

# STATE AUDIT OFFICE

File Registration Number: 23-463/578/2014

## AUDIT REPORT

**Audit of the institutional system of EEA and Norwegian Financial Mechanisms and of the beneficiaries of the Financial Mechanisms and the funding received from the Financial Mechanisms, and of the application of other domestic and international funding paid out to management organisations**

Norwegian Civil Fund

15 October 2014

## **LIST OF CONTENTS**

### **I. GENERAL INFORMATION**

### **II. INTRODUCTION**

### **III. EXECUTIVE SUMMARY**

### **IV. RECOMMENDATIONS**

### **V. FINDINGS**

#### ***V.1. THE EEA AND THE NORWEGIAN FINANCIAL MECHANISMS***

#### ***V.2. THE INSTITUTIONAL SYSTEM OF THE FINANCIAL MECHANISMS***

#### ***V.3. FINANCIAL PLANNING***

#### ***V.4. CONTRAVENTION OF THE OBLIGATION TO COOPERATE WITH THE AUTHORITIES***

#### ***V.5. THE PROVISION OF FUNDING***

#### ***V.6. THE AWARDING OF FUNDING***

#### ***V.7. THE APPLICATION OF FUNDING***

#### ***V.8. THE CRIMINAL CONSEQUENCES OF IRREGULARITIES***

#### ***V.9. OPERATING COSTS***

### **VI. APPENDIX**

#### ***LIST OF ABBREVIATIONS***

#### ***THE DIRECTORS OF THE AUDITED BODIES***

#### ***LIST OF LEGISLATION***

## I. GENERAL INFORMATION

<b>Auditing body:</b>	State Audit Office
<b>Organisational unit performing the audit:</b>	Department for Funding Auditing Department of State Asset Auditing
<b>Audited body/bodies:</b>	Ökotárs Foundation Autonómia Foundation Foundation for the Development of Democratic Rights Kárpátok Foundation – Hungary 55 non-governmental organisations who have received funding
<b>Subject of the audit:</b>	Audit of the institutional system of EEA and Norwegian Financial Mechanisms and of the beneficiaries of the Financial Mechanisms and the funding received from the Financial Mechanisms, and of the application of other domestic and international funding paid out to management organisations
<b>Goal and function of audit:</b>	To determine whether the institutional system and regulatory conditions necessary for the performance of the duties required are present with respect to the domestic institutional system established to accept and manage the distribution of funding received by Hungary from the EEA and Norwegian Financial Mechanisms, if the system conforms to the related international and Hungarian legislation, furthermore to determine if the awarding and use of funding from the Funds to and by beneficiaries who have been chosen via risk analysis and sampling has occurred according to regulations, as intended and efficiently.
<b>Audited period:</b>	01.01.2008 – 30.04.2014
<b>Beginning and end of on-site auditing:</b>	02.06.2014 – 02.06.2014
<b>Applied auditing methods and procedures:</b>	Analysis and on-site auditing based on data supplied by request
<b>Legislation authorising audit:</b>	The audit was performed according to Paragraph §11 (3) of Government Decree 355/2011 (XII.30).

## II. INTRODUCTION

The State Audit Office (hereafter: Office) has performed an extraordinary audit with relation to the institutional system of EEA and Norwegian Financial Mechanisms and the funding distributed via the Financial Mechanisms, in accordance with Paragraph §11 (3) of Government Decree 355/2011 (XII.30). During the course of the audit, the procedure was expanded to include the auditing of the beneficiaries and the application of other domestic and international funding paid out to management organisations, in accordance with Paragraph §11 (4) of Government Decree 355/2011 (XII.30).

This report was prepared with relation to the operation of the Norwegian Civil Fund operated within the framework of the Norwegian Financial Mechanism, and with regard to the regularity of financing paid out to non-governmental beneficiaries of funding chosen through risk analysis.

The method of the audit was analysis and on-site auditing based on data supplied by request. A difficulty experienced during the course of the audit, and as such a factor that significantly restricted the sphere of the audit, was the fact that the foundations responsible for the managing the distribution of funding refused to provide documentation related to the conduction of the tender process, the assessment and adjudication of tender applications, the monitoring of projects and the acceptance of realised projects, thus contravening the obligation to cooperate determined in Paragraph §65 (1) of Act CXCV of 2011, as a result of which the Office has initiated the suspension of the tax registration number used by the organisations involved by the state tax authority.

Some of the chosen beneficiaries were not present at the address found in the records provided, suggesting that these organisations have ceased to operate, while the annual non-profit financial reports of other organisations did not include the compulsory elements required by law. In view of these facts, the Office is initiating the performance of a legal compliance investigation by the Prosecutor's Office with relation to these organisations and, depending on the results of these investigations, the termination of these organisations.

In addition to the above, new data had to be requested on several occasions from a significant number of beneficiaries, in view of the fact that the documentation they had previously provided was unsuitable for the performance of the audit.

Furthermore, some beneficiaries refused to provide data and did not send the requested documents to the Office, instead of which they published some of the requested documentation on their own websites. However, the data that has been made public was incomplete and the fact that important information was censored significantly restricted the performance of the audit.

### III. EXECUTIVE SUMMARY

**Within the framework of international treaties signed with Hungary, Norway, Iceland, Liechtenstein, the EEA and the Norwegian Financial Mechanisms undertook to provide a total of 288.357 million euros in funding to Hungary in two cycles** (between 2004 and 2009, and between 2009 and 2014), the goal of which was to decrease economic and social differences within the European Economic Area. However, according to the treaties signed, not only did Norway and the EEA undertake to provide funding, but as a member of the European Union, **Hungary also undertook to provide the donor countries with various advantages**, to a similar extent as other EU member states.

As a result of the late signing of the treaties that form the basis for the payment of funding (in 2005 and in 2011) and the delay in the issuing of the relative procedures, funding was in fact only made available between 2008 and 2011 with respect to the first cycle, and is expected to continue until 2017 with respect to the second cycle of payments.

As a rule, during the period audited the management and distribution of funding provided by the EEA and the Norwegian Financial Mechanisms occurred with the coordination of the National Development Agency (hereafter: NDA), but **the management and distribution of 20.7 million euros in funding from the Norwegian Civil Fund** (hereafter NCF), earmarked to finance non-governmental organisations, **occurred with the circumvention of the system of state organisations**. This occurred because the organisation that had been entrusted with maintaining contact with the states that were providing funding, the Financial Mechanism Office (hereafter FMO), signed a contact directly with the Ökotárs Foundation with regard to the management and distribution of funding, and paid out funding for the first cycle directly to the Ökotárs Foundation's account. The fact that the system of state institutions was circumvented is not changed by the fact that certain individuals acting on behalf of the Hungarian State were allowed to participate in certain parts of the process as observers during the management and distribution of funding, because they had no actual insight into those processes.

**The audit has determined that irregularities occurred during the selection of the consortium led by the Ökotárs Foundation** (further members: the Autonómia Foundation, the Foundation for the Development of Democratic Rights and the Kárpátok Foundation – Hungary) **to perform the task of fund management that put into question the legal basis for the commissioning of the consortium**. According to the procedural regulations, with regard to the first cycle the NDA should have chosen the management and distribution organisation, except in the event that the NDA and the organisations determined by the funding countries (the Norwegian Ministry of Foreign Affairs and the Financial Mechanism Committee) were to sign a separate agreement in which they entrust the operation of the NCF to the FMO (in which case the FMO would have been able to choose the organisation responsible for managing the funding). However, according to the information available to the audit, no such agreement was concluded.

What constitutes a contravention of the international treaties with regard to the second cycle is that the FMO once again signed a contract for the management and distribution of funding without involving the NDA. In addition, the agreement was concluded within the framework

of a tender process during which all applicants apart from the Ökotárs Foundation were excluded from the procedure, meaning no actual competition was realised.

**In accordance with the above, the Hungarian Government, as a contractual party, is not provided with the opportunity to monitor the performance of the contract that it has itself concluded. As a result, the Hungarian Government was unable and remains unable to conform to the requirements of transparency, accountability and cost-efficiency as set down in Article 11 of the international treaty with regard to the first cycle, and in Points 2 and 3 of Article 10 of the international treaty concluded with regard to the EEA Financial Mechanism for the second cycle, or to its undertakings with regard to assuring equal rights. Accordingly, while also taking into account the irregularities determined with regard to the selection of the consortium led by the Ökotárs Foundation, it is justified that the Prime Minister should request that the countries that are providing the funding modify their system of institutions for the management and distribution of funding for non-governmental organisations.**

The audit has also determined that although income from EEA and Norwegian Fund financing appears in separate lines in planning with relation to annual budget acts, **the amounts planned for in the annual budget acts do not include the income realised by the NCF**, which is operated by the Ökotárs Foundation and forms part of the Financial Mechanisms, meaning that this income has not been included in planning. This is in contravention of **Point c) of Paragraph §5 (1) of Act CXCV of 2011 on Public Finance** (hereafter: PFA), with special regard to the fact that the funding provided by the EEA and the Norwegian Financial Mechanisms are based on the same international treaties, concluded with the Hungarian Government, that specify the funding as a single figure and prescribe that it should be provided to Hungary. Accordingly, **the Office finds it necessary that** in the future, **the income realised by the NCF should also be included** among income derived from EEA and Norwegian Fund financing during the planning of annual budget acts.

In addition to the above, the termination of the authority held by **the consortium led by the Ökotárs Foundation** to exercise control over the management and distribution of NCF funding is also justified by the fact that it has **acted to prevent the auditing of the fund management and distribution process**. In view of the fact that the Foundation and the consortium's partners – in contravention to the obligation to cooperate as prescribed by law, and while ignoring the standpoint of the Hungarian National Authority for Data Protection and Freedom of Information – have **refused to provide** the Office with certain **documentation relating to the conduction of the tender process, the assessment and adjudication of tender applications, the monitoring of projects and the acceptance of realised projects**. As a result, the Office has initiated the suspension of the tax registration number used by the Ökotárs Foundation and the partners to the consortium by the state tax authority.

In addition, it has been determined that employees of the consortium **“manufactured” certain documents requested by the Office subsequently** to the beginning of the auditing process and marked them with false (earlier) dates. In one instance, an employee of the Norwegian Embassy engaged in correspondence from his/her office e-mail address about where and to whom they should take a back-dated statement.

Furthermore, on the basis of the documentation supplied, **it is likely that the members of the consortium deleted certain data stored on computer servers and destroyed or made inaccessible certain portions of their electronic mail correspondence** in the interests of preventing the Office's audit and obstructing the ongoing investigation. During the early stages of the audit, the fund managers also had the idea of "evacuating" the documentation that they did not wish to hand over to the Norwegian Embassy.

On the basis of the documentation available, **with relation to tender procedures the Office has determined that the Ökotárs Foundation and its consortium partners consciously developed a decision-making and adjudication mechanism that was suitable for enabling the biased adjudication of tender applications.** At certain stages of the decision-making process (assessment, adjudication, decision-making), the rankings of submitted tender applications were modified without substantive explanation.

**The Director of the Ökotárs Foundation in fact specifically drew the attention of the Foundation's employees to the influencing of adjudication:** with relation to adjudication the Director informed them that if there is a significant difference between the points awarded by the two judges during the course of the adjudication process, then it is possible to "convince" one of the judges to modify the points he/she has awarded through the involvement of a third judge as prescribed by the procedural regulations. Employees were instructed to act similarly if in their opinion a judge had given a tender application more points "than they felt the applicant deserved".

In addition to the above, at one of the sessions of the Authorising Board, which made the final decision on funding, the Director of the Ökotárs Foundation drew the attention of the participants to the fact that "we should ask the Adjudication Committee to repeat the scoring process in the case of applicants who have received too few points, but who will be receiving funding". And in the case of applicants who received high points during the adjudication process, yet were turned down, the Director of the Foundation suggested that "we should get the Adjudication Committee to repeat the scoring process so as to receive less criticism in the case of tender applications that receive similar points, but are still rejected."

With relation to the tenders published during the first funding cycle, the report issued by **Ernst & Young Consulting Limited**, who screened the funding system, **also determined several irregularities, including the fact that as a member of the Adjudication Committee, the Director of the Ökotárs Foundation had on several occasions retroactively changed the number of points he had previously allocated without explanation in such a way that the rankings of tender applications also changed.**

The Ökotárs Foundation made no substantive changes to their procedures as a result. **The FMO also complained to the Director of the Ökotárs Foundation on several occasions because of this,** in view of the fact that it had become apparent to the FMO representative that **two tender applications that had received 76 and 80 percent votes during the adjudication process had not been selected, while another tender application that received only 51% was nevertheless successful.** According to the information available, it may also be determined that in comparison to the practices of other countries, **the ratio of tender applications with respect to which the Adjudication Committee retroactively changed the judge's results is highest within the Hungarian NCF programme.**

In addition to the biased adjudication of tender applications, **the Ökotárs Foundation has violated the stipulations of the agreement it concluded with the FMO**, which prescribed strict conflict of interest regulations for the Foundation and the members of the consortium, **on multiple occasions**. According to those regulations, the Ökotárs Foundation and the members of the consortium would have been obliged to refrain from any and all behaviour that could endanger the unbiased adjudication of tender applications, in addition to which the agreement concluded with regard to the second cycle expressly determined that suitable applicants may only be organisations that are independent from political parties.

Despite the stipulations of the agreement concluded with the FMO, the Office has determined that on many occasions **funding was awarded to organisations that fell within the sphere of interest of members of the Adjudication Committee or certain judges**. A personal connection was determined in **21 cases out of the 55 beneficiaries audited**. In addition, with regard to the first cycle, Ernst & Young Consulting Ltd. determined that **a significant ratio of the judges and adjudicators were not independent of the management and distribution organisation, furthermore the judges were selected from among the friends and acquaintances of members of the consortium and their previous cooperative partners**.

Furthermore, in several instances **the Ökotárs Foundation provided funding to organisations whose directors can be linked to political parties**. These include one individual who later became a Member of Parliament, another who ran for election as Mayor in a local government election in representation of a political party, and a third who was a local government representative.

It should also be noted that **the independence of tender applicants was also assessed in a biased manner during the adjudication process: while tender applications linked to Churches were classified as “not independent”** or the projects they had drawn up did not receive support on the grounds of philosophical neutrality, **funding was regularly awarded to tender applications whose representatives were clearly affiliated to a political party or were clearly propagating a certain world view**.

The existence of personal links was aided by the fact that the **consortium did not ask applying organisations to provide conflict of interest statements as otherwise required by Act CLXXXI of 2007 on the Transparency of Funding Provided from Public Monies (hereafter: ATPM), as a result of which according to Paragraph §14 of the ATPM all of the tender applications adjudicated by the consortium are invalid, in addition to which the concluded funding agreements may also be null and void**.

Furthermore, it has also been determined that **the Ökotárs Foundation regularly provided loans to non-governmental organisations. The Foundation charged interest with respect to these loans**. Following an official complaint by the Office, **there is an ongoing investigation into the case on suspicion of the crime of unauthorised financial activities** in contravention of Point §408 a) of Act C of 2012 on the Penal Code (hereafter, the New Penal Code), in addition to which the Office has also asked the Hungarian National Bank to initiate financial supervisory authority proceedings.

The Office audited the application of funding in the case of 63 projects, of which 36 projects received funding within the framework of the first funding cycle and 27 received funding



during the second funding cycle. However, in view of the fact that a significant proportion of the projects from the second funding cycle are not yet complete, in these cases the Office was only able to investigate the conditions under which the decision to provide funding was made and, where possible, the realisation of completed project phases.

During the application of funding **it was characteristic that** the beneficiaries concluded agreements with business entities whose representatives were also officeholders at the beneficiary organisation. In several cases, beneficiaries signed contracts with relation to the project directly with one of their own employees or executives. Accordingly, to all intents and purposes **beneficiaries financed the activities of their own employees or officers from the funding received, which** according to the information available to the audit **occurred in the case of almost 40% of beneficiaries.**

As a result of its auditing of the application of funding, **the Office discovered discrepancies with relation to 61 out of the 63 projects examined,** as follows:

- In several instances **the Ökotárs Foundation provided beneficiaries with realisation deadlines that contravened the agreement it had signed with the FMO through the amendment of the funding agreements it had signed, often through backdating.** In one case, a beneficiary charged expenses that were generated later than the realisation deadline to the funding account without the amendment of the funding agreement, which the consortium accepted. Accordingly, the Foundation's employees enabled costs and expenses to be charged to the funding account which the beneficiaries would otherwise not have been able to charge according to regulations. **With respect to the material damage caused in this manner,** according to the standpoint of the Office there is a **suspicion of having perpetrated misappropriation of assets** in contravention of Paragraph §319 (1) of Act IV of 1978 on the Penal Code (hereafter: the Old Penal Code) **and** as a predicate offense, in cases where the amendment of the contract occurred through backdating, **forging private documents.**
- In several instances, beneficiaries were allowed to charge the funding account with costs and expenses that were not related to the realisation of the project goals. One organisation, for example, charged expenses for men's knee socks, rubber seals for home canning, prawns etc. with respect to its project entitled "The application of cultural heritage in the development of individual socialisation". In another case, the organisation battling for democratic rights charged its members fast food meals to the funding account, and the invoices it presented for accounting included ones for cigarettes and beer. **In several cases, the circumstances discovered establish a suspicion of having perpetrated budget fraud** in contravention of Paragraph §396 (7) of the New Penal Code.
- Some costs and expenses were charged to multiple funding budgets by beneficiaries, in addition to which beneficiaries were also found to have **charged the funding account with costs and expenses that had already been refunded from other sources.** These activities also establish a suspicion of budget fraud.

- **In two cases**, it has been determined that the consortium led by the Ökotárs Foundation awarded funding to tender applicants in such a manner that the tasks to be completed in fact fell under the sphere of action of another organisation that was ineligible to receive funding according to the terms and conditions of the tender. In view of the fact that the major part of these **projects were completed by the organisations that were ineligible to receive funding**, the circumstances suggest that **the procedure relative to the beneficiaries and the organisations that were in a contractual relationship with them was aimed at circumventing the terms and conditions of the tender.**
- In one instance, the costs and expenses charged to the funding account by the beneficiary included covering invoices that were prepared by a company that had been terminated without a legal successor prior to the date indicated on the invoice.
- In certain cases, **beneficiaries overstepped the expense limit for the various cost titles indicated in the cost plan by more than 10 percent** and subsequently regrouped their expenses with relation to these cost titles without amending the contract as required. Despite this irregularity, the accounts were accepted.
- Furthermore, it was generally characteristic that **in cases in which** it was determined during the course of cost accounting that **the beneficiary had not fully provided the monies it had undertaken to put forward from its own resources, the members of the consortium did not reduce the funding amount** despite the fact that the provision of a predetermined level of funding on the part of the beneficiary was a mandatory condition of the tender. **With respect to funding paid out irregularly in this manner, there is a suspicion of having perpetrated misappropriation of assets** according to Paragraph §319 (1) of the Old Penal Code.
- In several instances, to prove the existence of own funding, **beneficiaries included in accounting the volunteer activities of individuals who could not have been made use of** according to law in view of the fact that the individual in question was an employee of the beneficiary organisation and the tasks set down in their job description partly concurred with their volunteer activities.

The number of irregularities discovered suggests that instead of striving to assure the regular and efficient application of funding, the conduct of **the consortium led by the Ökotárs Foundation** instead **assisted beneficiaries in spending the funding available, irrespective of regularity or justification.** This in turn also means that **according to the opinion of the Office the consortium led by the Foundation is unfit to perform the duties of fund manager.**

In addition, with relation to the application of funding, the Office takes exception to the fact that **no maintenance period was determined for the beneficiaries**, which could have assured the realisation of long-term projects.

The audit also takes exception to the fact that **in several instances beneficiaries did not achieve the various results and indicators** (such as a predetermined increase in the

organisation's members or a predetermined number of participants at a funded event) **required within the framework of the project**, but this was **not sanctioned in any way** and they received the full funding amount despite these shortcomings.

The irregular application of funding (the charging of costs and expenses to multiple funding accounts) was also assisted by the fact that the **procedure did not require the endorsement of the invoices** put forward for accounting.

As consideration for fund management activities, the FMO paid out a total of 634 thousand euros (HUF 174 million) in fund management fees during the first funding cycle, and it has undertaken to pay a total of 1.3 million euros with respect to the still ongoing second cycle. **The reports provided by the Ökotárs Foundation for the purposes of settling accounts with relation to its operating costs clearly include false figures.** The salaries of certain individuals were denoted at ratios (50-100%) which could not have been equivalent to the performance of NCF activities, because according to their job description the individuals in question were bound to spend at least 50% of their working time performing duties related to the Swiss-Hungarian Civil and Scholarship Fund Programme, which was also managed by the consortium, in addition to other duties. It should be noted that the Norwegian Ambassador had already drawn the attention of the Norwegian Ministry of Foreign Affairs to the capacity problems related to the simultaneous management of both the Swiss Fund and the NCF by the Ökotárs Foundation.

With relation to the activities of the Ökotárs Foundation in connection with the management of NCF tenders, there is an ongoing criminal investigation on suspicion of misappropriation of assets irrespectively of the complaint lodged by the Office. In accordance with the above, **the realisation of the crime of misappropriation of assets is also supported by the circumstances unearthed by the Office**, in addition to which **suspicion of budget fraud also arose in a further five cases** with relation to the application of funding, **in connection to which the Office is requesting** the initiation of further **criminal investigations**.

With relation to the activities of the Ökotárs Foundation, the Office felt it was a legislative deficiency that according to Paragraph §459 (1) of the New Penal Code the persons involved in the management and distribution of the funding do not qualify as persons performing public duties, while in fact they decide the fate of several billions of forints in public monies and management organisations are classified as bodies that perform public duties. Accordingly, the Office is recommending that the Minister of Justice amend the related provisions of the New Penal Code to ensure that persons involved in the distribution of NCF and other similar funding qualify as persons performing public duties with relation to said activities.

Although the majority of the beneficiaries audited fulfilled their obligation to provide data at the request of the Office, several organisations have refused to provide data. In addition, certain organisations were unavailable at their registered address, which suggests that these organisations have ceased to operate, while in the case of other organisations the annual non-profit financial report does not include the compulsory elements prescribed by law. In view of these circumstances, the Office is initiating the performance of a legal compliance investigation by the Prosecutor's Office.



## IV. RECOMMENDATIONS

*For the Minister in Charge of the Prime Minister's Office:*

1. To request the states that are providing the funding to modify their institutional system for the management and distribution of civil funding.
2. To act to ensure that during the planning of the annual budget – in collaboration with the Ministry of National Economy – income from EEA and Norwegian Funds includes planning for NCF income.

*For the Minister of Justice:*

To initiate the amendment of Point 12 of Paragraph §459 (1) of the New Penal Code such that persons with the power to decide, evaluate and make recommendations on funds and other asset elements derived from the central or local government budget or transferred on the basis of international treaties, and persons involved in the distribution of such funding and the monitoring of the application of such funding, are regarded as persons performing public duties during the performance of said activities, provided they are not classified as official persons.

## V. FINDINGS

### ***V.1. THE EEA AND THE NORWEGIAN FINANCIAL MECHANISMS***

The EEA and the Norwegian Financial Mechanisms are two separate funding systems, but they closely overlapped each other in the years 2004-2014 with relation to their goals, the organisations involved in the management of their funding systems and their implementation regulations.

The objective of both funding systems was to decrease economic and social differences within the European Economic Area, to which end, in the case of the EEA Financial Mechanism certain EFTA (European Free Trade Association) member states, namely Iceland, Liechtenstein and Norway, while in the case of the Norwegian Financial Mechanisms Norway alone, undertook to contribute to reducing these economic and social differences. However, according to the international treaties<sup>1</sup> that form the basis for the Financial Mechanisms, the states involved did not undertake to contribute without receiving due consideration, because according to the Treaties they are receiving the same rights (free movement of goods, free movement of persons, freedom to provide services, etc.) within the European Economic Area as the member states of the European Union, despite the fact that they are not members of the European Union.

The implementation of the Financial Mechanisms occurred in two cycles, from 2004-2009 and from 2009-2014. Hungary signed separate cooperation agreements for the two cycles with regard to the implementation of the EEA Financial Mechanism and the Norwegian Financial Mechanism. The agreements relating to the first cycle were published in the case of both Financial Mechanisms in Gov. Dec. 201/2005 (IX.27), while two separate government decrees were issued with relation to the cooperation agreements for the second cycle. The agreement on the EEA Financial Mechanism was published in Gov. Dec. 235/2011 (XI.15), while the agreement relating to the Norwegian Financial Mechanism was published in Gov. Dec. 236/2011 (XI.15).

According to the cooperation agreements, during the period of the financing cycles, Norway undertook to provide a total of 157.477 million euros in contributions to Hungary from the Norway Grants with respect to the two cycles, while the so-called donor states involved in the EEA Financial Mechanism undertook to provide a total of 130.88 million euros.

The funding served the realisation of the goals determined in the Treaties. Priority funding areas during the first cycle included the implementation of the National Schengen Action Plan, environmental protection and conservation, regional politics and the provision of assistance with relation to implementing community improvements. In addition, the Treaties also determined special funding areas, many of which were available to non-governmental organisations. These included: the involvement of non-governmental organisations in the field of environmental protection and conservation, environmentally aware education,

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<sup>1</sup> The basis for the EEA Financial Mechanism is Protocol 38a of the „EEA Expansion Agreement“ signed on 14 October 2003, while the basis for the Norwegian Financial Mechanism is the Agreement on the Norwegian Financial Mechanism also signed on 14 October 2003 between the Kingdom of Norway and the European Community.

healthcare and education, combatting discrimination and childcare. During the second cycle, funding was only available to non-governmental organisations within the framework of the EEA Financial Mechanism, the objective of which was to reinforce the development of civil society and to contribute in a heightened manner to social justice, democracy and sustainable development.

With respect to the abovementioned goals, the funding available to non-governmental organisations during the first and second cycles was 6.9 million euros and 13.5 million euros, respectively, which included fees for the performance of fund management services (643 thousand euros with respect to the first cycle and 1.3 million euros with relation to the second cycle).

## ***V.2. THE INSTITUTIONAL SYSTEM OF THE FINANCIAL MECHANISMS***

With respect to the institutional system for the management of the EEA and Norwegian Financial Mechanisms, the audit has determined that while as a rule the management of funding in Hungary occurred with the coordination of the NDA, which organisation maintained contact with the Norwegian party, the management of NCF funding, as described in detail below, occurred with the circumvention of the system of state organisations. The funding was managed by a four-member consortium led by the Ökotárs Foundation, which was in direct contact with the organisation designated by the other member states who were party to the Treaties, the FMO, and funding with relation to the first cycle was made directly available to the Ökotárs Foundation. According to the opinion of the Office, irregularities occurred during the selection of the consortium led by the Ökotárs Foundation to perform fund management duties, which put into question the legal basis for the commissioning of the consortium.

In view of the fact that the implementation regulations differed with respect to the two cycles, the problems uncovered by the audit are presented separately with regard to the two cycles.

### **First Cycle (2004-2009)**

The international treaties published in Gov. Dec. 201/2005 (XI.27) enabled the provision of funding to non-governmental organisations with relation to both the EEA Financial Mechanism and the Norwegian Financial Mechanism. The two treaties developed similar systems with regard to their institutional system, within the framework of which a so-called national correspondent (hereafter: NC) was named by the Hungarian party as the body responsible for the management of the Financial Mechanisms. A Brussels-based organisation, the Financial Mechanism Office (FMO), was appointed correspondent by the financing countries with regard to both Financial Mechanisms, and this organisation maintained contact between the NC and the financing states.

The substantive difference between the institutional system of the two Financial Mechanisms was that in the case of the Norwegian Grants the Norwegian Ministry of Foreign Affairs was designated as decision-making body by the Norwegian party (and was also responsible for making the final decision with regard to funding), while in the case of the EEA Financial Mechanism a committee comprised of representatives from all three donor countries, the

Financial Mechanism Committee (hereafter: FMC) was entrusted with this same task. The NC kept contact with these organisations via the FMO.

According to Paragraph §51 (1) of Gov. Dec. 242/2006 (XII.5) on the implementation procedure of the EEA Financial Mechanism and the Norwegian Financial Mechanism (hereafter: implementation decree pertaining to the first cycle)<sup>2</sup>, the NC could employ the services of a fund management organisation to help manage the funding, and the selection of this organisation would have occurred via an open tender. However, contrary to this, during the first cycle of the NCF, the consortium led by the Ökotárs Foundation was not commissioned by the NC to perform management duties, but instead the FMO signed an agreement to this effect directly with the Ökotárs Foundation on 8 February 2008. The open tender required by the related implementation decree was therefore not held by the NC with relation to the first cycle; the fund manager was selected by the FMO such that the NC was not involved in the selection process.

According to the above, during the first cycle the consortium led by the Ökotárs Foundation acted on the basis of an irregularly concluded agreement during the management and distribution of funding. This is not changed by the fact that parallel to the implementation decree pertaining to the first cycle – based on its right to formulate procedural regulations as provided for by the international treaty – the FMO also issued procedures on the application of funding by “Non-Governmental (Civil) Organisations” (NGO Grants Guideline), which came into effect on 23 August 2006 and whose regulations regarding both the Norwegian and EEA Financing mechanisms were not in full harmony with the Hungarian procedural regulations. Point 1.1 of the procedural regulations made it possible for the NC, the FMC and the Norwegian Ministry of Foreign Affairs to agree to entrust the management of the Civil Fund to the FMO, which the Ökotárs Foundation had otherwise signed an agreement with.

In view of the fact that, according to the information provided by the Prime Minister’s Office, no such written agreement came about as cited in the procedural regulations, and additionally the FMO was also unable to provide a copy of such an agreement at the request of the Office, the legal basis for the commissioning of the consortium led by the Ökotárs Foundation with respect to the first cycle is questionable.

#### Second Cycle (2009-2014)

In the second cycle, funding for non-governmental organisations was provided for by the international treaty on the EEA Financial Mechanism.

During this cycle, the FMO again concluded an agreement with the Ökotárs Foundation with regard to the management and distribution of NCF funding through a consortium. The FMO was now authorised to do this according to the “Regulation on the implementation of the European Economic Area (EEA) Financial Mechanism 2009-2014” (hereafter: Regulations) issued under the authority of the EEA cooperation agreement, but the international treaty<sup>3</sup> on

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<sup>2</sup> Paragraph §51 (1) of Gov. Dec. 242/2006 (XII.5): “The objective of the tender form of funding is to finance projects that are linked to the target areas determined in Appendix B of the cooperation agreement and whose capital requirements are less than the minimum of 250,000 euros needed to launch an independent project. The funding of these projects shall occur with the help of the fund management organisations that win the open tenders published by the National Correspondent.”

<sup>3</sup> Point 3 of Appendix B of Gov. Dec. 235/2011 (XI.15) on the proclamation of the Treaty on programme area D states: Programme Operator: The Program Operator is commissioned by the Financial Mechanism Office



the EEA Financial Mechanism cited Article 5.13 of the Regulations, which state that the fund manager must be chosen in consultation with the NC. However, no such consultation took place in the case of the second cycle either.

The selection of the consortium led by the Ökotárs Foundation did not occur within the framework of a transparent procedure. The FMO did publish a tender for which 7 applicants submitted entries, but the FMO excluded all applications from the tender with the exception of the consortium led by the Ökotárs Foundation, as a result of which there was no actual competition between the applying organisations during the selection process. Additionally, the FMO refused to make the documentation of the procedure available to the Office despite the fact that Articles 10 and 11 of the concluded international treaties determine the requirement of transparency to be a fundamental rule, and the same is prescribed by decision No 3/2007/SC of the Permanent Committee of the EFTA member states.

Consultations with relation to the selection of the consortium led by the Ökotárs Foundation have been held regularly between the Ministry of Public Administration and Justice (hereafter: KIM), the Ministry of Human Resources (hereafter: EMMI), Norway's Ambassador to Hungary and the Norwegian Ministry of Foreign Affairs since 2012. During these talks, the Hungarian party has on several occasions indicated its objections with regard to the selection process, as well as expressing its concerns with relation to the political affiliations of the Ökotárs Foundation. In addition, it has also raised concerns over the fact that the Foundation also manages the Swiss Fund, which has led to capacity problems. In view of these issues, it has recommended that a new selection process be performed, but this has not taken place due to the dismissive attitude of the Norwegian party. The Hungarian party has also recommended that the selection of judges should occur within the framework of an open procedure, which the Norwegian party accepted, but despite this the conduction of an open tender process for the selection of judges has not occurred, according to the information available to the audit.

At a meeting held at the KIM on 28 March 2012, at which the Norwegian Ambassador and two of his colleagues were also present, Deputy State Secretary Csaba Latorczai emphasised that the Hungarian party feels that the transparency and monitorability of the project operator selection process is extremely important, stressing that the cooperation agreement also prescribes that the fund manager must be chosen following consultations with the NC.

However, the Norwegian Ambassador said that in his opinion the selection had been transparent and open to monitoring, and that the FMO had informed the NC with regard to the process. The minutes of the meeting, however, state that the FMO only informed the NC of the decision following a special request and subsequently to the decision having been made. The Deputy State Secretary also objected to the fact that only a single applicant was invited to participate in the second round of the selection process, which suggested that there was no actual competition involved. With reference to this, the Ambassador stressed that there were three important tender conditions: applicants had to be independent of the government, have suitable financial capacity and be in possession of suitable tendering experience.

In April of 2012, Hungary's Ambassador to Norway also paid a visit to the Norwegian Ministry of Foreign Affairs in the interests of drawing attention to the anomalies involved in the selection of the Hungarian fund manager and to ask for an explanation with regard to why

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according to Article 5.13 of the Regulations. The fund manager is chosen following consultations with the National Correspondent."

of the seven applicants only the Ökotárs Foundation was asked to submit an offer. The Ambassador expressed his concerns with regard to the political affiliations of the Ökotárs Foundation and the capacity problems related to the fact that the Foundation also acts as fund manager to the Swiss Fund. However, the Norwegian party did not regard the latter issue as a problem, and with regard to the other applicants he stressed that either they had clear links to the state or they lacked suitable experience in tendering. The Ambassador suggested that it would be appropriate to conduct a new selection procedure to select the fund manager, but he received no reply on the subject.

On 10 May 2012, Deputy Prime Minister Tibor Navracsics wrote a letter on the subject to the Norwegian Minister of Foreign Affairs, in which he drew the Minister's attention to the fact that the transparency of the selection of the fund manager had received much, seemingly well-founded criticism. With relation to this, he asked for the selection process of the NCF's Hungarian fund manager to be reviewed. Following this, on 19 May 2012, in his reply the Norwegian Minister of Foreign Affairs confirmed that in his opinion the fund manager selection process is functioning properly and the procedure is open and transparent.

On 23 August 2012 another meeting was held on the subject of the selection of the NCF's Hungarian fund manager at the EMMI, which was also attended by the Norwegian Ambassador. The primary goal of the meeting was to include in the adjudication of tender applications received from non-governmental organisations experts who have no links to the Ökotárs Foundation. The Hungarian party suggested that judges should be selected within the framework of an open tender, which the Norwegian party accepted.

On 12 November 2012, a diplomat responsible for non-governmental affairs from Hungary's Permanent Representation in Brussels held talks with a representative from the FMO with relation to the fact that the application of funding paid out by the NCF should occur as transparently as possible, and in connection with this he made a recommendation with regard to the fact that outside experts who are part of the decision-making bodies of NCF tenders should be selected through an open procedure. It was also at this meeting that it was suggested that a representative of the Hungarian Government might take part in meetings of the Authorising Board and an observer.

Based on the above it may be ascertained that representatives of the Hungarian State have only been able to participate in certain procedural activities during the management of NCF funding, but they had no real insight into the ongoing procedures, while the fact that the state system of institutions was to all intents and purposes circumvented during the management of NCF funding means that the Hungarian Government, as a party to the agreement, did not have an opportunity to monitor the performance of the contract that it had itself concluded. Accordingly, the Hungarian Government was unable to conform to its obligations regarding transparency, accountability and cost-effectiveness as set down in Article 11<sup>4</sup> of the international treaties pertaining to cycle one and Points 2 and 3 of Article 10<sup>5</sup> of the

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<sup>4</sup> Point 2 of Article 11 of the international treaty signed with regard to the first cycle of the Norwegian Financial Mechanism: "The Parties hereby agree that they shall provide the highest possible level of transparency during the implementation of the Norwegian Fund, in addition to the goals and fundamental principles of good governance, sustainable development and sexual equality."

Point 2 of Article 11 of the international treaty signed with regard to the first cycle of the EEA Financial Mechanism: "The Parties hereby agree that they shall provide the highest possible level of transparency during the implementation of the EEA Financial Mechanism, in addition to the goals and fundamental principles of good governance, sustainable development and sexual equality."

<sup>5</sup> Point 2 of Article 10 of the international treaty signed with regard to the first cycle of the EEA Financial Mechanism: "The Donor countries and the Beneficiary country shall cooperate closely in the interests of

international treaty concluded with regard to the EEA Financial Mechanism for cycle two, nor to its obligations with regard to assuring equal rights. The fulfilment of these conditions is also of extreme importance because the funds derived from the NCF are considered public monies in accordance with Point c) of Paragraph §1 (1)<sup>6</sup> of the Act on Public Monies.

In light of the above-mentioned, the Office regards it as justified for the Prime Minister to request that the countries that are providing the funding modify their system of institutions for the management and distribution of funding for non-governmental organisations in view of the fact that the current system is not in harmony with Article 8 of Protocol 38B<sup>7</sup>, which is an attachment to the EEA treaty, and according to which the implementation of authorised programmes is the responsibility of the beneficiary state.

It should be noted that in other countries that receive funding from both the EEA and Norwegian Financial Mechanism there are examples of the Norwegian Civil Fund entrusting the duties of fund manager to state organisations; in the Czech Republic, for example, the duties of fund manager are performed by the Ministry of Finance.

### ***V.3. FINANCIAL PLANNING***

In view of the fact that Point c) of Paragraph §5 (1) of the PFA interprets funding received from outside the budget as budget revenue, annual budget planning must include income from EEA and Norwegian Financial Mechanisms. The budget planning of income derived from the Financial Mechanisms was in fact already prescribed by Paragraph §59<sup>8</sup> of the implementation regulations for the previous cycle, and Paragraph §80<sup>9</sup> of Gov. Dec.

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achieving EEA Financing Mechanism objectives for 2009-2014. The Parties hereby agree that during the EEA Financial Mechanism period 2009-2014 they shall provide the highest possible level of transparency during the implementation of the EEA Financial Mechanism, in addition to the goals and fundamental principles of good governance, sustainable development, sexual equality and equal opportunities.”

Point 3: The beneficiary country is required to take the initiative in acting to ensure that these principles prevail at every level during the implementation of the EEA Financial Mechanism period 2009-2014.”

<sup>6</sup> Point c) of Paragraph §1 (1) of the Act on Public Monies: “The scope of authority of this law includes funding provided in cash or in kind to natural persons who fall outside the scope of authority of the national budget, corporate entities and other organisations with no legal status – not including condominiums – (hereafter: persons) with relation to programmes financed on the basis of international treaties, provided on the basis of individual decision, through tender or outside the tender system.”

<sup>7</sup> Article 8 of Protocol 38B, attached to the EEA Treaty: “The highest possible levels of transparency, accountability and cost-efficiency, and additionally the principles of responsible governance, sustainable development and sexual equality must be applied in every phase of implementation.

The objectives of the EEA Financial mechanism must be realised within the framework of close cooperation between beneficiary states and EFTA member states. The implementation of authorised programmes shall be the responsibility of the beneficiary state. Beneficiary states must provide suitable administrative and monitoring systems in the interests of assuring efficient implementation and management.”

<sup>8</sup> Paragraph §59 (1) of Gov. Dec. 242/2006 (XII.5): “Funding and income of projects financed from financial mechanisms (including as required unforeseen sums of money and monies required for repayment and to cover exchange rate fluctuations) must be planned in a foreseen manner according to Gov. Dec. 217/1998 (XII.30) on the regulations concerning implementation and the operating regulations of Public Finance to Act XXXVIII of 1992 on Public Finance (hereafter PFA).”

<sup>9</sup> Paragraph §80 (1) of Gov. Dec. 326/2012 (XI 16): „The NFA shall plan funding received from financial mechanisms in harmony with the provisions of Act CXCV of 2011 on Public Finance and Gov. Dec. 368/2011 (XII.31) on the implementation of the Act on Public Finance.”

326/2012 (XI.16) on the 2009-2014 period of the EEA and Norwegian Financial Mechanisms also included similar regulations.

However, the audit has determined that the figures determined in plans for annual budget acts do not include income from the NCF, which forms part of the Financial Mechanisms and is managed by the consortium led by the Ökotárs Foundation. This is a breach of the legal provisions cited above, with special regard to the fact that the funding provided within the framework of the EEA and Norwegian Financial Mechanisms is based on the same international treaties, concluded with the Hungarian Government, that specify the funding as a single figure and prescribe that it should be provided to Hungary. Additionally, the fact that the actual transfer of funds was not made to the accounts managed by the Hungarian Treasury but directly to the account of the Ökotárs Foundation during the first cycle, and directly to beneficiaries from an account opened by the NFO during the second cycle, occurred on the basis of agreements concluded between the NFO and the Ökotárs Foundation, to which the Government of Hungary was not a party.

In view of the above, it is justified to expect that in future, NCF income should also be included in the planning of budget acts together with other revenue derived from EEA and Norwegian Financial Mechanism funding.

#### ***V.4. CONTRAVENTION OF THE OBLIGATION TO COOPERATE WITH THE AUTHORITIES***

During the course of the investigation, the Ökotárs Foundation and the partners to the consortium did not comply with their obligation to cooperate with the authorities as set down in paragraph §65 (1)<sup>10</sup> of the PFA. They challenged both the fact that NCF funding constituted public money and the sphere of authority of the Office, and consequently refused to provide documentation related to the conducting of the tender process, the assessment and adjudication of tender applications, the monitoring of projects and the acceptance of realised projects, and only provided the audit with documentation from which it was impossible to follow the full course of the decision-making process and from which, in addition, the identity of the persons involved in the adjudication of tender applications could not be determined.

The procedure applied by the consortium is especially objectionable with regard to the fact that according to the opinion issued by the Hungarian National Authority for Data Protection and Freedom of Information: “According to Paragraph §26 (1) of Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information (hereafter: Information Act), a consortium charged with managing a tender programme shall also be regarded as a body that performs a public duty according to law.” “Similarly to the names of the members of the Adjudication Committees formed to decide on funding provided from public monies and concession tenders, the names of the persons who perform the adjudication of tenders published by bodies that perform public duties according to law shall qualify as

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<sup>10</sup> Paragraph §65 (1) of the new PFA: „During investigations by the state auditing body, the body or organisation under investigation, or other person, director of the organisation or its employee(s), who are in possession of the data, facts and information required for the conduction of the investigation, shall be obliged to provide said data and cooperate with the authorities in accordance with the stipulations of law.”

public personal data based on the public interest, and as such they shall be publically available in accordance with Paragraph §28 (1) of the Information Act.”

It should be noted with relation to this that according to consistent court practices, business entities that receive public monies are bound to make their accounts public with regard to such activities. Accordingly, courts acting with relation to organisations that distribute public monies via tenders, including the Supreme Court (the Curia), have determined on several occasions that the public nature of information and personal data that is in the public interest must be assured not only with relation to the contracts concluded as a result of tenders, but also with regard to the tender adjudication process that preceded the concluding of said contracts. Accordingly, the submitted tender applications and their adjudication and assessment criteria, as well as the records relating to their assessment and adjudication and the justification for the decision, all qualify as public information once the decision has been made. Similarly, the public nature of the personal data of persons involved in the assessment, adjudication and decision-making with relation to the performance of public duties must also be assured in accordance with paragraph §26 (2) of the Information Act. The protection of personal data must also be assured with relation to the tender applicants, but this is obviously only of interest with regard to unsuccessful applicants, as the name of winning applicants has already been made public. Also with relation to this topic, the courts have also stressed that the idea of personal data can only be interpreted with relation to natural persons, meaning the protection of personal information cannot arise in the case of business entities and other organisations, meaning such data is public.<sup>11</sup>

In addition, it has been determined that employees of the consortium “manufactured” certain documents requested by the Office subsequently to the beginning of the auditing process and marked them with false (earlier) dates. In one instance, an employee of the Norwegian Embassy engaged in correspondence from his/her office e-mail address about where and to whom they should take a back-dated statement.

Furthermore, on the basis of the documentation supplied, it is likely that the members of the consortium deleted certain data stored on computer servers and destroyed or made inaccessible certain portions of their electronic mail correspondence in the interests of preventing the Office’s audit and obstructing the ongoing investigation. During the early stages of the audit, the fund managers also had the idea of “evacuating” the documentation that they did not wish to hand over to the Norwegian Embassy.

In view of the contravention of their obligation to cooperate determined in Point b) of Paragraph §65 (2)<sup>12</sup> of the PFA, the Office has initiated the suspension of the tax registration number used by the Őkotárs Foundation, the Autonomía Foundation, the Foundation for the Development of Democratic Rights and the Kárpátok Foundation – Hungary by the state tax authority.

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<sup>11</sup> This is the standpoint determined by the Curia during case Pfv. IV.21.498/2013, and by the Metropolitan Court of Budapest in its ruling No. 2.Pf.20.207/2013/4.

<sup>12</sup> Point b) of Paragraph §65 (2) of the PFA: „In the case of the violation of the requirement to provide data, cooperate and assist the conduction of the audit during the course of the investigation  
b) the head of the state auditing body may request that the state tax authority suspend the use of the tax registration number of the audited body or body required to provide information during the course of the investigation.”

The Ökotárs Foundation disregarded the fact that it was performing a public duty not only with regard to its obligation to cooperate with the Office, but also with regard to its obligation to publish information as set down by law. The Foundation – according to its website available at the time of the audit – only partially conformed to its obligation to publish information in accordance with Paragraphs §33 (1) and (3)<sup>13</sup> of the Information Act and Ministry of Information and Communication Decree No 18/2005 (XII.27) on the Publication Samples Required for the Publication of Data Included in Publication Lists. For example, it did not publish data regarding the number and salaries of employees, the salaries, pay, regular allowances and reimbursed expenses of its directors and executive officers, in addition to which it did not publish aggregate data on the type and level of allowances paid to other employees. Furthermore, published data did not include procedures for acquiring information that is in the public interest, or the name and contact information for the organisational unit responsible.

## ***V.5. THE PROVISION OF FUNDING***

The concluded international treaties determine that funding will be provided to Hungary between 2004 and 2009, and between 2009 and 2014.

According to the findings of the Office, funding with relation to the NCF were in fact not made available according to the stipulations of the international treaties, because transfer to the Ökotárs Foundation's account with reference to cycle one payments in fact occurred between 2008 and 2011, while transfers with regard to cycle two funding began in 2013 and are expected to continue until 2017, meaning that funding will also only be made available at a later date.

The late availability of funding was caused by several factors. Firstly, the international treaties themselves were concluded some one-and-a-half years after the starting date of the financing cycles. Secondly, the related government decrees containing the implementation regulations were only issued a year after the proclamation of the treaties. This means that at the time of issuing of the related government decrees containing the implementation regulations (5 December 2006 and 16 November 2012), almost three years had passed since the beginning of the financing cycles. It must be noted, however, that not only were the Hungarian implementation regulations issued late; so too where the previously mentioned procedural regulations for the first cycle issued by the FMO, which came into force on 23 August 2006.

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<sup>13</sup> Paragraph §33 (1) of the Information Act: „The information that must be published according to this Act must be made available on an internet webpage in digital form, available to all, without identification, without restriction, in a manner that enables printing and copying in detail without loss of information and free of charge with regard to viewing, downloading, printing, copying and network data transfer (hereafter: electronic publication). The availability of the published information may not be linked to the provision of personal information.”

Paragraph (3): “Bodies performing public duties not included in Paragraph (2) may choose to conform to their requirement to public information electronically according to §37 on their own website or website maintained jointly with their partners, or may instead conform to publication requirements on the central website maintained by the bodies that perform their supervision, professional management of operation-related coordination, and which has been established expressly for this purpose.”

In the case of the first cycle, it took more than a year for the FMO to sign an agreement with the Ökotárs Foundation regarding the management of the fund. The agreement was only signed by the two parties near the end of the first cycle, on 2 February 2008. In the case of the second cycle, the Ökotárs Foundation signed an agreement regarding fund management with the FMO on 2 January 2013, on the basis of which the Foundation began its fund management activities in February of 2013 by publishing the required tenders.

According to the above, the significant time difference between the intended and actual availability of funding was the joint consequence of late procedures on the part of the Norwegian party, the EFTA states that are part of the EEA Financing Mechanism, and the Hungarian party.

## ***V.6. THE AWARDING OF FUNDING***

With relation to the tender procedures the Office has uncovered several circumstances, which on the one hand indicate the biased character of the procedures, and on the other hand are also in contravention of the provisions of the agreement signed with the FMO, as follows.

- **Anomalies discovered with relation to the adjudication of tender applications**

With regard to the first cycle of funding, the agreement between the FMO and the Ökotárs Foundation determined that the final decision on the awarding of funding would be made by the Decision Board, which should be comprised of one Chairman and four independent experts, and to which the relevant ministries would also appoint a member, in addition to which observers would be requested from the donor countries, the FMO and the NC.

However, according to the documentation available at the time of the audit, although the ministries may have delegated an adjudicator to attend the meetings of the Adjudication Committee during the first cycle, but there is no data with regard to the invitation of observers. According to the evaluation regulations published by the Ökotárs Foundation, the final decision was not made by the Decision Board, but by a “summarising meeting” convened by the Ökotárs Foundation, at which in addition to the Director of the Ökotárs Foundation, designated members of the Adjudication Committee took part. However, the adjudication regulations do not include provisions with regard to observers or the methods according to which the members of the Adjudication Committee who are invited to attend the summarising meeting are selected.

In the case of the first financing cycle, a report by Ernst & young Consulting Limited, who screened the funding system, objected to the fact that the members of the Adjudication Committee were not independent of the managing organisations, which was in contravention of the provisions of the agreement concluded between the Foundation and the FMO. The report also found fault with the fact that as a member of the Adjudication Committee, the Director of the Ökotárs Foundation on several occasions retroactively amended the number of points he had previously allocated without explanation in such a way that the rankings of tender applications also changed.

During the second cycle – according to information provided by observers who took part in the work of the Adjudication Committees and the documentation available – the adjudication of tender applications and related decision-making occurred on the basis of a four-step procedure (pre-assessment, assessment, recommendations by the Adjudication Committee, decision).

In the first phase, submitted tender applications went through a so-called pre-assessment procedure, during the course of which the Ökotárs Foundation and the employees of its consortium partners examined the tender applications to see if they conformed to the prescribed requirements, and if they discovered deficiencies, then applicants were given the opportunity to make corrections and provide missing data. However, if a tender application did not conform to the terms and conditions of the tender, it could be excluded during the pre-assessment stage.

However, in view of the fact that the Ökotárs Foundation and its consortium partners refused to provide documentation with regard to the adjudication of tender applications, the audit had available significantly limited information with regard to the checking and pre-assessment stage. Although it could clearly be determined that during this stage of the adjudication process the political affiliations and other personal relations of the beneficiaries were examined, including possible links to various Churches, it could not be discerned to what extent this influenced the assessment of the tender applications. Some organisations with affiliations to political parties, as detailed below, were not excluded from the tender procedure despite the relative provisions of the agreement concluded with the FMO.

Following pre-assessment, the tender applications were examined by the adjudicators invited by the Ökotárs Foundation and its consortium partners. Each tender application was examined by at least two adjudicators according to the criteria set down in the tender. If there was a significant difference between the opinions of the two adjudicators, a third adjudicator was called in.

According to statements from observers delegated by the EMMI, the opportunity to exclude tender applications in a biased and unexplained manner was also available during the adjudication stage, in view of the fact that if adjudicators gave “0” points to a tender application with reference to certain tender criteria (e.g. are they capable of performing the task), then the tender application was immediately included in the not recommended category. The observers had no insight into the criteria according to which certain tender applications were not recommended to receive funding, in view of the fact that the documentation regarding the adjudication process was not made available to them; they were only made aware of the overall points awarded by the judges.

In addition, during the evaluation phase the Ökotárs Foundation influenced the points awarded by the adjudicators. The Director of the Foundation told one of his colleagues that if there is a significant difference between the points awarded by the two judges, then it is possible to convince one of the judges to modify the points he/she has awarded through the involvement of a third judge. The Foundation’s employees were instructed to act similarly if in their opinion a judge had given a tender application more points “than they felt the applicant deserved”.



During the next stage of the adjudication procedure, the Adjudication Committee discussed the recommendations of the judges. Observers from the EMMI were invited to attend the meetings of the Committee, but the tender applications, detailed evaluations and the minutes of meetings were not made available to them. According to statements by these observers, on several occasions the members of the Adjudication Committee didn't even discuss a recommended or not recommended tender application, but simply came to a unanimous decision without discussing the reasons for the decision. It also occurred that the Adjudication Committee recommended certain tender applications for funding, which the judges had not recommended.

In the final stage of the adjudication process, an Authorising Board comprised of the Director of the Ökotárs Foundation and representatives of its consortium partners decided on awarding funding. According to a statement by one observer delegated by the EMMI, the Board once came to a decision that was contrary to the recommendations of the Adjudication Committee, the reasons for which were unknown, because he was not provided with information on the sessions of the decision-making forum.

According to the minutes of a meeting held by the Authorising Board on 9 July 2013, it may be determined that at this stage of the adjudication process, the Director of the Ökotárs Foundation drew his colleagues' attention to the posterior influencing of the evaluation. At the meeting, the Director drew the attention of the participants to the fact that "we should ask the Adjudication Committee to repeat the scoring process in the case of applicants who have received too few points, but who will be receiving funding". And in the case of applicants who received high points during the adjudication process, yet had been turned down, the Director of the Foundation suggested that "we should get the Adjudication Committee to repeat the scoring process so as to receive less criticism in the case of tender applications that receive similar points, but are still rejected."

In view of the above, the Office has determined that during the evaluation of tender applications in the second finding cycle, the prevailing decision-making and adjudication mechanism was such that it provided an opportunity to adjudicate the tender applications in a biased manner, because during the adjudication process it was possible to change the rankings of tender applications without due explanation and to "re-score" evaluations later so they corresponded to subsequent decisions.

During the second cycle of financing, the adjudication process was also criticized on several occasions by the FMO. It had become apparent to the FMO representative that two tender applications that had received 76 and 80 percent of votes during the adjudication process had not been selected, while another tender application that received only 51% was nevertheless successful. According to the information available, it may also be determined that in comparison to the practices of other countries, the ratio of tender applications with respect to which the Adjudication Committee retroactively changed the judge's results is highest within the Hungarian NCF programme. Despite the criticism and concerns that arose, the Ökotárs Foundation made no substantive changes to its existing practices and instead attempted to convince the FMO that "one cannot depend exclusively on the points awarded" when adjudicating tender applications.

- **Conflict of Interest**

Although the Ökotárs Foundation and its consortium partners did not provide data with regard to the identity of the adjudicators and Adjudication Committee members who took part in the adjudication of tender applications, the names of these people could be determined with regard to the first funding cycle from the draft report prepared by Ernst & Young Consulting Limited, who screened the funding process, and on the basis of documents provided by observers delegated by the EMMI with regard to the second funding cycle.

According to the above information, the audit has determined with relation to several tender applications that funding was awarded to organisations that fell within the sphere of interest of members of the Adjudication Committee and judges. Personal links could be determined in the case of 21 out of the 55 beneficiaries audited.

Furthermore, in several instances the Ökotárs Foundation provided funding to organisations whose directors can be linked to political parties. These include one individual who later became a Member of Parliament, another who ran for election as Mayor in a local government election in representation of a political party, and a third who was a local government representative.

Although with regard to the first cycle Ernst & Young Consulting Limited had already voiced its objections to the fact that the members of the Adjudication Committee were not independent of the management bodies and adjudicators were often chosen from among the friends and acquaintances or earlier members of the consortium, the situation remained unchanged during the second financing cycle.

In view of the above-mentioned personal links and the awarding of funding to organisations with affiliations to certain parties, the Ökotárs Foundation has repeatedly violated the provisions of the contract it has signed with the FMO, which prescribes strict regulations for the Ökotárs Foundation and its consortium partners with relation to conflict of interest. Point 10.4.1 of the contract signed with the FMO with regard to the first cycle and Point 11.4 of the contract signed with reference to the second cycle both prescribe that the Ökotárs Foundation and its consortium partners “must take all necessary action to ensure, and terminate all circumstances that endanger, the unbiased and appropriate performance of the agreement”. According to the agreements, a conflict of interest may ensue “especially out of economic interest, through political or national links, family and emotional relations or as a result of any other important relationship or mutual interest”. In addition, the agreements determine that “The Manager shall refrain from any and all contracts that endanger their independence or that of their staff”. In view of the fact that the Ökotárs Foundation has allowed organisations that fall within the sphere in interest of the adjudicators to be awarded funding, the requirement of an unbiased procedure was not assured.

In addition, the provision of funding to organisations with political affiliations contravened Point 3.2 of the contract signed with regard to the first financing cycle and Point 3.3 of the agreement concluded with regard to the second financing cycle<sup>14</sup>, according to which a

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<sup>14</sup> Point 3.2 of the agreement signed between the FMO and the Ökotárs Foundation with regard to the first financing cycle: „Suitable applicants shall be NGOs. With due regard to the Financing Mechanisms, the EEA and EFTA determine the concept of an NGO to mean: voluntary organisations that operate according to the

suitable applicant must be an organisation that is free of political influence and independent of political parties.

The adjudicators assessed the independence of tender applicants in a biased manner: while tender applications linked to Churches were classified as “not independent”, or the projects they had drawn up did not receive support on the grounds of philosophical neutrality, funding was regularly awarded to tender applications whose representatives were clearly affiliated to a political party or were clearly propagating a certain world view.<sup>15</sup>

In addition, it should be pointed out that the procedure applied by the Ökotárs Foundation also contravened Hungarian regulations, in view of the fact that §14 of the Act on Public Monies<sup>16</sup> states that tender applicants must make a statement with regard to there being no conflict of interest, but the published tenders did not require such a statement and applicants failed to include one with their submitted projects. As a result of this irregularity, according to the ATPM all of the submitted tender applications are invalid, as a result of which the concluded funding agreements may also be null and void.

- **The provision of loans to beneficiaries**

The Office has determined that the Ökotárs Foundation has provided a total of some 100 million forints (~EUR 325,000) in loans, some of which was lent to beneficiaries that had been selected during the tendering process. The Foundation charged interest with respect to these loans.

In view of the fact that according to Act CCXXXVII of 2013 on Loan Institutions and Financial Enterprises, which came into force on 1 January 2014, and Point b) of Paragraph §3 (1) of the previously valid Act CXII of 1996, the commercial provision of credit and financial loans is classified as a financial service that is subject to authorisation, which according to the information available to the Office the Ökotárs Foundation is not in possession of, the Office has asked the Hungarian National Bank to initiate financial supervisory authority proceedings on suspicion of unauthorised financial activities according to Point §408 a) of the New Penal Code.<sup>17</sup>

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principle of self-governance and which are not under the management of state authorities and are free of political influence.”

Point 3.3 of the agreement signed between the FMO and the Ökotárs Foundation with regard to the second financing cycle: “Suitable candidates shall be NGOs founded in Hungary, which conform to the following definition: “Non-profit organisations operating on a voluntary basis and not for the purposes of profit that have been founded as legal entities and which are independent of local, regional and central government, public institutions, political parties and for-profit organisations. Church institutions and political parties are not considered NGOs.”

<sup>15</sup> The fact that the Ökotárs Foundation was fully aware of the political affiliations of applicants is supported by the minutes of a meeting of the Adjudication Committee from 9 April 2014.

<sup>16</sup> §14 of the ATPM: „Tender applicants shall include with their tender applications a written statement regarding the fact that they do not fall under the restrictions listed in §6. Without the attachment of this statement the tender application shall be invalid.”

<sup>17</sup> Paragraph §408 of the New Penal Code: “a) Those who perform financial service or supplementary financial service activities without the authorisation required by law may be punished by up to three years in prison as a result of such crimes.”

## ***V.7. THE APPLICATION OF FUNDING***

The application of funding was examined by the Office with regard to 63 projects, of which 36 received funding within the framework of the first financing cycle and 27 received funding during the second financing cycle. However, in view of the fact that a significant proportion of the projects from the second funding cycle are not yet complete, in these cases the Office was only able to investigate the conditions under which the decision to provide funding was made and, where possible, the realisation of completed project phases.

It was characteristic of the projects that received funding from the consortium led by the Ökotárs Foundation that their objectives were worded in such a general manner that made it impossible to determine the concrete results that were to be expected from the project in question. Accordingly, there was one organisation, for example, who held working group meetings, while another organisation held organisation development trainings for the protection of fundamental rights. In addition, one project involved the organisation of an anti-government demonstration.

In addition, the audit has also determined with relation to the application of funding that no maintenance period was determined for the beneficiaries, which could have assured the realisation of long-term projects. As a result, the audit also met with the development of a website that was last refreshed when the project was completed, 4 years prior to the preparation of the draft of the related Monitoring Report.

The audit also takes exception to the fact that in several instances beneficiaries did not achieve the various results and indicators (such as a predetermined increase in the organisation's members or a predetermined number of participants at a funded event) required within the framework of the project, but this was not sanctioned in any way.

Furthermore, it was also characteristic that during the application of the funding the beneficiaries concluded agreements with business entities whose representatives were also officeholders at the beneficiary organisation. In several cases, beneficiaries signed contracts with relation to the project directly with one of their own employees or executives. Accordingly, to all intents and purposes beneficiaries financed the activities of their own employees or officers from the funding received, which according to the information available to the audit occurred in the case of almost 40% of beneficiaries.

The audit uncovered discrepancies in 61 out of the 63 projects examined (97 %), as follows:

- In several instances the Ökotárs Foundation provided beneficiaries with realisation deadlines that contravened the agreement it had signed with the FMO through the amendment of the funding agreements it had signed, often through backdating. In several instances, the circumstances discovered establish suspicion of having perpetrated the misappropriation of assets in contravention of Paragraph §319 (1)<sup>18</sup> of the Old Penal Code, within the framework of which, as a predicate offense in certain cases where the amendment of the contract occurred through backdating, the crime of forging private documents was also fulfilled.

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<sup>18</sup> Paragraph §319 (1) of the Old Penal Code: "Persons entrusted with the management of foreign assets and who as a result of failing to fulfil their duties in this respect cause material damage, have committed the misappropriation of assets."

- In addition, on one occasion the beneficiary charged expenses to the funding account after the expiry of the realisation deadline, which the Ökotárs Foundation accepted. There is a suspicion of misappropriation of assets with reference to the case.
- In several instances, beneficiaries were allowed to charge the funding account with costs and expenses that were not related to the realisation of the project goals. One organisation, for example, charged expenses for men's knee socks, rubber seals for home canning, prawns etc. with respect to its project entitled "The application of cultural heritage in the development of individual socialisation". In another case, the organisation battling for democratic rights charged its members' fast food meals to the funding account, and the invoices it presented for accounting included ones for cigarettes and beer. In several cases, the circumstances discovered establish a suspicion of having perpetrated budget fraud in contravention of Paragraph §396 (7)<sup>19</sup> of the New Penal Code.
- In some cases the beneficiary charged certain expenses to multiple funding accounts, which was also enabled by the fact that the consortium led by the Ökotárs Foundation did not require the endorsement of the invoices put forward for accounting. In addition, beneficiaries were also found to have charged the funding account with costs and expenses that had already been refunded from other sources. These activities also establish a suspicion of budget fraud in these cases.
- In a few cases, beneficiaries used the funding received to perform public duties that were the responsibility of local municipalities. It was however not possible to provide local government services on the basis of the tender and so it should have been impossible to conclude a funding agreement with the beneficiary to begin with. Despite this, the accounts regarding the application of funding were accepted.
- In two cases, it has been determined that the consortium led by the Ökotárs Foundation awarded funding to tender applicants in such a manner that the tasks to be completed in fact fell under the sphere of operation of another organisation that was ineligible to receive funding according to the terms and conditions of the tender. In view of the fact that the major part of these projects were completed by the organisations that were ineligible to receive funding, the circumstances suggest that the procedure relative to the beneficiaries and the organisations that were in a contractual relationship with them was aimed at circumventing the terms and conditions of the tender.
- In one instance, the costs and expenses charged to the funding account by the beneficiary included covering invoices that were prepared by a company that had

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<sup>19</sup> Paragraph §396 (7) of the New Penal Code: „Persons who fails to comply with the requirements regarding accounting, accountability and the provision of information with relation to financial assets that are derived from the budget or who do so in an insufficient manner, who make untrue statements or use forged or false documents and/or documents that include false information shall be punishable by up to three years imprisonment.”

been terminated without a legal successor prior to the date indicated on the invoice. Accordingly, the company also lost its taxable entity status in accordance with Paragraph §5 (1) of Act CXXVII of 2007 on Value Added Tax (VAT)<sup>20</sup>, and in view of the provisions of Supreme Court Ruling No. Kfv.II.25.968/1993/5 published under Tax and Audit Bulletin (ÁÉÉ) number 1665/6<sup>21</sup>, was no longer authorised to issue invoices.

- In certain cases, beneficiaries overstepped the expense limit for the various cost titles indicated in the cost plan by more than 10 percent and subsequently regrouped their expenses with relation to these cost titles without amending the contract as required. Despite this irregularity, the accounts were accepted.
- Furthermore, it was generally characteristic that the Ökotárs Foundation and its consortium partners did not require beneficiaries to document the existence of own resources. This contributed to the fact that beneficiaries were often not in possession of the own resources required.
- There were cases in which it could be determined that the beneficiary had not fully provided the monies it had undertaken to put forward from its own resources even without having to prove the existence of said resources in writing. Regardless, the members of the consortium did not reduce the funding amount despite the fact that the provision of a predetermined level of funding on the part of the beneficiary was a mandatory condition of the tender. There is a suspicion of having perpetrated misappropriation of assets with relation to these cases.
- In several instances, to prove the existence of own funding, beneficiaries included in accounting the volunteer activities of individuals who were employees of the beneficiary organisation and whose job description partly concurred with the stated volunteer activities. Accordingly, the use of the person in question as a volunteer was in contravention of Paragraph §4 (3) of Act LXXXVIII of 2005<sup>22</sup> on Public Interest Volunteer Activities.

The irregularities discovered and the funding of projects with no expected results were also derived from the fact that instead of striving to assure the regular and efficient application of funding, the conduct of the consortium led by the Ökotárs Foundation instead assisted beneficiaries in spending the funding available, irrespective of regularity or justification. This

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<sup>20</sup> Paragraph §5 (1) on the Act on VAT: „Taxable entity: an individual or organisation with the capacity to perform legal acts who/which performs economic activities under his/her/its own name, irrespective of the place, goal or results of said activities.”

<sup>21</sup> ÁÉÉ 1995/6: “In accordance with Act XL of 1989 on Value Added Tax (VAT), taxable entities are authorised to issue VAT invoices. Invoices issued by taxable entities that have ceased to exist following their ceasing to exist do not qualify as invoiced and accordingly cannot be used for to recover VAT.”

<sup>22</sup> Paragraph §4 (3) of Act LXXXVIII of 2005: “Individuals who perform work in return for remuneration within the framework of another legal relationship that exists with the accepting organisation may not perform work activities that fall within the same job description at the accepting organisation within the framework of a volunteer legal relationship.”

in turn also means that according to the opinion of the Office the consortium led by the Foundation is unfit to perform the duties of fund manager.

It should also be noted with relation to the application of funding that although the majority of beneficiaries affected by the audit may have conformed to their obligation to provide data to the Office, some beneficiaries refused to provide data and did not send the requested documents to the Office, instead of which they published some of the requested documentation on their own websites. However, the data that has been made public was incomplete and the fact that important information was censored significantly restricted the performance of the audit.

In addition to the above, some organisations were unavailable at their registered address, which suggests that these organisations have ceased to operate. Furthermore, the annual non-profit financial report published by several organisations did not include the compulsory elements prescribed by Act CLXXV of 2011 on Association Law, Public Interest Status and the Operation and Funding of Non-Governmental Organisations (such as for example the sums eventually spent within the framework of the funding programme according to funding type). In view of these circumstances, the Office is initiating the performance of a legal compliance investigation by the Prosecutor's Office and, depending on the results of said investigations, the termination of these organisations in accordance with Points (1), (2) b) and (3) c) of Paragraph §11<sup>23</sup> of Act CLXXV of 2011 on Association Law, Public Interest Status and the Operation and Funding of Non-Governmental Organisations, and taking into account Paragraph §28 (4)<sup>24</sup> of Act CLXIII of 2011 on the Prosecutor's Office.

## ***V.8. THE CRIMINAL CONSEQUENCES OF IRREGULARITIES***

There was already a criminal investigation underway on suspicion of misappropriation of assets pertaining to the activities of the Ökotárs Foundation with relation to the management of NCF tenders at the time of the audit. The circumstances unearthed during the audit also support the fact that the crime of misappropriation of assets has indeed been committed, in

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<sup>23</sup> Paragraph §11 (1) of Act CLXXV of 2011: „The Prosecutor's Office – with the variances provided for in this Act and in the Civil Code – shall perform a legal compliance investigation with relation to the operation of non-governmental organisations in accordance with the Act on the Prosecutor's Office. The legal compliance investigation shall not include cases in which other court or public administration authority proceedings are more suitable.

(2) The Prosecutor in charge of the legal compliance investigation shall examine whether the decisions of the decision-making body comply with the law and the organisation's statutes and/or other internal (local government) regulations.

(3) If the legality of the operation of the non-governmental organisation cannot be assured by other means, the prosecutor may initiate court proceedings while acting in his/her capacity as legal compliance investigator. The court shall examine the case and, if required shall

c) terminate the non-governmental organisation if legal operation cannot be restored or if the deadline determined in Point b) has been reached without result.”

<sup>24</sup> Paragraph §28 (4) of Act CLXIII of 2011: “by the powers invested in him/her by law, the Prosecutor shall initiate court proceedings in the interests of the dissolution or termination of the legal entity, or the restoration of legal operations if it may be assumed according to the serious breach of law or other data or circumstance that has come to his/her attention that the legal entity has ceased to operate or is performing activities that contravene the Constitution or other laws. Unless specifically disallowed by law, the Prosecutor shall also initiate proceedings if the illegal activities are endangering the operation of the legal entity.”

view of the fact that the consortium led by the Ökotárs Foundation has acted in contravention of both the agreements it had signed with the NFO and the provisions of Hungarian law on an ongoing basis, with relation to which the circumstances discovered also support the suspicion that this was done with the intent to cause a financial disadvantage and indeed resulted in said damage.

In addition to the above, suspicion of the crime of budget fraud was invoked in 5 cases with regard to the application of funding received; the Office is initiating further criminal investigations with reference to these cases.

It should also be noted that an organisation responsible for the distribution of public monies is also regarded as an organisation that performs public duties even if it is not part of the system of state organisations, but despite this, Point §459 (1) of the New Penal Code does not regard the representatives of such organisations who are involved in the distribution of public monies as persons who perform public duties. Taking into account the fact that such persons are often responsible for the distribution of billions of forints in public monies, it would seem justified to amend the relevant Article of the New Penal Code to include the fact that persons with the power to decide, evaluate and make recommendations on funds and other asset elements derived from the central or local government budget or transferred on the basis of international treaties, and persons involved in the distribution of such funding and the monitoring of the application of such funding, shall be regarded as persons performing public duties during the performance of said activities, provided they are not classified as official persons.

The amendment of the New Penal Code to expand the sphere of those who are regarded as persons performing public duties would result in more serious criminal consequences with relation to certain acts perpetrated against persons involved in the management of funding (such as for instance assault against persons who perform public duties). On the other side of the coin, however, certain actions performed by such persons would also fall into a stricter criminal category (such as complicity, abuse of public duty status), which would increase the level of responsibility of the persons in question in the case of irregularities realised by them.

## ***V.9. OPERATING COSTS***

The contracts concluded between the Ökotárs Foundation and the FMO determined the fund management fee payable as a single sum (643 thousand euros with relation to the first cycle and 1.3 million with relation to the second cycle). Part of this fee was paid in advance (113.4 thousand euros in respect of the first cycle and 202.2 thousand euros with respect to the second cycle), while the remainder was to be paid to the Ökotárs Foundation by the FMO on the basis of invoices issued by the Foundation.

The audit has determined that the agreements concluded between the FMO and the Ökotárs Foundation did not include clear provisions with regard to the fact that only fees related to certified expenses may be paid out, while at the same time the parties attached a cost plan with regard to the performance of the task to both agreements, which would suggest that the intention was to pay the Ökotárs Foundation a fee in accordance with the costs and expenses incurred. This is also supported by the fact that the Ökotárs Foundation attached a statement of its operating costs to the quarterly invoices totalling 634 thousand euros that it issued with



regard to the first cycle, but the attached statements totalled 18.9 thousand euros less than the total value of the invoices issued. Despite the discrepancy, the FMO paid the invoiced 634 thousand euros.

The audit has determined that the expense statements issued by the Ökotárs Foundation clearly also included false data<sup>25</sup>, as follows:

- It occurred on several occasions that in statements half of the salaries of persons employed by the Ökotárs Foundation and its consortium partners (including the Director of other Ökotárs Foundation, its Chief Financial Officer and the Director's assistant) were accounted with reference to managing NCF funding, while on the basis of their work contract they were spending at least half of their working time performing activities relating to the Swiss-Hungarian Civil and Scholarship Fund Programme. Accordingly, the persons involved would have had to spend all of their working time performing activities exclusively relating to managing funding from the two Funds, which is clearly impossible in view of the fact that their job descriptions also included other duties (such as the training of employees, managing internal accounts, managing the organisation's properties and assets, etc.).
- From July 2013 until December 2013, 77% of the salary of one of the employees of the Ökotárs Foundation was claimed for as expenses incurred with relation to operating the NCF, while according to the accounts of the Foundation 100% of the working time of the individual in question was also claimed for within the framework of the Swiss-Hungarian Civil and Scholarship Fund Programme. With relation to the same individual, expenses related to the use of his/her own car were also claimed for within the framework of both programmes.
- 100% of the salary of one employee of the Autonómia Foundation was claimed for between 1 March 2009 and 28 February 2011, when in fact the person in question also performed other duties with relation to his/her job.
- According to the 2014 General Ledger of the Autonómia Foundation, the remuneration of an individual employed within the framework of a contract for professional services was also entered into records relating to the NCF programme, when in fact that contract for professional services concluded does not include any activities related to the NCF.
- In one case, after receiving news of the upcoming audit by the Office, one of the employees of one of the Ökotárs Foundation's consortium partners himself indicated that one of the statements sent to the FMO had led to the payment of 600 thousand forints extra in expenses.

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<sup>25</sup> The audit was only able to partially examine the operating expenses declared by the Ökotárs Foundation because not all data was made available.

15 October 2014, Budapest

STAMP

Signed:

Dr. Szabolcs Barna Gaál

President

## VI. APPENDIX

### LIST OF ABBREVIATIONS

ATPM	Act CLXXXI of 2007 on the Transparency of Funding Provided from Public Monies
EEA	European Economic Area
EFTA	European Free Trade Association
EMMI	Ministry of Human Resources (now Capacities)
FMC	Financial Mechanism Committee
FMO	Financial Mechanism Office
Gov. Dec.	Government Decree
Information Act	Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information
implementation decree pertaining to the first cycle	Gov. Dec. 242/2006 (XII.5) on the implementation regulations of the EEA Financial Mechanism and the Norwegian Financial Mechanism
IPFA	Gov. Dec. 368/2011 (XII.31) on the implementation of the Public Finance Act
KIM	Ministry of Public Administration and Justice
NC	National Correspondent
NCF	Norwegian Civil Fund
NDA	National Development Agency
New Penal Code	Act C of 2012 on the Penal Code
Old Penal Code	Act IV of 1978 on the Penal Code
Office	State Audit Office
OPFA	Gov. Dec. 217/1998 (XII.30) on the Operational Regulations of Public Finance
PFA	Act CXCV of 2011 on Public Finance

## Regulations

Regulation on the implementation of the European Economic Area (EEA) Financial Mechanism 2009-2014

## THE DIRECTORS OF THE AUDITED BODIES

Ökotárs Foundation	Veronika Móra	Director
Autonómia Foundation	András Nun	Director
Foundation for the Development of Democratic Rights	Péter Pálvölgyi	Managing Director
Kárpátok Foundation – Hungary	Boglárka Bata	Managing Director

## LIST OF LEGISLATION

Act XXXVIII of 1992	on Public Finance
Act IV of 1978	Act IV. Of 1978 on the Penal Code
Act CXII of 1996	on Loan Institutions and Financial Enterprises
Act LXXXVIII of 2005	on Public Interest Volunteer Activities
Act CXXVII of 2007	on Value Added Tax
Act CLXXXI of 2007	on the Transparency of Funding provided from Public Monies
Act CXII of 2011	on the Right of Informational Self-Determination and on Freedom of Information
Act CLXXV of 2011	Association Law, Public Interest Status and the Operation and Funding of Non-Governmental Organisations
Act CXCV of 2011	on Public Finance
Act C of 2012	on the Penal Code
Act CCXXXVII of 2013	on Loan Institutions and Financial Enterprises

- Gov. Dec. 217/1998 (XII.30) on the Operational Regulations of Public Finance
- Gov. Dec. 201/2005 (IX:27) on the proclamation of the implementation of the cooperation agreement concluded between the Government of the Kingdom of Norway and the Government of the Republic of Hungary on 10 June 2005 on the Norwegian Financial Mechanism for the period 2004-2009, and the implementation of the cooperation agreement concluded between the Government of the Republic of Iceland, the Government of the Principality of Liechtenstein and the Government of the Republic of Norway and the Government of the Republic of Hungary on 7 July 2005 on the EEA Financial Mechanism for the period 2004-2009
- Gov. Dec. 242/2006 (XII.5) on the implementation regulations of the EEA Financial Mechanism and the Norwegian Financial Mechanism
- Gov. Dec. 235/2011 (XI.15) on the proclamation of the implementation of the cooperation agreement concluded between the Government of the Republic of Iceland, the Government of the Principality of Liechtenstein and the Government of the Republic of Norway and the Government of the Republic of Hungary on the EEA Financial Mechanism for the period 2009-2014
- Gov. Dec. 236/2011 (XI.15) on the proclamation of the implementation of the cooperation agreement concluded between the Government of the Kingdom of Norway and the Government of the Republic of Hungary on the Norwegian Financial Mechanism for the period 2009-2014
- Gov. Dec. 355/2011 (XII.30) on the State Audit Office
- Gov. Dec. 368/2011 (XII.31) on the Implementation of the Public Finance Act (IPFA)
- Gov. Dec. 326/2012 (XI.16) on the implementation regulations of the EEA Financial Mechanism and the Norwegian Financial Mechanism for the period 2009-2014

