including geothermal energy and hydropower
2	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	 Enhancing the administrative capacity of central and local public authorities, including for integrated development planning and the use of information technology; Developing tools and databases for territorial planning Supporting exchanges and training courses for students and teaching staff from pre-university system and universities between the relevant institutions in Romania and the EEA EFTA States Strengthening civil society through the establishment of NGO fund; Promoting the social dialogue; Enhancing attractiveness of, access to and participation in vocational education and training
3	Health and childcare	 Supporting children at risk Rehabilitating buildings, modernisation of equipment and managerial systems Implementing preventive measures to promote a healthy lifestyle Preventing and improving treatment of communicable diseases (HIV/AIDS and TB)
4	Conservation of European cultural heritage, including public transport and urban renewal	Conservation of European cultural heritage

<u>ANNEX C</u>

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.

I. NGO FUND

NGO fund will support non-governmental, non-profit organisations that promote issues in the public interest. It could support the strengthening of NGOs as an active partner in the public debate and the involvement of NGOs in the areas listed in Article 6 of the Memorandum..

Special target areas are:

- the protection of human rights
- anti-discrimination and social inclusion
- support to children and youth with specific problems
- social services
- environment
- conservation of cultural heritage

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

A Grant scheme will be developed to support cooperation, programmes of training courses for students and teaching staff from pre-university system and universities between the relevant institutions in Romania and the EEA EFTA States in key areas defined in Annex B.

III. 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.