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PUBLIC VERSION

WORKING LANGUAGE

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**Subject: State aid No N 343/2008 – Hungary
Individual aid to the College of Nyíregyháza for the development of the
Partium Knowledge Centre**

Dear Madame,

1. PROCEDURE

- (1) By letter dated 4 July 2008, registered at the Commission on the same day, the Hungarian authorities notified the Commission, according to Article 88(3) of the EC Treaty, of the above-mentioned measure. The measure was assessed on the basis of the Community Framework for State Aid for Research and Development and Innovation¹ (hereinafter: R&D&I Framework).
- (2) After a first assessment of the information received, the Commission considered the notification to be incomplete and asked the Hungarian authorities for additional information by letter dated 5 September 2008. The Hungarian authorities responded by letter dated 25 September 2008.
- (3) The Hungarian authorities have submitted the notification for reasons of legal certainty.

¹ OJ C 323, 30.12.2006, p. 1.

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2. DESCRIPTION OF THE MEASURE

2.1 Background and legal basis

- (4) The measure is co-financed by the European Economic Area (EEA) and Norway Grants which were established in conjunction with the enlargement of the European Union in 2004. The EEA Agreement brings together Iceland, Liechtenstein, Norway and the EU in the Internal Market. The ambition of the EEA and Norway Grants is to contribute to a more equal Europe. Beneficiaries are organisations, NGOs, municipalities and businesses across Central and Southern Europe.
- (5) The implementation of the measure at hand is subject to the Rules and Procedures for the Implementation of the EEA Financial Mechanism 2004-2009² and the Rules and Procedures for the Implementation of the Norwegian Financial Mechanism 2004-2009³, furthermore the Grant Agreement entered into force between the parties and all Guidelines and Guides published by the Financial Mechanism Office.

2.2 Duration and budget and form of aid

- (6) The duration of the measure starts with the approval of the Commission and ends on 5 October 2011. Expenditures incurred before the date of the Commission's approval on the grant are not eligible.
- (7) The support in the value of 2,949,329 EUR (73,337,991 HUF) at a maximum grant rate of 85 % of the eligible costs has been allocated to the project. The total eligible project cost is 3,469,799 EUR.
- (8) The form of the aid is direct grants.

2.3 Beneficiary

- (9) The beneficiary of the measure is the publicly funded College of Nyíregyháza, 4400 Nyíregyháza, Sóstói út 31./B, Hungary.
- (10) The primary goal of the College is to conduct fundamental research, industrial research and experimental development and to disseminate their results by way of teaching, publication or technology transfer.
- (11) In order to avoid cross-subsidisation of economic activities, the College will clearly separate any economic activities from the non-economic activities, and their costs and funding in the annual financial statements.

2.4 Objective of the Measure

- (12) The purpose of the project is to establish the Partium Knowledge Centre, contributing to the development of a market and innovation-oriented labour market, to reduce the disparities of the regional human resources market and to increase equal chances. The

² Adopted by the EEA Financial Mechanism Committee on 16.06.2004 pursuant to Article 8 of Protocol 38a to the EEA Enlargement Agreement, as amended on 07 July 2005, 26 October 2006 and on 7 June 2007.

³ Approved by the Norwegian Ministry of Foreign Affairs on 02.07.2004 pursuant to Article 8 of the Agreement of 14.10.2003 between the Kingdom of Norway and the European Community on a Norwegian Financial Mechanism, as amended on 19 November 2005, 26 March 2007 and on 21 November 2007.

overall objective is to strengthen life-long learning and specialised vocational training, and the cooperation between tertiary education and the private sector.

2.5 Activities of the Beneficiary

- (13) The complete project shall be implemented by the College of Nyíregyháza, and includes the following activities:
- The development of a Service Centre which provides for training programs;
 - Establishment of a Virtual Campus with traditional and remote training methods;
 - Development of a Cooperative R&D Centre to improve innovation and the competitiveness through PPP.
- (14) The services developed under the measure and rendered by the Service Centre are available for anyone free of charge. The Service Centre provides interested parties with information on the on-going project, the institution and its training programs, additional services and educational results. The beneficiaries of the training activities provided by the Virtual Campus are individuals.
- (15) The support of the Cooperative R&D Centre and its activities covers independent R&D for more knowledge and better understanding, collaborative R&D, the dissemination of research results and technology transfer activities. The technology transfer is of an internal nature⁴ and all income from these activities is reinvested in the primary activities of the College.

3. ASSESSMENT

- (16) According to point 2.2 (d) of the R&D&I Framework, a research organisation means an entity, such as university or research institute, irrespective of its legal status or way of financing, whose primary goal is to conduct fundamental research, industrial research or experimental development and to disseminate their results by way of teaching, publication or technology transfer; and all profits are reinvested in these activities, the dissemination of their results or teaching. As mentioned in points 2.3 and 2.5 above, the College of Nyíregyháza fulfils all of these criteria; consequently, it must be considered as a research organisation within the meaning of point 2.2 (d) of the R&D&I Framework.
- (17) Pursuant to point 3.1 of the R&D&I Framework, public financing of R&D&I activities by research organisations qualifies as State aid, if all conditions of Article 87(1) of the EC Treaty are fulfilled. In accordance with the case-law, this requires, *inter alia*, that the research organisation qualifies as an undertaking within the meaning of Article 87(1) of the EC Treaty. What is decisive for its qualification as an undertaking is whether the research organisation carries out an economic activity, which is an activity consisting of offering goods and/or services on a given market.
- (18) The Commission, pursuant to point 3.1.1 of the R&D&I Framework, considers that the primary activities of research organisations are normally of a non-economic character, notably i) education for more and better skilled human resources; ii) the conduct of independent R&D for more knowledge and better understanding, including

⁴ The concept of internal nature is within the meaning of footnote 25 of the R&D&I Framework.

collaborative R&D; iii) the dissemination of research results. Furthermore, technology transfer activities (licensing, spin-off creation or other forms of management of knowledge created by the research organisation) are considered to be of non-economic character if these activities are of an internal nature and all income from these activities is reinvested in the primary activities of the research organisations.

- (19) The services developed under the measure and rendered by the Service Centre are available for anyone free of charge, as stated above in point 2.5 and are of general interest. Therefore, these activities do not qualify as economic.
- (20) The beneficiaries of the training activities provided by the Virtual Campus are individuals, as stated above in point 2.5. Considering that the beneficiaries of these activities are not undertakings, such activities do not qualify as economic.
- (21) The activities of the College's Cooperative R&D Centre, as stated in point 2.5 above, qualify as non-economic in compliance with point 3.1.1, paragraph 2 and 3, of the R&D&I Framework.
- (22) Furthermore, if the same entity carries out activities of both economic and non-economic nature, in order to avoid cross-subsidisation of the economic activity, the public funding of the non-economic activities will not fall under Article 87(1) of the EC Treaty, if the two kinds of activities and their costs and funding can be clearly separated. As stated above in point 2.3, the economic and non-economic activities of the College of Nyíregyháza are clearly separated in compliance with point 3.1.1 of the R&D&I Framework.
- (23) The Commission, as a conclusion, finds that that the notified measure does not constitute State aid within the meaning of Article 87(1) of the EC Treaty to the College of Nyíregyháza, since the beneficiary is a research organisation, and only its non-economic activities receive State support. Furthermore, in case the College of Nyíregyháza perform economic activities beside the non-economic activities, these and their costs and funding can be clearly separated, as stated above in point 2.3. Consequently, the cross-subsidisation of the economic activities can be avoided in compliance with point 3.1.1 of the R&D&I Framework.

4. DECISION

- (24) The Commission has accordingly decided not to consider the notified measure to constitute State aid within the meaning of Article 87(1) of the EC Treaty.

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http://ec.europa.eu/community_law/state_aids/index.htm

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
B-1049 Brussels
Fax No: 32 2 2961242

Yours faithfully,

For the Commission

Neelie KROES
Member of the Commission