



Brussels, 20.12.2012
C(2012) 9950 final

**Subject: State aid n° SA.35368 (2012/N) – Hungary
Cultural aid from the EEA and Norwegian Mechanism**

Sir,

1. PROCEDURE AND DESCRIPTION OF THE MEASURE

- (1) On 20 November 2012, Hungary notified to the Commission the above-mentioned aid measure. The measure was notified under the Notice on simplified procedure, in particular point 5 (b) (i) of the Notice.¹ In their notification, the Hungarian authorities accept that the decision is adopted in the English language.
- (2) A description of the relevant features of this measure can be found in the summary of the notification, as published on the website of the Commission http://ec.europa.eu/competition/state_aid/cases/246716/246716_1376903_12_1.pdf and annexed to the present decision.
- (3) Pursuant to the EU-EEA Agreement, the non-EU Member States of the EEA have to contribute financially to the reduction of social and economic inequality within the EEA for their participation in the internal market. This contribution is made in the framework of periodical agreements with the EU; currently, the "EEA Financial Mechanism 2009-2014" is in force. In addition to the EEA Financial Mechanism, Norway provides a further contribution within the framework of the "Norwegian Financial Mechanism 2009-2014" for the 12 newest Member States. In order to implement these Financial Mechanisms, both the EEA and Norway have signed Memoranda of Understanding with the Republic of Hungary on 12 October 2011. The notified scheme partly develops the two Financial Mechanisms. The Hungarian authorities have informed that,

¹ OJ C136, 16.06.2009, p. 3-12.

Őexcellenciája János MARTONYI
Külügyminiszter
Bem rakpart 47
H - 1027 BUDAPEST

despite the fact that the two mechanisms involve two different funds, they do serve the same purpose and furthermore share the same procedural and institutional structure.

- (4) The Hungarian authorities have informed the Commission that the main objective of the scheme is the conservation and revitalisation of cultural and natural heritage.²
- (5) The authorities granting the aid will be two different programme operators: (i) the "Managing Authority for Regional Operational Programmes" and the "Managing Authority for International Co-operation Programmes" of the Hungarian National Development Agency. Both Managing Authorities belong to the Hungarian central administration.
- (6) Programme operators have the responsibility to define the narrower focus areas within the programme and to implement them. According to their programme proposals, the planned focus areas under the cultural aid category are as follows:
 - (i) protection of rural and landscape heritage: restoration of cultural and natural heritage closely connected to traditional rural lifestyles, crafts and activities with a focus on sustainability;
 - (ii) protection of urban heritage: renewal of urban heritage (palaces, castles, gardens), with a focus on sustainability;
 - (iii) digitalisation and ensuring of public accessibility of cultural and natural heritage: endangered photos, sketches or audio-visual material;
 - (iv) promotion of cultural dialogue and enhancement of cultural diversity: through the production of contemporary works of theatre, dance or music and events serving cultural cooperation and dialogue (production of different artistic demonstrations, events, festival, master courses and workshops);
 - (v) elaboration of methodologies in connection with the protection of cultural heritage: by exploring methodologies for the measurement of the socio-economic benefits and impacts of cultural heritage or on its sustainable restoration and insertion in the respective local socio-economic environments;
 - (vi) renovation of cultural heritage sites and buildings based on utilisation plans, by financing the elaboration of the renovation plans with a focus on their public use and operation.
- (7) The beneficiaries of the measure can be any legally incorporated organisations located in Hungary or inter-governmental organisations operating in Hungary. Natural persons can only apply for aid in the area of cultural dialogue, cultural diversity and the enhancement of cultural relations with the donor states. The Hungarian authorities have made it clear that due to the nature of the measure, the majority of the applicants will be local governments, state institutions or non-

² The most relevant programme areas defined in the Memoranda of Understanding in terms of cultural support are "Conservation and revitalisation of cultural heritage and natural heritage" and "capacity-building and institutional cooperation between the Beneficiary state and Norwegian Public Institutions, Local and Regional Authorities".

profit limited liability companies founded and operated by state institutions, or partly financed by state institutions, or non-governmental organisations.

- (8) The financing will be awarded in the form of direct grants. The measure will run from 01.01.2013 to 30 April 2016³ and has a total budget of HUF 6 000 million (approximately EUR 21 million).⁴ The amount of the donor states' contributions provided under both programmes may not be higher than 85% of the total budget. There will be a national Hungarian co-financing of 15% of the total amount of all allocations.
- (9) Eligible costs are costs directly related to the direct expenditure of the supported projects.⁵
- (10) The intensity of the contribution granted can vary depending on whether the recipient is a public or a non-public entity. For the latter, the aid intensity can constitute up to 100% of the expenditures of the project. If the recipient is a non-public entity, the aid intensity can be of a maximum 90%. The remaining 10% must be provided by the beneficiary itself. A programme cannot receive aid from the scheme at stake if it has already been awarded a grant from another source. Monitoring of the implementation of the scheme is ensured according to the rules developing the two Financial Mechanisms.

2. ASSESSMENT OF THE MEASURE

2.1. Existence of aid within the meaning of Article 107(1) of the TFEU

- (11) The notified scheme provides an economic advantage to a selected number of beneficiaries (estimated between 51-100) by means of State resources, which they would not receive under normal market conditions. Consequently, the support from the State strengthens the position of a selected number of beneficiaries in relation to their competitors in the Union and therefore has the potential of distorting competition. Since the beneficiaries are active in cultural activities which are, at least potentially subject to intra-Union trade, these cultural aids are likely to affect trade between Member States.
- (12) The Commission therefore concludes that the notified scheme constitutes State aid within the meaning of Article 107(1) of the TFEU as moreover confirmed by the Hungarian authorities during the pre-notification procedures.

2.2. Compatibility of the aid

- (13) According to Article 107 (3) (d) of the TFEU, aid to promote culture and heritage conservation may be considered to be compatible with the Internal market, where

³ As set forth in the Regulations on the implementation of both financial mechanisms (the EEA Financial Mechanism 2009-2014 and the Norwegian Financial Mechanism 2009-2014) the deadline until the donor states can decide about the commitments provided for the programmes is 30 April 2014 and the deadline of eligibility of the supported projects is 30 April 2016. In exceptional cases the period of eligibility can run to 30 April 2017.

⁴ Exchange rate of 3 December 2012: 1 Euro = 281.89HUF (ECB).

⁵ As set forth in Chapter 7 of the abovementioned Regulations (see footnote 3).

such an aid does not affect trading conditions and competition in the Union to the extent that is contrary to the common interest.

(14)The Commission's compatibility assessment of the notified measure did not imply any serious difficulties. The principles laid down in these Treaty provisions have been applied to cases similar to the case at stake in a series of precedent decisions:

- *N 276/2007 (Hungary, Aid measure with a cultural objective under the Regional Development Programmes)*⁶;

- *N 357/2007 (Hungary, Appropriations of the Ministry of Education and Culture and the National Culture Fund)*⁷;

- *N 540/2008 (Hungary, Cultural aid from Norwegian Funds)*⁸.

As regards the applicable substantive provisions, the Commission has analysed the measures in the light of, in particular, paragraphs 38-44 of the case N 357/2007. The Commission's analysis confirms that the notified measure fulfils the substantive requirements laid down in the above-mentioned precedents.

(15)More in particular, the measure at stake is aimed primarily at the preservation, digitalisation, promotion and renovation of national cultural heritage and at promoting cultural dialogue and cultural diversity. Moreover, amongst other features,

- the aid is necessary and limited to the minimum to pursue the objective;
- only costs related to the expenditure of the supported projects are eligible;
- the maximum extent of aid that can be granted may not exceed 100% of the eligible costs even with aid granted from other sources;
- the objectives of the aid have been precisely defined in the form of an exhaustive list of focus areas;
- projects with primarily profit-making goals or with an economic purpose are not entitled to obtain funding;
- some of the projects to be supported may have no appreciable potential to affect trade between Member States; other projects, however, may have a limited effect on competition and trade between Member States.

(16)The Commission did not receive any substantiated comments of third parties upon publication of a summary of the notification on its website.

⁶ OJ C 206, 5.9.2007, p. 1.

⁷ OJ C 87, 8.4.2008, p. 1.

⁸ OJ C 116, 21.5.2009, p. 1.

3. CONCLUSION

- (17) In the view of the above, the Commission finds that the aid granted on the basis of the measure in question is compatible with the Internal market in accordance with Article 107 (3) (d) of the TFEU and has accordingly decided not to raise objections to the notified measure.
- (18) The Member State has indicated in the context of the notification process that the summary nature of this decision implies that it does not contain any confidential information.

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-president

Annex: Summary of the notification based on the information provided by the Member State according to the standard form provided in Annex to the Notice on simplified procedure