

RER-18/0015 - Support to Judicial Reform in the Western Balkans II

Progress Report and Financial Report 2020

1. General overview

The Grant Agreement between the Norwegian Ministry of Foreign Affairs (herein referred to as NMFA) and the Norwegian Courts Administration (herein referred to as NCA) for the implementation of RER-18/0015 - Support to Judicial Reform in the Western Balkans II (hereinafter referred to as "the grant agreement") has entered into force on Monday, 3 December 2018.

In accordance with Article 7 and Article 8 of the grant agreement, the NCA shall submit an annual progress report and a financial report by 1 February each year. This report encompasses the period of the year 2020.

Chapter 2 of this document contains the progress report, whereas chapter 3 contains the financial report.

2. Progress report

2.1 Organizational set-up

The project is implemented by the Norwegian Courts Administration, in cooperation with the UNDP.

The previously established organisational set-up has continued operating successfully in this reporting period. The NCA has been supported in the project implementation by the UNDP within the framework of the amendments 3, 4 and 5 to the existing third-party cost-sharing agreement between the NCA and UNDP (signed on 19 November 2018, 13 May 2019 and 5 May 2020 respectively).

UNDP contracted Ms. Amra Jasarevic who carries out the regional implementation of the project under the direction of the NCA and in line with the adopted terms of reference (ToR), in accordance with the grant agreement between NMFA and NCA as well as the agreement between UNDP and NCA.

The coordination of the work within the NCA was carried out by the Head of the International Secretariat, Mr. Iwar Arnstad, in close cooperation with the General Director of NCA, Mr. Sven Marius Urke.

The General Director of the NCA and the Head of the International Secretariat meet and coordinate regularly with the regional advisor and direct the project activities. This includes activities such as discussions and brainstorming sessions for the development of the project implementation plan/detailed budget for 2020 and 2021. The NCA also has communication with the UNDP relevant officials to discuss mutually relevant issues.

2.2 General remarks

Due to the situation with the Covid-19 pandemic, as already envisaged in the 2020 Work Plan and Budget, as revised on 27 March 2020, most of the regional project activities have diverted to remote work through the flexible use of technology throughout 2020. This has applied equally to the bilateral and the regional component of the Western Balkan project.

Unavoidably, much of this remote collaboration has depended on the resources and abilities in that regard of our counterparts in the Western Balkan judiciaries.

Even though the new challenging circumstances have inevitably changed the pace and the manner of carrying out the project activities, the regional project has adjusted well and has managed to carry out all of the activities planned under the revised 2020 work plan and has managed to continue to deliver project goal and the related outcomes and outputs of the project as planned.

2.3 Regional component

2.3.1 Overview

The Western Balkan regional project has continued to address the main aspects of judicial management, including the efficiency and quality aspect. It has continued to work in-depth on the related specific topics, strengthening the capacity of the regional judiciaries to monitor, evaluate and apply improvement measures in their judicial systems. The existing CEPEJ recommendations and the other European/international norms and standards have continued to serve as benchmarks.

2.3.2 Webinar on Concentrated Court Hearings

Why Is It Not Possible in Western Balkan Judiciaries or Is It?¹

The Covid-19 pandemic situation has not allowed the regional conference to take place this year with a face-to-face presence, as intended.

Instead, through a webinar, a virtual gathering with the Western Balkan judiciaries was organized in December 2020.

Delegations of seven regional judiciaries (Albania, BiH, Croatia, Kosovo*, Montenegro, North Macedonia, Serbia) took part. There was twenty-five (25) participants, including the presidents and members of the judicial councils and their managerial staff.

¹ Reference in the project document: Improved Capacity for Implementation of Judicial Reform Initiatives through Regional and European Judicial Community Networking (OUTCOME 1) - Conferences/workshops/study visits on selected judicial reform topics (Output 1.1). Reference in the Work Plan for 2020: Activity 1, 2 and 5.

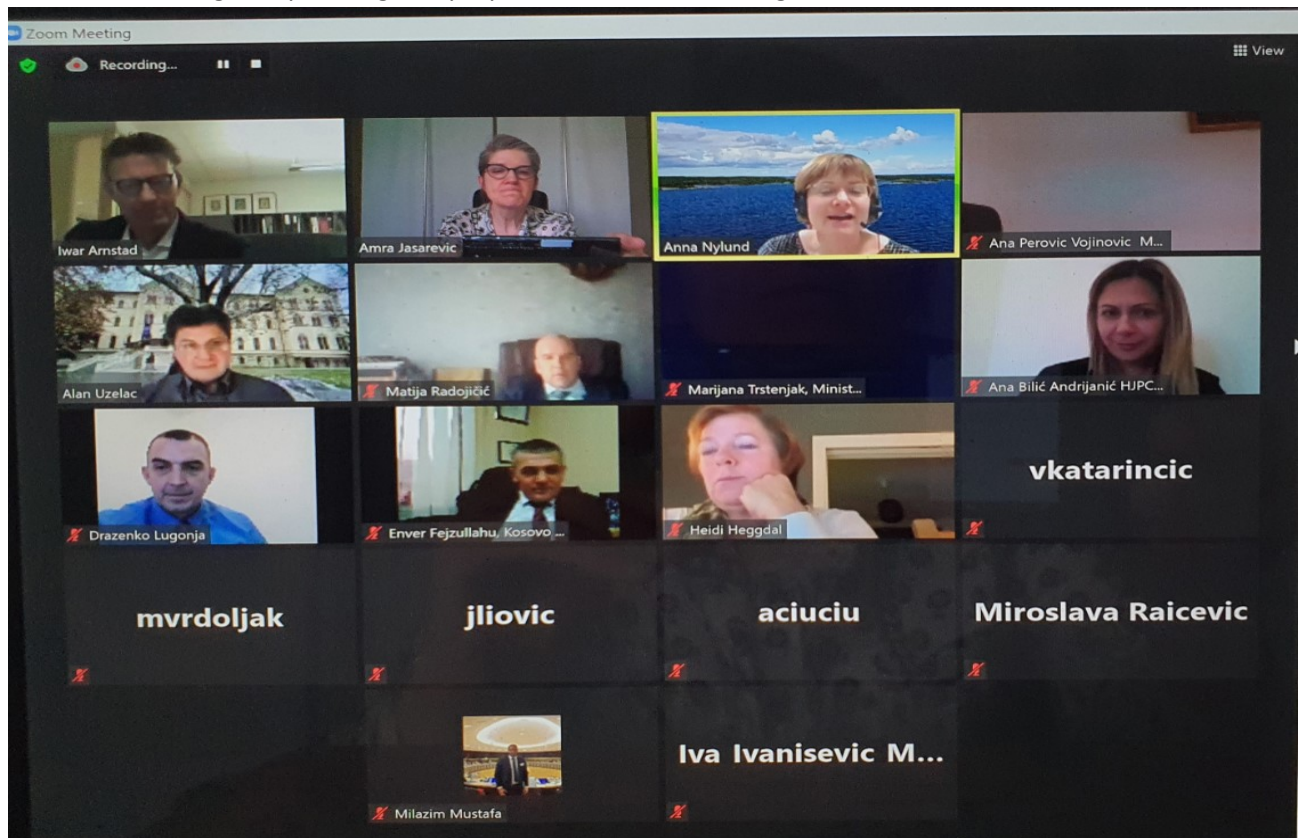
In line with the regional project’s overall theme of judicial management, the webinar has introduced some approaches and good practices applied in Norwegian courts in the preparation and planning of the concentrated court hearings as well as some international trends.

Within the subtopics of the preparation of hearings, organisation and conducting of court hearings, the role of the court, parties and to a certain extent their legal representatives and other external actors in these processes have been discussed. The webinar brought together experts from the region with the judges and the academia representatives from Norway, thus combining the perspective of the sitting judges with an academic point of view on these practices in Norway. It connected diverse experience, skills and knowledge to look at the legislative as well as the cultural aspects and the differences in this regard between the regional and the legal traditions in Norway and elsewhere.

The judges from Norway have elaborated upon the rules and practices applied in the first and the second instance courts and have discussed some of the tools that can assist judges and courts in improving their internal operations and the efficient management of cases and court hearings in particular.

A perspective from academia has offered a broader insight into the international trends in concentrated hearings and case management.

The Working Group on Judicial Performance Management of the regional project has looked at the main aspects of the concentrated court hearings in the Western Balkan judiciaries and has presented an overview and main challenges in planning and preparation of court hearings in the Western Balkan countries.



2.3.3 Study Visit of the Western Balkan Judiciaries to the Norwegian Judiciary²

A follow-up study visit to the Norwegian judiciary was initially planned to take place in October/November 2020 with an opportunity for the Western Balkan judiciaries to get first-hand insight into the best practices of preparing, organising and conducting of court hearings in the Norwegian courts and to share some practical suggestions with the Norwegian judges in that regard.

However, in the Work Plan and Budget for 2020 that was revised on 27 March 2020 the study visit was postponed to 2021 due to the Covid-19 pandemic situation.

2.3.4 Capacity building in designing and utilising judicial data - support to the Judicial Council of North Macedonia and Kosovo Prosecutorial Council³

Support to the Judicial Council of North Macedonia

The regional project has organised and conducted a **series of online workshops** on managerial reports for the Judicial Council of North Macedonia, court presidents and judges and the relevant court staff throughout 2020.

This activity has aimed at enhancing institutional and operational capacities of the North Macedonian judiciary in attaining the effectiveness and efficiency of the judicial system in line with the European and other international standards and best practices primarily through enhanced judicial statistics capacity. The project has engaged the services of a judicial performance management expert to assist in this activity.

As the Judicial Council should have timely access to summarised managerial reports and indicators to monitor the performance of the court system and the execution of its policies, these reports should generally include information and analysis of the case-flow, case disposition times and productivity of courts. Since most of these data is already available in the existing case management system (Automated Court Case Management Information System, ACCMIS), the managerial reporting functionality may be speedily and economically developed.

The purpose of the initial workshops was therefore to present and discuss a draft of the managerial reports for the Judicial Council/court presidents/judges. All of the members of the Judicial Council and most of the court presidents in the country have participated in the workshops and provided their feedback and suggestions for possible improvements to the proposals that were presented. The feasibility of

² Reference in the project document: Improved Capacity for Implementation of Judicial Reform Initiatives through Regional and European Judicial Community Networking (OUTCOME 1) - Conferences/workshops/study visits on selected judicial reform topics (Output 1.1). Reference in the Work Plan for 2020: Activity 1, 2 and 6.

³ Reference in the project document: Improved Capacity for Implementation of Judicial Reform Initiatives through Regional and European Judicial Community Networking (OUTCOME 1) Capacity building in designing and utilising judicial data (Output 1.2). Reference in the Work Plan for 2020: Activity 4.

implementation in the existing case management system ACCMIS was also discussed and is intended to be explored further in 2021.

On the basis of the extensive discussion in these workshops, a **report on the managerial judicial statistics** was subsequently completed and submitted to the Judicial Council. This report proposes developing specific managerial reports featuring the most important performance indicators summarising changes in the performance over time and comparing the performance of different courts.

To realise the full potential of dramatically increased availability of data for efficiency improvements, performance information must be used by judicial officials at the operational and strategic management levels. The performance information should be integrated into policies and guide operational decisions.

Therefore, after the initial workshops, an **online seminar** for the court presidents and judges was organised in December 2020 to further explore the solutions offered in the report. The following topics were discussed in the seminar:

- Standard statistical reports of the performance of the judiciary commonly used by European judiciaries to describe the workloads of courts. These reports mostly consist of tables with figures. They are typically produced by statistical departments and published annually, but not regularly used for management purposes.
- Managerial reports: automatic graphs, interpretation of data, comparative and trend analyses contain essential information and indicators presented in a user-friendly manner. The purpose of these reports is to help judicial officials in the management of judiciaries. These reports are highly visual, compare information and evaluate changes over time. Further, these reports may offer a basic interpretation of data.
- A managerial report for the Judicial Council/court presidents/judges featuring an illustration of a case-flow, disposition times, productivity and the number of hearings was presented. The participants had an opportunity to suggest which additional data they would prefer to see in the report and which presentation method they find the most useful.

Support to the Kosovo Prosecutorial Council

The same as other project activities, a planned study visit for the relevant KPC officials to enhance their knowledge and understanding of the prosecutorial statistics has taken the form of remote collaboration.

In that context, the regional project has organized in December 2020 a **training webinar** on developing reports and processing of statistical data in the prosecutorial system of Kosovo Prosecutorial Council (KPC).

The processing of cases in the Kosovo prosecutorial offices have digitalised only recently and the provision of data from the new statistical sources - digitalised case management system - is still in its early days in the KPC. In such a context, the KPC department dealing with the prosecutorial statistics needs assistance in several theoretical and technical issues.

The KPC often needs also to prepare the data related to the criminal justice statistics for the various international bodies and organisations and the Council has encountered some methodological problems and dilemmas in that regard as well.

The training webinar has opened the discussion on these matters by introducing certain approaches and good practices applied in the Norwegian prosecutorial system, focusing on the following main issues: Types of prosecution statistical reports; Reporting methods (case/persons/criminal offences) – accepted standards and best practices (presentation on prosecutorial workload, how to present cases with the unknown perpetrators, number of cases vs persons, when should a case be reported solved); Reporting methods concerning solved complex cases – when is a case considered solved; Drafting statistical analyses and preparing comparative reports.

A Norwegian prosecutor has shared Norwegian practice and experience in these matters with the KPC representatives (Director and Managers of Prosecution Performance Review Unit responsible for statistics and analytical reports; Head of Information Technology Department and Heads/Managers of the ICT Divisions).

2.3.5 Building Capacity for Judicial Management Policy Development⁴

The **Working Group on Judicial Management (WGJM)**, consisting of the court presidents, judges and council members from the region, which has been established within the realm of the regional project has managed to successfully adapt its work to the pandemic conditions in the previous period.

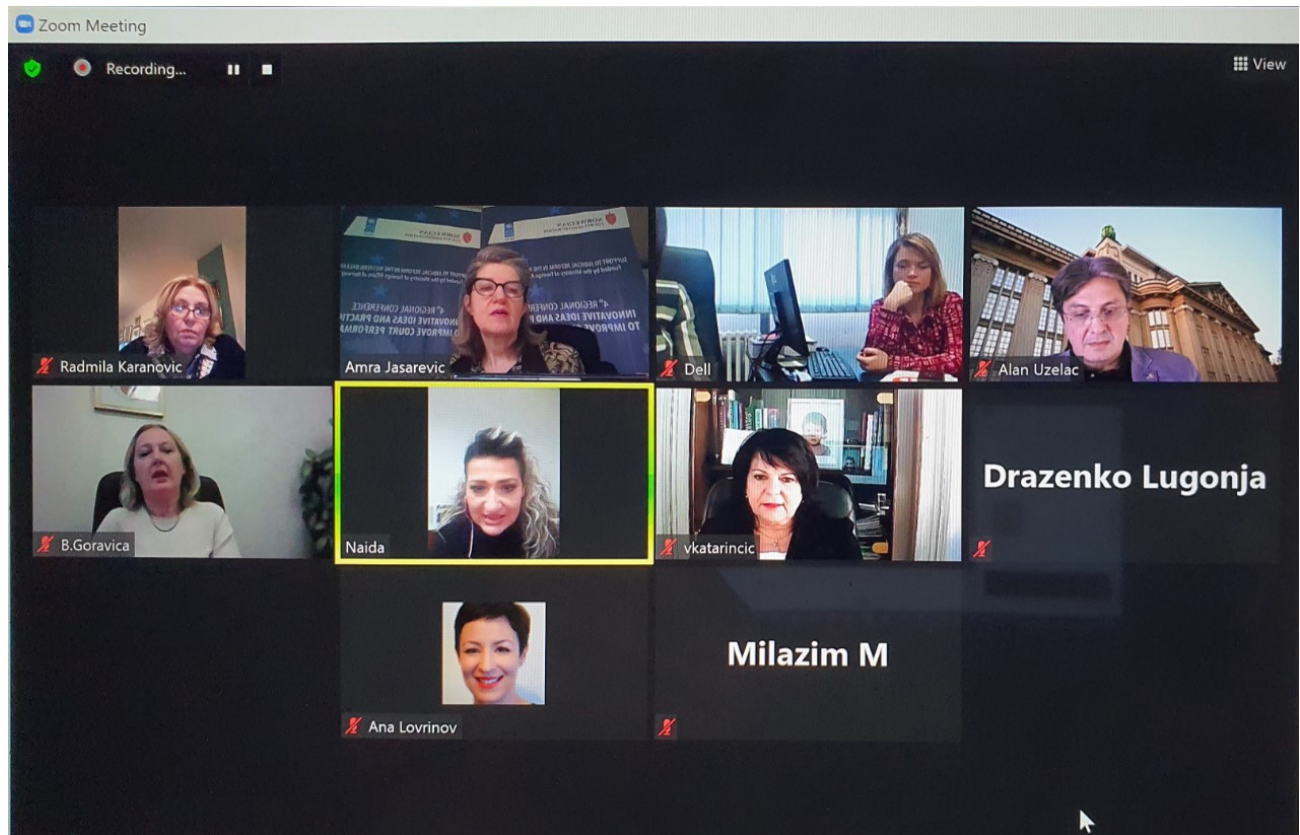
This enabled the regional project to continue its activities in 2020 also through a **series of online discussions/workshops** with the practising judges from the Western Balkan countries on the targeted topics in the area of the judicial efficiency and the judicial management, including the current practice in the regional judiciaries in relation to concentrated court hearings. The working group was supported by a regional and international expert on civil procedure.

Some of the **findings of the working group were presented** by the expert and discussed by the regional judges during the 16 December webinar in an overview of the current practice and the existing legal rules in court hearings in the region.

This was followed by a **report on the concentration of court proceedings** that has discussed the following: legal rules on concentration in Western Balkan procedural codes; current practices and the groups of problems identified in the WGJM; particular reasons for deconcentrated court proceedings (reasons caused by logistics; reasons caused by case management; reasons caused by the lack of proportionality); and some suggestions and proposals voiced in the WGJM.

⁴ Reference in the project document: Building Capacity for Judicial Management Policy Development (OUTCOME 2) - Using judicial studies and analysis on specific topics of interest for the judicial reforms in the Western Balkans (Output 2.1). Reference in the Work Plan for 2020: Activity 1, 2 and 3.

The report has also offered a diverse set of recommendations systematized in four sections: 1) technological improvements; 2) planning and time management; 3) stimulating consensual dispute resolution and 4) new approach to case management.



2.4 Bilateral component⁵

2.4.1 Overview

The NCA has continued to be involved in bilateral activities primarily in Kosovo and Bosnia and Herzegovina. Some costs related to expert assistance are included in the budget of the projects, while some assistance (such as the one to the Kosovo project), was covered by the budget of the RER-18/0015.

2.4.2 Kosovo*⁶

The NCA and its regional advisor has continued to closely monitor the implementation of the case management information system project (the CMIS project) on the ground and to assist the Kosovo Judicial Council and the Kosovo Prosecutorial Council in the implementation of the consolidation phase. There were, in that regard, regular video meetings and online communication with the relevant KJC/KPC officials,

⁵ Reference in the Work Plan for 2020: Activity 7.

⁶ *This designation is without prejudice to positions on status and is in the line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

including the participation in the CMIS user working group meetings and the meetings with the external actors and partners of the project.

The NCA's role in assisting the donor with monitoring the realisation of the KJC/KPC project outcomes and suggesting to the donor the necessary rectifying measures has continued in the reporting period. To that end, the NCA has assisted the Embassy in several important issues related to CMIS throughout 2020. This included the KJC May 2020 request for the contract extension for six ICT/CMIS project staff until the end of 2020 and the accompanying amendment of the project budget due to the difficulties encountered in relation to the COVID 19 pandemic and the budgetary constraints related to the national contributions to the project activities.

The NCA has also assisted in reviewing and providing its recommendations as regards the revised CMIS documents submitted by the KJC/KPC upon the request of the Embassy for its approval in Fall 2020, including Revised Attachment 9 - List of the relevant positions detailing the timeframes related to hiring/transfer to reflect the requested delays; Revised 2020 Work Plan, especially as regards the timelines that reflected the new circumstances and the situation on the ground from the start of the pandemic; Revised project Results Framework and Implementation Activity Plan.

In general, the KJC, KPC and the CMIS project have managed to make a progress on a number of project activities during 2020 despite the pandemic. However, there have been some worrisome delays, particularly those related to the sustainability issues of the recruitment of IT staff into the KJC/KPC permanent organisational structures and those related to further development of CMIS. In that regard, we continue working closely with the KJC/KPC and our CMIS counterparts and continue providing assistance to the Embassy.

2.4.3 Bosnia and Herzegovina

The involvement from NCA in the approved judicial project in Bosnia and Herzegovina continues to be concentrated on assisting the courts and the judicial efficiency project primarily through triangular cooperation between the HJPC, Norwegian Courts Administration and the Netherlands Council for the Judiciary. The focus is on twinning cooperation between the first instance court in Amsterdam and the selected courts in the BiH. We also started up an activity on peer evaluation, with participation from norwegian judges. However the implementation has been postponed, caused by the pandemic. The Head of the NCA International Secretariat and the General Director of the NCA have continued to provide the strategic/policy level support to the High Judicial and Prosecutorial Council of BiH and the BiH judiciary.

2.5 Challenges

Reference is made to the challenges that have been well described and elaborated upon in the previous progress reports and the application submitted for the grant agreement. Those still remain, but the project has been adequately equipped to respond to the challenges on the ground, in particular through its organisational set-up and the chosen *modus operandi*. This has enabled the regional project to continuously

work in the closest partnership with the regional colleagues in carrying out the activities which best reflect the needs and priorities of the Western Balkan judiciaries.

When it comes to this year's specific and unexpected challenges brought by Covid-19 pandemic, the regional project has managed to cope well. Despite inevitable difficulties, in some instances, the regional project has even turned some of those challenges into its advantages, primarily due to the nature of its work that includes diverse geographical coverage. Consequently, the regional project has always relied extensively on remote methods of work and collaboration. This has only intensified during 2020 and has brought to a certain extent the communication with and amongst the various actors in the region to a higher intensity level that might not necessarily have always been possible should the travel had to be involved.

2.6 Measures to mitigate risks and to promote cross cutting issues (gender equality, environment, and fight against corruption)

The organizational set-up of the work by contracting with UNDP for regional advisory services strengthens the overall implementation of the project. The agreement between NCA and UNDP as well as ToR for the regional advisor ensures close monitoring of the implementation of the work, including audit and additional reporting.

The main focus of the activity has been improved efficiency through increased focus on monitoring performance indicators developed and integrated into case management systems. An added value to this work is increased transparency through the monitoring of performance and will, in turn, provide a bulwark against corruption.

3. Financial report

3.1 Introduction

The overview of incurred expenditures relates to expenditures from 1 January 2020 until 31 December 2020.

In the Work Plan and Budget for 2020 that was revised on 27 March 2020, a study visit of the Western Balkan judiciaries to the Norwegian judiciary initially planned for October/November 2020 has been postponed to 2021. **The yearly budget has consequently been decreased for 350 000 NOK to the amount of 2 200 000 NOK for the year 2020.**

The table below shows the incurred project expenditures, and it identifies underconsumption in each budget line and at the end shows the underconsumption in the project in total during the reporting period.

The post on staff costs at the NCA has mainly consisted of working hours of the project coordinator at the NCA and the General Director of the NCA. Reference is made to the submitted work plan for 2020 regarding the calculation of the hourly rate.

The underconsumption is related primarily to the changes in the way the project has operated throughout 2020 due to the pandemic.

The total absence of travelling and the related costs for air-tickets and the travelling hours has significantly decreased the costs.

Furthermore, the regional conference, commonly a significant expenditure of the project, has taken place in the form of a webinar, excluding thus all the major related cost such as the accommodation, travel, full board of the participants and guests as well as the presenters and key experts, interpretation equipment and interpreters and other related expenditures.

The same applies to the series of workshops that have originally been planned to take place throughout the year for the regular professional gatherings of the regional judges participating in the Working Group on Judicial Management.

Furthermore, a number of seminars and training for the selected judicial officials and staff members of the North Macedonian judiciary to further enhance their capacity to collect and use the statistical performance data have taken place online and have not, therefore, incurred the envisaged expenses. Equally, a study visit for the relevant KPC officials to enhance their knowledge and understanding of the prosecutorial statistics was substituted with an online training webinar.

This all has significantly reduced the regional project's expenditures in 2020.

3.2 Incurred expenditures

Budget posts	Incurred expenditures 2020	Budget 2020 Planned as per 2020 Work Plan/Budget as revised on 27 March 2020
Staff costs and administrative overhead (kr. 787 per hour)	295 125 NOK	600 000 NOK
Travel expenses	48 454 NOK	250 000 NOK
Expenses for regional and international expertise	691 684 NOK	850 000 NOK
Miscellaneous (related to meetings/seminars, information, translation etc.)	192 694 NOK	500 000 NOK
SUM	1 227 957 NOK	2 200 000 NOK
Difference between budget and incurred expenditures	972 043 NOK	

Trondheim, 29 February 2021

Iwar Arnstad

Head of International Secretariat

This document is electronically approved and is not manually signed.