

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

between

THE REPUBLIC OF ICELAND,
THE PRINCIPALITY OF LIECHTENSTEIN,
THE KINGDOM OF NORWAY,
hereinafter referred to as the “EFTA States”

and

THE REPUBLIC OF MALTA,
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 (hereinafter referred to as the “EEA Enlargement Agreement”) is applicable as of 1 May 2004;

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

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 EEA Enlargement Agreement and the EEA Financial Mechanism will strengthen relations between the EFTA States and the Republic of Malta to the mutual benefit of their peoples;

WHEREAS the enhanced co-operation between the EFTA States and the Republic of Malta 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, 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 Republic of Malta, 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 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 2 of Protocol 38a, the EFTA States will commit € 600 million to the EEA Financial Mechanism in annual tranches of € 120 million over the period running from 1 May 2004 to 30 April 2009, inclusive.
2. In accordance with Article 5 of Protocol 38a, a total of € 1.920.000 shall be made available to the Republic of Malta over the period referred to in Paragraph 1.
3. In accordance with Article 8 of Protocol 38a, the management costs of the EEA Financial Mechanism shall be covered by the amounts referred to above. Further provisions to this effect are set out in the Rules and Procedures.
4. In accordance with Article 6 of Protocol 38a, a review will be carried out in November 2006 and again in November 2008 with a view to reallocating any non-committed available funds for high priority projects from any Beneficiary State.

Article 4

(Roles and Responsibilities)

1. The EFTA States shall make funds available in support of eligible projects proposed by the Republic of Malta and agreed on by the Financial Mechanism 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 EEA Financial Mechanism Committee shall manage the EEA Financial Mechanism and take decisions on the granting of financial assistance.
4. The 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 Republic of Malta has authorized the Planning and Priorities Division within the Office of the Prime Minister to act on its behalf as its national focal point. It shall have overall responsibility for the management of the EEA Financial Mechanisms activities in the Republic of Malta, including financial control and audit and serve as a contact point. Its managerial setup is contained in Annex A.
6. The Planning and Priorities Division within the Office of the Prime Minister 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. The National Audit Office carries out independent control activities.
7. As a general rule, the gathering of project applications shall be carried out by open calls for proposals.
8. The Planning and Priorities Division within the Office of the Prime Minister 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 annual meetings between the Financial Mechanism Committee and the Focal Point. The Focal Point shall at the meeting present an annual 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 year.
2. The Planning and Priorities Division within the Office of the Prime Minister shall organise the meetings, in cooperation with the FMO. The Commission of the European Communities may be invited to observe the meetings.
 3. The minutes of the meetings shall be drafted by the Planning and Priorities Division within the Office of the Prime Minister.
 4. The first meeting shall be held no later than one year after the entry into force of this MoU.

Article 6

(Priority Sectors)

1. In accordance with Article 3 of Protocol 38a, grants shall be available for projects in 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

(Programming Framework)

1. With a view to ensuring effective use of the EEA Financial Mechanism funding and without prejudice to Article 6 above, particular attention shall be given to the fields of intervention outlined in the programming framework in Annex B to this MoU.

2. Annex B shall be subject to review in the annual meetings referred to in Article 5 above.

Article 8

(Specific Forms of Grant Assistance)

1. In accordance with the Priority Sectors referred to in Article 6 and with particular attention given to the fields of intervention outlined in the Programming Framework referred to in Article 7, 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.

3. Annex C shall be subject to review in the annual meetings referred to in Article 5 above.

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 Republic of Malta shall provide all necessary assistance, information and documentation.

Article 10

(Coordination)

The Republic of Malta and the FMO shall closely coordinate the use of the EEA Financial Mechanism with the use of the Norwegian Financial Mechanism. All projects submitted to the Mechanisms shall be consistent with the Republic of Malta'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.

Article 12

(Entry into Force)

This MoU shall enter into force on the day of signature.

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

Signed in Brussels on _____

Signed in Valletta on _____

For the Republic of Iceland

For the Republic of Malta

Signed in Brussels on _____

For the Principality of Liechtenstein

Signed in Brussels on _____

For the Kingdom of Norway,

**THE REPUBLIC OF MALTA'S MANAGERIAL SET-UP FOR THE IMPLEMENTATION OF
THE EEA FINANCIAL MECHANISM**

A. FOCAL POINT

The Planning and Priorities Co-ordination Division (PPCD) within the Office of the Prime Minister (OPM) fulfils the tasks of the **Focal Point**. The Focal Point has the overall responsibility for the management and coordination of the EEA Financial Mechanism's activities in the Republic of Malta, including the overall responsibility for the use of funds, financial control and audit (the latter in liaison with the relevant national authorities as explained below). Additionally, its responsibilities include, but are not limited to, the following:

- Identification and selection of proposals to be forwarded to the Financial Mechanism Office (hereinafter referred to as the FMO);
- Co-ordination of the implementation and monitoring of projects;
- Ensuring regular reporting to the FMO on the implementation of projects financed by the financial mechanisms, as well as to immediately report any irregularities;
- Organise annual meetings with the Financial Mechanism Committee;
- Ensuring information and publicity about available funds and inform the general public about the projects implemented under the EEA Financial Mechanism;
- Ensuring that project promoters are fully committed and equipped to successfully implement projects;
- Give final beneficiaries the necessary guidance to ensure the proper implementation of the projects (e.g. by drafting a manual of procedures).

In accordance with the Rules and Procedures, the PPCD will ensure that financial control is conducted in compliance with applicable rules. In doing so, the PPCD within the OPM shall ensure:

- Efficient and correct use of available funds;
- Complete and sufficient audit trails in all institutions;
- Effective audits (by the relevant national organisations) of approved projects.

These tasks shall be performed as described below.

Audit and Control

The Government of Malta is responsible for the financial control and audit of approved projects.

In accordance with Article 6.2 of the Rules and Procedures and as listed above, the Focal Point is responsible for ensuring that projects are implemented in line with established financial control procedures and sound financial management. The Focal Point will carry out spot checks and ensure follow-up of any action needed following the spot check.

An audit trail will be prepared by the Internal Audit and Investigations Directorate in collaboration with the Focal Point. Audits will be conducted by the Internal Audit and Investigations Directorate (IAID) within the Office of the Prime Minister. IAID is completely independent from management (Focal Point). The IAID will prepare the annual audit plan and a summary of audit reports (of each year). These documents will be transmitted to the FMO by the Focal Point.

In line with article 6.2 of the Rules of Procedures, the National Audit Office (Supreme Audit Institution) shall have the right to carry out audits on projects in line with national procedures.

In addition, the Focal Point will have the duty to provide the FMO with a copy of any other report that is made by itself, the IAID or the National Audit Office on projects or other activities related to the financial mechanisms.

Paying Authority

The Paying Authority is the EU Paying Authority within the Ministry of Finance. The Paying Authority shall manage all operations related to financial transactions. The Paying Authority is responsible for ensuring correctness of all payment requests made to the FMO. The Paying Authority will verify such payment claims and certify its correctness and accuracy to the FMO. The Paying Authority will submit certified payment claims to the FMO and be responsible for receiving payments made by the FMO to the Government of Malta.

The Paying Authority will also be responsible for liaising with the Treasury in order to effect payments to final beneficiaries where Government has not pre-financed the EEA component of the project in question. The Paying Authority will ensure that payments are made without delays.

The Paying Authority is also responsible for keeping record of financial corrections and ensuring that any funds owed to Government or to the FMO (arising from any financial corrections) are collected and reimbursed.

The Paying Authority will liaise with the Focal Point in developing the relevant procedures with respect to financial management.

Payment Arrangements

The Government will pre-finance the EEA and national components of all selected projects implemented by the public sector. In cases where final beneficiaries are not from the public sector, the Government may decide to pre-finance the EEA component, but is not obliged to do so. Where the Government does not pre-finance the EEA component, payments will be made to the final beneficiary on a reimbursement basis following receipt of funds from the FMO to the Government of Malta. This payment will be made by the Treasury following authorisation by the

Paying Authority. The national component of all projects implemented by the non-public sector will be provided for by the applicant.

Public Procurement

Public procurement will comply the relevant national legislation, in particular the Public Contracts Regulations of 2003. Procurement by non-public organisations will follow the spirit and procedures (as far as possible) of the public procurement regulation.

B. ADDITIONAL IMPLEMENTING STRUCTURES (Project Selection Committee and Monitoring Committee)

Project Selection Committee

A Project Selection Committee will be set up by the Focal Point to assist in the selection of projects. This committee will be chaired by the Focal Point and composed of relevant ministries including representatives of the Ministry of Finance. The Project Selection Committee will appoint ad hoc experts, as required.

The project selection committee will make recommendations to the Cabinet. Projects approved by the Cabinet will be sent to the FMO for approval.

The main functions of the Project Selection Committee are:

- Assessing eligibility of project proposals in line with the priority areas;
- Ranking eligible project proposals in line with criteria approved by the Monitoring Committee;
- Drawing up a list of projects for each financial mechanism in line with order of precedence established by ranking (the projects selected for co-funding will be limited by the amount available for the respective programming period);
- Setting the rate of co-financing for each project.

Monitoring Committee

One Monitoring Committee will be set up by the Focal Point for both the EEA Financial Mechanism and the Norwegian Financial Mechanism to assist the Focal Point in the monitoring and the follow-up of projects. The Monitoring Committee will be broad-based, comprised of members from relevant ministries, social and economic partners, actors from civil society and NGOs. The Monitoring Committee will be chaired by the Office of the Prime Minister. The FMO will be invited to participate as an observer.

The Monitoring Committee will be responsible for monitoring the progress of selected projects and for providing overall guidance to the Focal Point on the efficiency of the implementation of the EEA Financial Mechanism and the

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

- Monitoring the implementation of projects being co-financed by the financial mechanisms;
- Considering and approving selection criteria for operations earmarked for co-financing;
- Periodically reviewing progress registered towards achieving the specific objectives of the assistance;
- Examining the results of implementation, particularly achievement of set targets for the different projects;
- Considering and approving the annual and final implementation reports before these are sent to the FMO;
- As it deems fit, proposing to the Focal Point any adjustment or review of the assistance in order to improve its management (including financial management).
- Be guided by the other relevant provisions of the Rules and Procedures for the Implementation of the EEA Financial Mechanism 2004-2009.

Co-Ordination Cells in Ministries

The Focal Point will be assisted by the EU Affairs Directors in all line ministries with respect to co-ordination of projects in the different sectors. The EU Affairs Directors will act as co-ordination cell for all projects in the different sectors and will liaise directly with the Focal Point.

C. APPLICATION PROCEDURE

The Focal Point shall be responsible for administering the project application process.

Before the Focal Point submits the application to the FMO

The Focal Point shall issue a call for applications. The call will be published in the Government Gazette and a press release through the Department of Information. In addition, the Focal Point will publish guidelines to assist potential applicants in completing the application forms. The application forms and guidelines will be accompanied by a set of eligibility and selection criteria.

Applications from public sector organisations will need to be endorsed by the relevant Permanent Secretary.

All project proposals will need to be submitted to the Focal Point within the stipulated deadline and using the relevant forms. Incomplete proposals will not be considered eligible.

The secretariat to the Project Selection Committee will carry out an initial review of the applications and forwards the applications for review to the Project Selection Committee. The Project Selection Committee reviews the projects and may ask for additional information, ad hoc meetings with the applicants or expert advice as required to fulfil its task. Following the review of projects, the Project Selection Committee will rank the projects and make relevant recommendations to the Cabinet for approval. Projects approved by the Cabinet will be sent to the FMO by the Focal Point. Applicants whose application is rejected (locally) will be notified by the Focal Point. The main reasons which led to the decision will be provided.

After the Focal Point submits the application to the FMO

The Focal Point will notify the applicant of the project's approval or rejection by the Financial Mechanism Committee. If the application is approved, the Focal Point will sign on behalf of the Beneficiary State a grant agreement with the Financial Mechanism Committee. After that the Focal Point will issue a *letter of offer* with the final beneficiary which will form the basis of an agreement with the applicant to ensure the correct implementation of the project.

ANNEX B

THE PROGRAMMING FRAMEWORK REFERRED TO IN ARTICLE 7 OF THE MEMORANDUM OF UNDERSTANDING OF THE EEA FINANCIAL MECHANISM

	PRIORITY AREA	FOCUS AREAS
1	Protection of the environment, including the human environment	<ul style="list-style-type: none">• Integrated pollution prevention and control, fuel reduction• Promotion of renewable energy
2	Conservation of European cultural heritage, including public transport, and urban renewal	<ul style="list-style-type: none">• Revitalisation, conservation, renovation, modernisation and adaptation of historical objects, which have European significance• Condition monitoring and preventive maintenance routines for historical objects and complexes; and propose remedies
3	Health and childcare	<ul style="list-style-type: none">• Modernisation and equipping crèches, nursery schools, schools, special school-educational centres, orphanages• Scholarship programmes• Promoting gender equality
4	Academic research	<ul style="list-style-type: none">• Fields of intervention as outlined in 1-3 above.

ANNEX C

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

Technical Assistance Fund

Measures relating to information on and the promotion of the possibilities of using funds from the EEA Financial Mechanism, preparation of technical documentation, assistance of experts and advisors, and support for particular activities managed by the Focal Point relevant to the implementation of the EEA Financial Mechanism.