

**AGREEMENT ESTABLISHING
THE HUMAN RIGHTS TRUST FUND
BETWEEN
THE MINISTRY OF FOREIGN AFFAIRS OF NORWAY
AS FOUNDING CONTRIBUTOR,
THE COUNCIL OF EUROPE AND
THE COUNCIL OF EUROPE DEVELOPMENT BANK**

**ACCORD ETABLISSANT
LE FONDS FIDUCIAIRE «DROITS DE L'HOMME»
CONCLU ENTRE
LE MINISTERE DES AFFAIRES ETRANGERES DE NORVEGE
EN QUALITE DE CONTRIBUTEUR FONDATEUR,
LE CONSEIL DE L'EUROPE ET
LA BANQUE DE DEVELOPPEMENT DU CONSEIL DE L'EUROPE**

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PREAMBLE

WHEREAS

- A. In the Declaration adopted at the close of the Third Summit of the Council of Europe, held in Warsaw on 16 and 17 May 2005, the Heads of State and Government expressed their strong commitment in the short term to implement the comprehensive set of measures adopted at the 114th Session of the Committee of Ministers in May 2004 to guarantee the continued effectiveness of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the "Convention") and the European Court of Human Rights by preserving and promoting common fundamental values concerning human rights, democracy and the rule of law.
- B. The Action Plan adopted at the end of the Warsaw Summit (the "Warsaw Action Plan") confirms notably that member States at national level shall ensure the effective mechanisms for verifying the compatibility of legislation and administrative practice with the Convention, including ensuring effective domestic remedies and adequate training in Convention standards.
- C. In this respect, the Warsaw Action Plan also invited the Council of Europe Development Bank (the "Bank") to take the full operational impact of Chapter I.5 of the Action Plan, which implies also to facilitate, through its own means of action, the implementation of policies which aim at the consolidation of democracy, the promotion of the rule of law and respect for human rights, notably in the field of the "training of magistrates, civil servants and other participants in public life, as well as in the organisation, operation and infrastructure of administrative and judicial public services".
- D. In practice, member States, while seriously committed to implementing human rights standards, may nonetheless face practical obstacles in complying with the Convention's overriding principles and commitments. Such obstacles may be of a financial or structural nature or relate to a need for capacity building and expert support.

ACCORDINGLY, in order to facilitate the implementation of national measures to prevent or redress violations of rights under the Convention, the Ministry of Foreign Affairs of Norway, the Council of Europe and the Bank (the "Parties") have agreed to establish a trust fund denominated the Human Rights Trust Fund (the "Fund").

The Fund will be open to contributions from all member States, hereinafter "the contributors", as well as, upon invitation by the Assembly of contributors and acceptance by the Council of Europe and the Bank, to other possible contributors, subject to filing a duly completed contribution arrangement as provided in article 3.3.(a) of this agreement. The Fund will be operated and administered in accordance with the terms set forth below.

I. THE HUMAN RIGHTS TRUST FUND

1.1. The establishment of the Fund

The Ministry of Foreign Affairs of Norway shall be the founding contributor of the Fund.

The Council of Europe's participation in the Fund was approved by the Committee of Ministers on 16 January 2008. The Secretary General is entrusted with representing the Council of Europe in operations in respect of the Fund.

The Bank's participation in the Fund was approved by its Administrative Council on 13-14 November 2007 on the basis of Article VII, Section 3 of the Bank's Articles of Agreement. Accordingly, the Fund shall be subject to the financial regulations of the Bank and benefit from the privileges and immunities of the Third Protocol to the General Agreement on the Privileges and Immunities of the Council of Europe.

1.2. The purpose of the Fund

As mentioned in the preamble, the purpose of the Fund is to support national efforts of member States in implementing the Convention as highlighted in the Warsaw Action Plan. The Fund shall in particular contribute to activities that *inter alia* aim to contribute to strengthening the sustainability of the European Court of Human Rights ("the Court") by ensuring:

- that effective remedies exist for everyone with an arguable complaint of violation of the Convention;
- that there are domestic procedures that comply with procedural obligations under the Convention to conduct effective investigations and handle cases of serious violations of the Convention;
- that there are effective mechanisms for verifying the compatibility of draft legislation and administrative practice with the Convention;
- adequate training in Convention standards for professional groups and integration of these standards in University education;
- domestic dissemination of the Court's case law and its effective accessibility for legal professionals;

- full and timely national execution of the judgments of the Court, including training and other measures (legislative, regulatory, structural) to tackle persistent problems of non-execution of decisions of national courts;

- that adequate organisation, operation and infrastructure of administrative and judicial public services exist.

The Fund may also contribute to any other activities proposed and approved, in particular with respect to the implementation of the Convention or other human rights instruments of the Council of Europe.

II. GOVERNANCE OF THE FUND

2.1 Assembly of contributors

- a) The Assembly of contributors (the "Assembly") will be the governing body of the Fund.
- b) The Assembly will:
 1. determine the principal orientation and strategies of the Fund;
 2. establish the priority sectors and criteria for projects to be financed with resources of the Fund in consistence with the agreed principal orientations and strategies of the Fund duly taking into account the contribution arrangements with the contributors; if the contribution arrangements contain regional earmarking, the Assembly should take into account this regional earmarking when establishing the priority sectors and criteria;
 3. approve the projects for financing from the Fund resources;

4. approve the effectiveness of the activities financed with the resources of the Fund on the basis of the annual reports on the activities implemented by the Project Managing Entities (as provided in Article 4.1 (b));
 5. review the annual financial report concerning the Funds resources;
 6. decide on the termination of selected projects in accordance with article 6.1. below;
 7. decide on the amendments to the present agreement, in accordance with Article 8 below;
 8. adopt its Rules of Procedure.
- c) The Assembly shall convene not less than once a year.
 - d) Each contributor shall have the right to appoint a representative to the Assembly and to participate in its meetings, provided that such contributor has, at the date of the Assembly, met its obligations under its contribution arrangement.
 - e) The Bank and the Council of Europe will take part in the meetings of the Assembly and shall have decision rights with respect to article 2.1 b (1), (2), (6), (7) and (8) above.
 - f) The decisions of the Assembly shall be adopted by consensus. Should the number of contributors exceed five or pursuant to a decision of the Assembly of contributors, this rule may be revised (and this agreement amended accordingly where relevant), introducing appropriate provisions to ensure the efficient functioning of the Assembly and the Fund.
 - g) The Assembly may take decisions on the basis of written resolutions, in the absence of a meeting. Such a resolution will be approved if all contributors and, in accordance with article 2.1 (e) above, the Council of Europe and the Bank approve the written resolution on a no-objection basis. A minimum of 10 working days will be given for each request for approval on a no-objection basis.

2.2 Approval of projects by the Assembly of contributors

The Bank and the Council of Europe shall each be entitled to prepare projects for approval by the Assembly.

The proposals for possible projects shall be submitted by either the Bank or the Council of Europe to the Assembly in a timely manner prior to the meeting.

Projects may take the form of feasibility studies for possible projects.

Building upon the project selection criteria of the Bank and the Council of Europe respectively,¹ each project proposal must:

- a) demonstrate the project's adherence to the aim of the Fund;
- b) indicate the project's expected main results and outcome;
- c) indicate the project's expected completion date.

Where appropriate, the Bank, during discussions on Council of Europe's project proposals, may indicate how a project proposal could result in a follow up co-financed by the Bank.

The project documentation shall in addition consist of budgets, budgeted on the basis of full costs, and the expected disbursement schedule.

¹ For the Bank, Resolution of the Administrative Council 1495 (2006); for the Council of Europe document CM(2006)101 final "Establishing criteria for projects".

2.3 Project acceptance and implementation

The Council of Europe or the Bank will be designated as the Project Managing Entity (the "PME") for each individual approved project. The project, including its budget, as approved by the Assembly shall be submitted to the PME for acceptance.

On the basis of the approved project and its budget, and after their acceptance by the PME, the latter shall provide the expertise, skills and competence required to implement the projects.

If approved by the Assembly, the PME may select an adequate implementing institution (e.g. central and/or local administrations, financial entities, consultants) in relation to the implementation of the project, and in particular the PME shall seek to establish a defined involvement of the receiving country and in particular involve locally recruited staff.

The PME will be responsible for the use of the Fund's resources in each approved project, as provided in article 4.1. below.

III. RESOURCES OF THE FUND

3.1. Resources

The resources of the Fund will consist of:

- (a) contributions provided by the contributors; a "contributor" (collectively "contributors") is any entity which may contribute funds on a non-reimbursable grant basis (a "contribution", collectively "contributions") to the Fund;
- (b) income earned from investment of the contributions deposited on the account, in accordance with article 5.1.

3.2 Use of resources

The Fund's resources shall be used to finance projects approved by the Assembly.

3.3 Contributions

- (a) Each contribution shall be made pursuant to a written arrangement (contribution arrangement) between the contributor, the Council of Europe and the Bank based on the form attached as Annex 1 to this agreement.
- (b) The amount of each initial contribution shall be not less than 250 000.
- (c) A contributor may earmark its contribution for specific regions according to national budgetary systems and regulations as specified in the contribution arrangement. This will be taken into account when establishing the priority sectors and criteria for projects as per article 2.1 (b) 2, but will not entail separate or specific financial accounting of the allocated funds.
- (d) The contributors may at any time make additional contributions of a minimum amount of 100 000. The provisions of this agreement will apply equally to any additional amounts so contributed.
- (e) No conditions shall be attached to a contribution other than those foreseen in this agreement.

3.4 Payment of contributions

- (a) Each contribution will be denominated in Euro or any other freely convertible currency and be made available to the Bank.
- (b) The contribution will be paid as a single instalment to the account opened at the Bank, in the account specified in Annex 4 ("the account").
- (c) All payments not made in Euro will be converted upon receipt into Euro and the amount of Euros so received will be deemed to be the amount of the relevant contribution.

IV. OPERATION OF THE FUND

4.1 Project Management Entity's responsibilities

The PME shall fulfil its role by:

- (a) providing, in accordance with the approved project and its budget, the expertise, skills and competence required to implement the project;
- (b) preparing an annual report on the activities implemented by the PME concerned to the Assembly (as described in Annex 2);
- (c) ensuring that in all activities financed by the Fund visibility is given to the Fund and the contributors, and that in the Council of Europe's and the Bank's publications, in communications with recipient countries and entities and the media, appropriate visibility is given to the Fund and the contributors.

4.2 Management fees

For the administration of each project, the PME will receive a maximum fee of 4% of the approved total project cost. If the Council of Europe is the PME, administrative charges will be deducted in accordance with the relevant decisions of the Committee of Ministers.

4.3 Procurement

Procurement of goods, works and services, including consulting services, financed from the resources of the Fund will be unrestricted and administered in accordance with the PME's procurement policies and rules.

4.4 Liability

The contributors will not assume any liability for:

- (1) any third party claims for damages arising out of the implementation by the PME of any project financed from the resources of the Fund; or
- (2) any damage or injury sustained by the staff or property of the PME arising out of the Fund's activities.

4.5 Reporting

The PME shall prepare an annual report on implemented activities to be submitted to the Assembly as provided in article 4.1.(b). The report shall provide a comprehensive overview of the implementation of projects (such as described in Annex 2).

The Bank shall provide the Assembly with half-yearly account statements and any other interim reports on the administration of the account that it may judge necessary.

The Bank shall also prepare an annual certified financial report on the use of the Fund (given in the context of the Bank's annual external audit), which shall be submitted to the Assembly and shall be presented in the Bank's annual report in accordance with article IX, section 3.1.(e) of the Bank's Articles of Agreement.

Upon special request by the Assembly, the Bank shall prepare an updated report about disbursements from the Fund to ongoing activities.

4.6 Review and evaluation

- (a) The Assembly shall annually review activities financed by the Fund and discuss and explore means to strengthen the effectiveness of the use of the Fund's resources.
- (b) Whenever so requested by a contributor, the PME shall assist the contributor in obtaining permission to visit a project which benefits from activities financed by the Fund.
- (c) The contributors reserve the right to review or evaluate the activities financed by the Fund. The contributors and the PME concerned shall agree on the scope and conduct of such review or evaluation, and the latter shall provide all relevant information within the limits of its policies and procedures. All associated costs will be borne by the contributors, unless otherwise agreed.
- (d) The PME, the Parties and contributors shall promptly inform each other of any event or situation which might affect the implementation of activities and which may necessitate an agreement on a modification or an alteration in the scope or execution of approved projects or affect other aspects of this agreement.

V. ADMINISTRATION OF THE ACCOUNT

5.1 Remuneration of the account

The contributions to the Fund will be remunerated by CEB on the basis of EURIBOR 3 months – 0.125%, revisable every 3 months, calculated on the outstanding balance of the account. This interest is paid annually in arrears into the account.

5.2 Currency of the account and valuation of currencies

The Bank will maintain the financial contributions in an account in Euro in accordance with its accounting principles.

Whenever it may be necessary to determine the value of any currency in terms of another currency, e.g. for purposes of the payment of contributions or of the preparation or presentation of the financial report on the use of the Fund's resources, the valuation will be made by the Bank using the same principles as the Bank applies for its ordinary operations.

5.3 The Bank's responsibilities

The Bank shall:

- (a) proceed with disbursements as approved by the Assembly and required by the PME concerned, according to the disbursement schedule in the approved project descriptions according to article 2.2. above;

- (b) carry out all the necessary accounting activities related to the use of the Fund's resources and the financial reporting;
- (c) for this administration of the account, the Bank will receive a management fee of 3% of the amounts disbursed from the Fund.

VI. TERMINATION OF THE IMPLEMENTATION OF SELECTED PROJECTS

- 6.1. If at any time it appears that, prior to its foreseen completion date, the implementation of a selected project can no longer be effectively or appropriately carried out, or the project is deemed not relevant, the PME shall immediately inform the Assembly and the implementation of such project may be terminated by a decision of the Assembly.
- 6.2. In case of such termination, the PME will immediately cease all activities relating to the resources allocated to the project, except those relating to the orderly realisation, conservation and preservation of such resources and the settlement of the direct or contingent obligations to which they may be subject.

VII. ENTRY INTO FORCE, START OF OPERATION AND TERMINATION OF THE FUND AND DISPOSAL OF RESOURCES

7.1 Entry into force and start of operations

This agreement shall enter into force upon signature by Norway, the Council of Europe and the CEB. Norway shall make an initial contribution as soon as the agreement has entered into force.

The Fund shall become operational on the first day of the month following receipt of the first contribution in accordance with articles 3.3 and 3.4.

7.2 Termination of the Fund

- a) The Fund may be terminated at any time by a unanimous decision of the Assembly, subject to paragraph 7.3;
- b) The Bank and the Council of Europe may cease to perform the functions conferred upon it pursuant to this agreement and, subject to paragraph 7.3, terminate the Fund upon six (6) month's notice after consultation with the Assembly and the other Parties.

7.3 Disposal of resources on termination of the Fund

Upon effectiveness of the termination of the Fund:

- a) the Bank will immediately cease all activities relating to the resources of the Fund, except those relating to the orderly realisation, conservation and preservation of such resources and the settlement of the direct or contingent obligations to which they may be subject;
- b) subject to sub-paragraph (c) below, the Bank will distribute the total net assets of the Fund (as shown in the books of the Bank as of the date of termination) among the contributors in proportion to the amounts respectively contributed to the Fund. Such distribution will be effected at such times and in such currencies and types of assets as CEB determines;
- c) any distribution to a contributor will be subject to prior settlement of all outstanding claims by the Bank against such contributor in respect of its contribution.

VIII. AMENDMENTS

8. This agreement may be amended only pursuant to a unanimous written decision by the Assembly involving both the Parties and the contributors.

IX. NOTICES

9. Any notice or request required or permitted to be given or made in respect of this agreement will be in writing, which may include electronic communications. Annex 3 to this agreement contains the addresses to which such notices and requests will be given in respect of each Party and each contributor. The Parties and the contributors will keep each other informed of any modifications.

X. DISPUTE RESOLUTION

10. The Parties and the contributors shall seek amicably to settle all differences and disputes arising out of, or in connection with the implementation of this agreement.

Signed in Oslo, this 14th day of March 2008, in three copies, in English and in French, both texts being equally authentic.

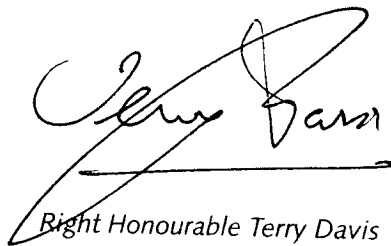
Signé à Oslo, le 14 mars 2008, en trois exemplaires, en anglais et en français, les deux textes faisant foi.

For the Ministry of Foreign Affairs of Norway,
Pour le Ministère des Affaires Etrangères de la Norvège,
The Minister,
Le Ministre,

A handwritten signature in black ink, appearing to read 'Jonas Gahr Støre', written in a cursive style.

Jonas Gahr Støre

For the Council of Europe,
Pour le Conseil de l'Europe,
The Secretary General,
Le Secrétaire Général,

A handwritten signature in black ink, appearing to read 'Terry Davis', written in a cursive style with a long horizontal stroke at the end.

Right Honourable Terry Davis

Signed in Paris, this 28th day of March 2008, in three copies, in English and in French, both texts being equally authentic.

Signé à Paris, le 28 mars 2008, en trois exemplaires, en anglais et en français, les deux textes faisant foi.

For the Council of Europe Development Bank,
Pour la Banque de développement du Conseil de l'Europe,

The Governor,
Le Gouverneur,



Raphaël Alcar

ANNEX 1 – DRAFT CONTRIBUTION ARRANGEMENT

Contributors are invited to use the following version of the contribution arrangement

[LETTERHEAD OF CONTRIBUTOR]

Mr Terry Davis
Secretary General of the Council of Europe
Palais de l'Europe
Avenue de l'Europe
F-67075 Strasbourg, France

Mr Raphaël Alomar
Governor
Council of Europe Development Bank
55, avenue Kléber
75116 Paris, France

Dear Secretary General,
Dear Governor,

I refer to the Agreement establishing the Human Rights Trust Fund (the "Fund") signed between the Council of Europe, the Council of Europe Development Bank (the "Bank" or "CEB"), the Ministry of Foreign Affairs of Norway and (The "Agreement").

1. I am pleased to confirm that [name of country] wishes to make a contribution to the Fund in the aggregate amount of [] [Euro][other freely convertible currency] on the basis of [name of country]'s domestic laws and regulations and in accordance with annual budgetary appropriations].
2. The contribution will be paid in cash in [Euro][other freely convertible currency] on [insert date]]. The contribution will be paid into the Human Rights Trust Fund, Account No [], SWIFT Code [].
3. [Name of country] may subsequently make additional contributions to the Fund, which will be governed in all respects by the Agreement and by this contribution arrangement.
4. The contribution will be used exclusively for the purposes set out in the Agreement.
5. This contribution arrangement will become effective upon signature of this contribution arrangement and will continue in effect until the Fund is terminated in accordance with paragraph VII of the Agreement.
6. The terms used in this contribution arrangement have the meaning attributed to them in the agreement. [Name of country] acknowledges that this contribution arrangement is subject to and incorporates by reference all the terms and conditions of the agreement.

Sincerely yours,

ANNEX 2 – OUTLINE OF THE ANNUAL PROGRESS REPORT ON THE ACTIVITIES OF THE HUMAN RIGHTS TRUST FUND

General overview

- Overview of the projects: number; partners, themes, regional coverage.
- Selection criteria for the projects.

Progress in implementation

- Description of commitments; disbursements.
- Progress schedule.
- Project management (human resources and field presence).

Results and impact

- Objectives of the projects; results obtained; preliminary assessment of impact;
- Any proposed adjustment.

Future directions

- Requests for assistance or follow-up from member States;
- Any possible suggestions of areas for future projects.

Portfolio snapshot

Summaries of all activities

- Updated work plan for the year.

Overall portfolio table including, per activity:

- Breakdown of funding (allocations, commitments, disbursements, balance).
- Completion date.

ANNEX 3 – NOTICES AND REQUESTS WILL BE GIVEN TO EACH PARTY AT THE FOLLOWING ADDRESSES:

(a) For the Council of Europe:

Name
Title
Address

(b) For the CEB:

Name
Council of Europe Development Bank
55, avenue Kléber
75116 Paris, France

(c) For the Ministry of Foreign Affairs of Norway

Name
Title
Address

(d) For the contributor(s)

Name
Title
Address

ANNEX 4 – ACCOUNT OF THE HUMAN RIGHTS TRUST FUND

The contributions shall be paid as a single instalment to the following account:
Account N° [.....], SWIFT Code [.....], at [.....] Bank, [Address].