

The Case: State Agricultural Intervention Fund

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1. Introduction

The State Agricultural Intervention Fund (SZIF) is a national agency that disburses financial support from the European Union and national resources to Czech agriculture, and is supposed to control how these subsidies are used. The Fund manages about 35–40 billion Kč per year and currently has about 1,300 staff. In early 2020, a significant change occurred at the agency. The Fund became independent of the Ministry of Agriculture and, according to its own interpretation, is no longer subject to the Conflict of Interests Act. Thus it can distribute subsidies to, for instance, firms owned by a government minister, or the prime minister.

We believe that this change was purposefully designed to create a seemingly independent fund to circumvent the act on politicians' conflicts of interests; to impede public oversight of the distribution of agricultural and forestry subsidies; and to ensure that subsidy cash will continue to flow to politicians who have a conflict of interests and to the firms they control. Although the Fund nominally gained independence, our analysis shows that the very opposite is true. This institution has come fully under the control of the private sector. This particular case shows that the long-standing concerns about Czech Prime Minister Andrej Babiš's conflict of interests are warranted. This is not just about a possible conflict of interests – which in itself is illegal – but about the active abuse of power for personal gain. Since SZIF was made fully independent of the Ministry of Agriculture, there have been staff changes at its controlling bodies tantamount to a takeover, while the agency continues to disburse billions – in conflict with expert and political opinion from the Czech Republic and the European Commission.

Having previously analysed SZIF's agricultural subsidies, we have now examined its public procurement methods, as here too various concerns have been raised in the past. Our findings show that there are indeed good reasons to worry not only about conflicts of interests regarding the disbursement of subsidies, but also about how the Fund has managed public procurement.

The Constitution of the Czech Republic forbids government members to perform any activities which by their nature are inconsistent with the discharge of their government duties. Specifically, these matters are addressed by Act no. 159/2006 Coll., On the Conflict of Interests, and its 2016 amendment known as 'Lex Babiš'. The law says that a conflict occurs when personal interests are given precedence over the interests

which politicians are obliged to promote or defend by virtue of their public office. That this occurred with Mr Babiš was proven unambiguously when he received a share of the annual profit of the Agrofert holding company amounting to 115 million Kč. In May 2020, the concern reported that its consolidated revenues in 2019 reached 162 billion Kč, 4.54 billion more than in 2018. Consolidated profits for 2019 were about three times the figure for the previous year (1.67 billion). It was shown unequivocally that Andrej Babiš was a beneficiary of Agrofert holdings, and that when he placed his Agrofert shares in trust funds, this was simply a legal loophole to circumvent the law. The law clearly defines personal interest as a situation that brings to a public official a personal advantage or prevents a potential decrease in their economic or other benefit. This is what was, and continues to be, the case with Mr Babiš.

Our analysis shows that Andrej Babiš has staffed most of the executive and oversight bodies of SZIF with his most faithful collaborators, and that these people continue to disburse subsidies to Agrofert, despite opposition to the practice from all around.

We attempted to address the shortcomings of the current conflict of interest legislation at the Government Council for Fighting Corruption, but the topic was rejected from the Council's agenda out of hand. Also contributing to the law's inefficacy is the lack of a central public administration authority that would provide clear guidelines for its application and especially its enforcement.

2. The State Agricultural Intervention Fund and its legal position

The State Agricultural Intervention Fund (SZIF) is a funding agency created in 2000 under the Ministry of Agriculture to distribute European and national subsidies. The budget of the fund has increased every year since it began. In 2020, it stands at 42.2 billion Kč, that is 2.7 billion more than in 2019.¹

The director-general of the SZIF is Martin Šebestyán. Having long worked for the fund as an assistant director, Šebestyán was elevated to his current position in late 2013, under Prime Minister Jiří Rusnok and Agriculture Minister Miroslav Toman.

On 1 January 2020, the SZIF's powers were bolstered substantially by Act No. 208/2019 Coll., that amended Act No. 252/1997 Coll., On Agriculture, as previously amended, and Act No. 256/2000 Coll., On the SZIF, which divided the powers between the Agriculture Ministry and SZIF. According to the explanatory memorandum attached to the Act, the Agriculture Ministry is no longer excessively burdened with the ordinary administrative agenda of granting and administering subsidies; decisions about national subsidies will now be made by a single public authority. Yet the fundamental problem, which the Anti-Corruption Endowment (NFPK) notes, is that this change of law was not accompanied by any change of the review mechanism applying to the SZIF. In other words, powers were transferred from a central government body (the Ministry) to a subsidiary body (the SZIF) but no provision was made to increase the oversight and transparency of this latter body. This is particularly alarming in view of the findings of the SZIF's dubious contracts as detailed below.

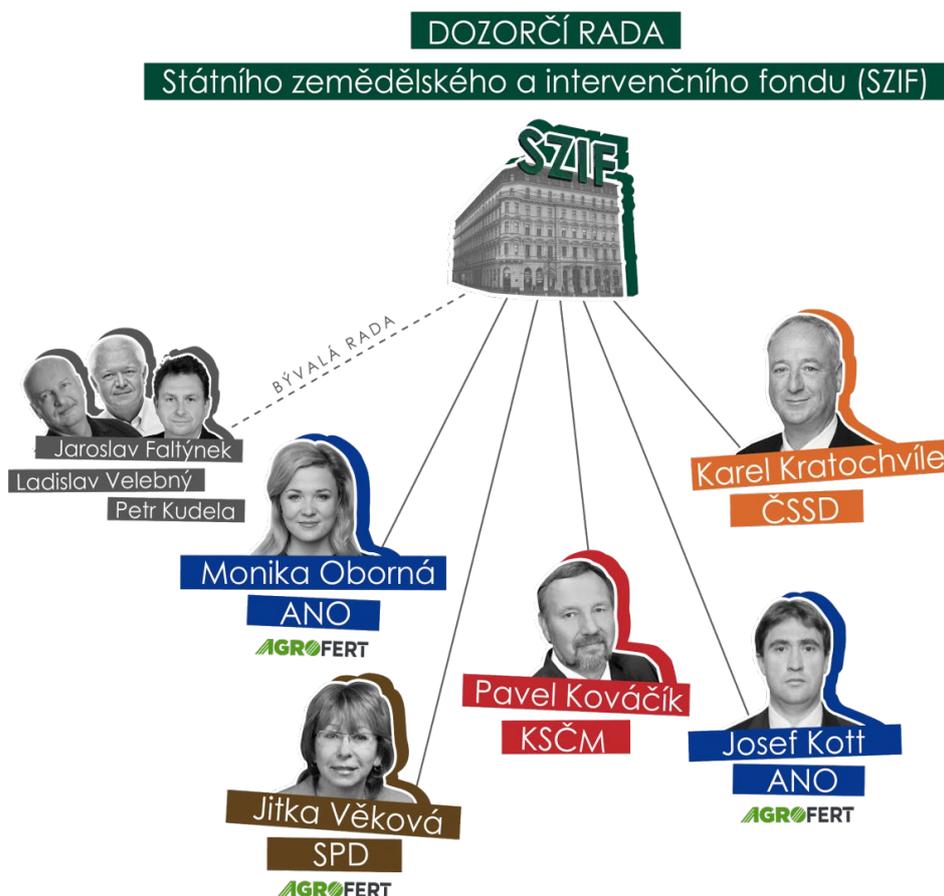
¹https://www.szif.cz/cs/CmDocument?rid=%2Fapa_anon%2Fcs%2Fzpravy%2Fzpravy_o_fondu%2Ftiskove_zpravy%2F1574149689163.pdf

3. A supervisory board that has a conflict of interest and does not supervise

In 2017, the European Commission fined Czechia €800,428 because Jaroslav Faltýnek, Andrej Babiš's right-hand man, was in a conflict of interest, as he sat both on the SZIF supervisory board and on the board of the Agrofert holding company, a massive beneficiary of state aid. The Commission also suspected two other SZIF supervisory board members of being in smaller-scale conflicts of interests: Petr Kudela MP (KDU-ČSL) and Ladislav Velebný, the Board's chair.²

Kudela received 190,000 Kč from the fund for the cultivation of agricultural land, while Velebný was a councillor of a municipality that received a subsidy of 333,000 Kč from the fund.³ The fine was not ultimately paid, because the Commission could not prove that the risk of the conflict of interest had actually materialised.⁴ Soon after, Faltýnek, Kudela and Velebný disappeared from the supervisory board, but the suspected conflicts of interest on the Board did not improve – rather the contrary.

Let us look at the current composition of the SZIF supervisory board, which ought to exercise oversight over the fund and function as a watchdog.



² <https://zpravy.aktualne.cz/domaci/cesko-ma-vratit-evropske-unii-22-milionu/r~22b458940e3b11e79aec0025900fea04/>

³ https://www.idnes.cz/ekonomika/domaci/dotace-agrofert-faltynek-babis.A170321_134427_ekonomika_rts

⁴ <https://www.novinky.cz/ekonomika/clanek/brusel-cesko-nemusi-platit-pokutu-kvuli-moznemu-stretu-zajmu-faltynka-a-dalsich-politiku-40067187>

Since 23 May 2018, the chair of the KSČM parliamentary party, **Pavel Kováčik**, has served as the chair of the SZIF supervisory board.⁵ Presumably, he was appointed to this office as part of a confidence and supply deal between ANO and KSČM, which was in force from the appointment of Prime Minister Andrej Babiš's government, and was formalised in writing in July 2018.⁶ Pavel Kováčik MP has made appearances precisely in the spirit of this deal for some time, supporting the pay-outs of the disputed subsidies to Agrofert. He has showed no willingness to wait for the decisions of the European authorities, preferring to pay the sums out immediately. Asked why that was so, he replied in 2020 as follows: 'When it really becomes a problem, when it is decided that [the money] must be refunded, then [the fund] will ask for [it] to be refunded, but only when a concluding, final, irreversible decision is received that it is truly as it is being said. Now we are in a position of conjecture and speculation; we have many and various unsubstantiated reports.'⁷

Problematic links between SZIF supervisory board members, ANO and Agrofert

Ing. Monika Oborná

In 2012, aged 23 and a student at the Mendel University in Brno, Oborná was one of ANO's founding members. In 2017–2019, she was in the party's presidium. She says that it was Andrej Babiš personally who brought her to the party.⁸ Oborná acts as Babiš's defender in the media, usually refusing to comment on his conflicts of interest.

Ing. Josef Kott

A member of ANO since 2012, Kott has worked for ZZN Pelhřimov, owned by Agrofert, since 1995. Jaroslav Faltýnek was first a member and then vice-chair of the board of directors at ZZN Pelhřimov, which used to own the Stork's Nest farm, which came to public notice when the media revealed that it allegedly wrongfully drew on subsidies for small and medium-size enterprises. The farm was only able to obtain the money because in its application it failed to note that it was part of the Agrofert group, which is not a small or medium-size enterprise.

PhDr. Jitka Věková

A former Agrofert board member and an employee for many years of the media mogul Jaroslav Soukup, Věková was nominated to the SZIF supervisory board by the SPD party. Her husband, Radomír Věk, works for the Lovochemie company (part of Agrofert), and in 2012 donated 6,000,000 Kč to ANO.⁹ *Seznam Zprávy* reported that Věková was supposedly recommended as a SZIF supervisory board member by SPD's number two, Radim Fiala¹⁰ – a man whose firms were repeatedly at risk from bailiffs in 2003–2005, but who a decade later became a SPD mover-and-shaker and received contracts from Agrofert and public authorities ultimately controlled by ANO and Babiš, including the General Directorate of Customs and the General Directorate of Finance.¹¹

⁵ <https://www.psp.cz/sqw/detail.sqw?id=309&s=1>

⁶ <https://echo24.cz/a/SxTAw/neshodime-vas-plny-text-o-toleranci-vlady-mez-ano-a-kscm>

⁷ <https://radiozurnal.rozhlas.cz/zemedelsky-fond-zacal-znovu-proplacet-dotace-agrofertu-postupuje-podle-zakona-8132421>

⁸ <https://www.thebusinesssoiree.com/clanek/monika-oborna-mensi-grunt-bych-zvladla>

⁹ <https://www.hlidacstatu.cz/osoba/radomir-vek>

¹⁰ <https://www.seznamzpravy.cz/clanek/beranidlo-na-ministra-tomana-zena-od-soukupa-zustava-v-zemelskem-fondu-89557>

¹¹ <https://hlidacipes.org/radim-fiala-muz-jehoz-majetek-pomohl-spd-parlamentu-ma-rad-psy-rusko/>

Ing. Karel Kratochvíle

A ČSSD nominee, since 2012 Kratochvíle has been the director of a stud farm in Písek established by the Ministry of Agriculture and the beneficiary in recent years of SZIF subsidies. This is a similar case to the conflict of interest of which the European authorities previously criticised Ladislav Velebný – who shortly thereafter resigned from the supervisory board.

4. Legal contracts linked with the prime minister and the Castle

The State Agricultural Intervention Fund frequently avails itself of the services of external lawyers and law firms. Here too various conflicts of interest are suspected, in particular when the legal decisions of the Fund go against the opinion of the European authorities and when the Fund makes grants so easily to Agrofert.¹²

Let us look at some examples of SZIF's consultancy connections.

On 31 January 2020, SZIF entered into a contract for the provision of legal services with the deputy chair of the government's Legislative Council and President Miloš Zeman's unsuccessful Constitutional Court Judge nominee **Aleš Gerloch**. For an hourly fee of 6,050 Kč, Gerloch was to provide 'written legal analyses of the issues of interpreting legislation concerned with handling budget allocation in particular from the viewpoint of their material scope, using interpretive procedures as established in domestic interpretation practice as it was formulated by jurisprudence and is applied by the courts.'¹³ Aleš Gerloch previously provided Babiš an expert opinion on 'who controls trust funds'.¹⁴ In 2013, he helped him by proclaiming that unlike ministers a deputy prime minister does not need a clean lustration certificate.¹⁵ Given Babiš's past, it is possible that he would not receive a clean certificate.

Another lawyer who has links with Miloš Zeman is **Dušan Ružič**, who in 2010 stood for election on behalf of the Citizens' Rights Party – the Zemanites, which was close to the president. According to the Register of Contracts, Ružič's law firm only provides services to two state institutions: the Institute of Health Information and Statistics and the State Agricultural Intervention Fund. The firm was to help the SZIF design a procurement procedure 'to support the BIO [organic] branding' and write positions and documents on the Public Servants Act. Ružič previously collaborated with the lawyer Karol Hrádela, who, in addition to standing for election on the ticket of Tomio Okamura's Dawn party (Okamura's earlier project before SPD), became known in the media for his hundred-page analysis, in which he (like Andrej Babiš) linked the Stork's Nest affair with a Twitter account called Julius Šuman, which anonymously agitated against Babiš (Hrádela won't say who commissioned him to write the analysis).¹⁶ In the document Hrádela supposedly described the

¹² <https://neovlivni.cz/urednici-a-vyplaceni-dotaci-agrofertu-miri-na-ne-trestni-oznameni/>

¹³ <https://smlouvy.gov.cz/smlouva/11569420>

¹⁴ <https://archiv.ihned.cz/c1-66526570-adept-na-ustavniho-soudce-ales-gerloch-pomaha-babisovi-se-hajit-proti-obvineni-ze-stretu-zajmu-kvuli-vlastnictvi-medii>

¹⁵ <https://www.novinky.cz/domaci/clanek/lustracni-osvedceni-vicepremier-nepotrebuje-ministr-financi-ano-tvrdi-pravnik-211387>

¹⁶ <https://neovlivni.cz/v-analyze-spojil-capi-hnizdo-se-sumanem-kdo-si-ji-zadal-taji/>

Stork's Nest affair and the prosecution of Babiš and Faltýnek as part of an election campaign.¹⁷ Interestingly, Hrádela defended Gerloch's candidacy for constitutional judge.¹⁸

Similarly to Ružič, **Irma Šimečková**, a trainee lawyer at his firm,¹⁹ received a law contract from the SZIF concerned with the Public Servants Act.²⁰

The well-known lawyer **Karel Muzikář** from the **Skils** firm (previously Weil, Gotshal & Manges) also provided legal consultancy to the SZIF, writing a legal opinion on the possible conflicts of interests of people involved in distributing European subsidies.²¹

Karel Muzikář enjoys good relations with Babiš. With his legal firm he has been winning public contracts from ministries politically controlled by ANO. Like his father (who advised, among others, the ANO MP Ivan Piňný),²² he has publicly supported Babiš's claim that in this country it was possible to commission a prosecution.²³

Last but not least, the firm **Weinhold Legal**, which is linked with the accounting and consulting firm Ernst & Young, has been providing legal consultancy to the SZIF.²⁴ E&Y's client list includes the SZIF, ANO and Babiš (see below).

5. Auditors in the service of Agrofert

In 2020, the media reported that **Ernst & Young**, one of the big four accounting firms, would audit the allocation of subsidies by the SZIF over the next seven years.²⁵ E&Y auditors are already signing off Agrofert²⁶ accounts and they have also audited ANO²⁷ and Babiš's income.²⁸ The Pirate Party has noted that, unlike others, E&Y do not consider Babiš to be the person controlling Agrofert.²⁹ The person responsible for the SZIF job at E&Y is **Irena Liškařová**, who previously worked for E&Y's predecessor, the notorious **Arthur Andersen** – which audited Agrofert in the past.³⁰ In 2002, Arthur Andersen had to abandon accountancy, when it transpired that it was implicated in the notorious financial machinations and widespread accounting fraud at Enron. This scandal pretty much destroyed Arthur Andersen and some of its employees went to E&Y. A key figure in the Czech branch of Arthur Andersen was Magdalena Souček, now E&Y 'country managing partner'. Like Liškařová, Souček audited ANO.³¹

¹⁷ <https://denikn.cz/128287/kauzu-capi-hnizdo-zpochybnuje-zahadna-analyza-ktou-benesova-nechala-kolovat-na-jednani-zemanova-tymu/>

¹⁸ <https://www.parlamentnilisty.cz/arena/nazory-a-petice/Karol-Hradela-Proc-pripad-prof-Gerlocha-vybizi-k-navratu-ke-korenum-ustavniho-soudnictvi-575076>

¹⁹ https://ruzic.cz/advokati_simeckova.php

²⁰ <https://smlouvy.gov.cz/smlouva/2995562>

²¹ <https://smlouvy.gov.cz/smlouva/7959011>

²² <https://zpravy.aktualne.cz/domaci/babisova-autokracie-nasi-zemi-prospeje-mini-klausuv-blizky-p/r~ffe5d18c2a9e11e7b7fa0025900fea04/>

²³ <https://www.seznamzpravy.cz/clanek/havel-nas-ucit-nelhat-takze-babis-ma-pravdu-stihani-lze-objednat-tvrdi-vlivny-pravnik-44258?dop-ab-variant=&seq-no=1&source=hp>

²⁴ <https://pravniRadce.ihned.cz/c1-64542600-advokatni-kancelar-weinhold-legal-se-pripojila-k-ey>

²⁵ <https://neolivni.cz/stret-zajmu-na-druhou-auditori-ey-kontroluji-i-financovani-ano/>

²⁶ <https://www.seznamzpravy.cz/clanek/sefka-auditoru-stvrdila-babisovy-prijmy-nyni-kontroluje-dotace-pro-agrofert-112691>

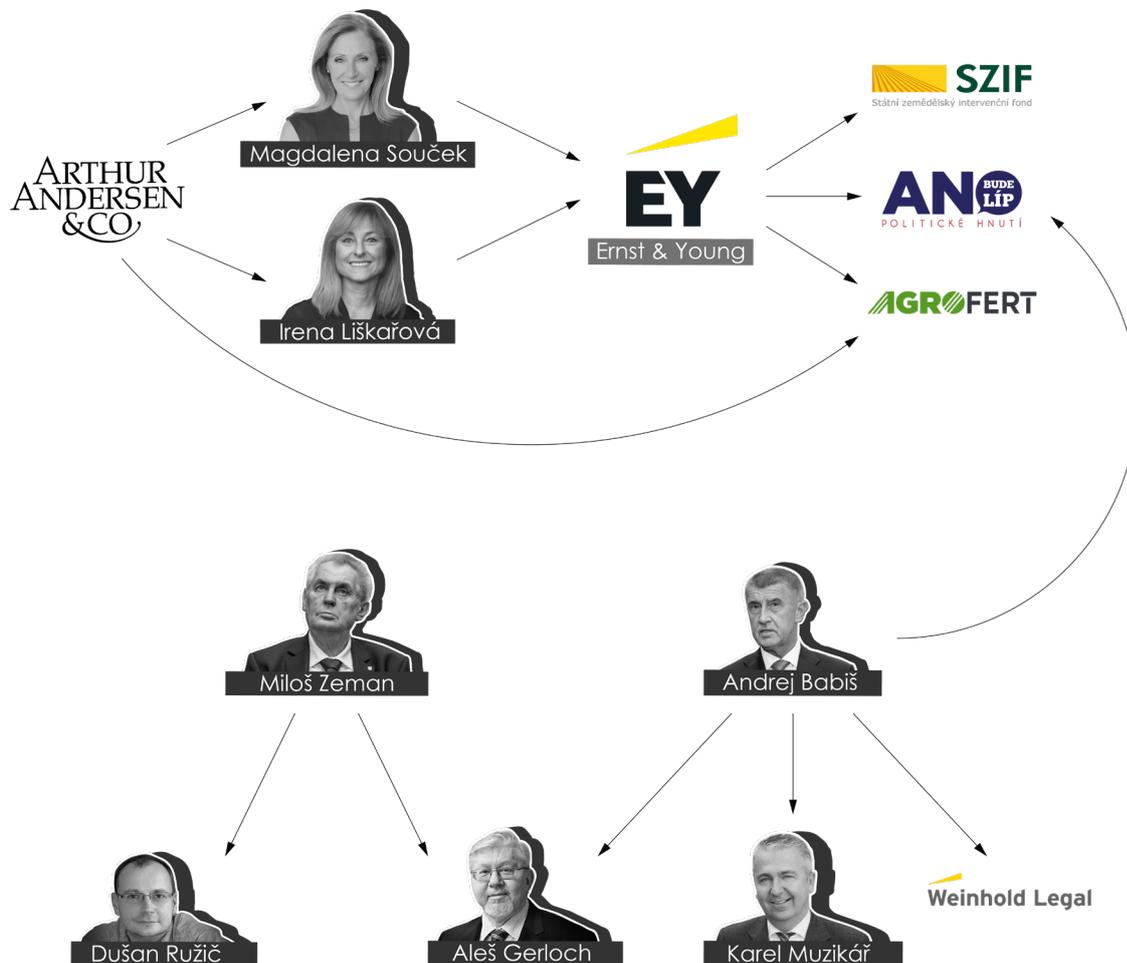
²⁷ <https://reportermagazin.cz/a/iEsuV/majitel-strany-babis-vlastni-iznacku-ano>

²⁸ https://www.denik.cz/z_domova/babis-ukazal-deniku-audit-svych-financi-firmy-ey-a-pxc-pochybeni-nenasly-20170310.html

²⁹ <https://www.seznamzpravy.cz/clanek/nadrzuj-babisovi-a-agrofertu-pirati-zadaji-pro-auditory-trest-116360>

³⁰ <https://reportermagazin.cz/a/iEsuV/majitel-strany-babis-vlastni-iznacku-ano>

³¹ <https://goodgovernance.cz/wp-content/uploads/2017/06/zprava-auditori-politikych-stran-final.pdf>



That the big auditing firms are no infallible titans is shown not just by the Enron affair but also by the current German scandal of the collapsed financial company Wirecard, whose chief operating officer, Jan Marsalek (of Czech extraction) is now apparently hiding in Russia. E&Y has been drawn into the lawsuit against Wirecard and it is suspected that the firm might have intentionally concealed the frauds that created a loss of €1.9 billion.³² In the Czech Republic, E&Y receives many contracts from departments controlled by ANO: the Ministry of Finance, Čepro (a pipeline transport company), the Railways Administration, the Export Guarantee and Insurance Corporation, Mero ČR (a pipeline operator), the Regional Development Ministry, the Forests of the Czech Republic, OTE (the electricity and gas market operator), Prague Airport and the Ministry of Agriculture.

³² <https://www.seznamzpravy.cz/clanek/ztracene-miliardy-rozproudily-pochybnosti-o-velke-ctyrcete-111232>

6. Public procurement and PR services linked with Minister Toman

Since the inception of the State Agricultural Intervention Fund, questions have been raised about its operations, its tendering procedures and the distribution of subsidies. The first SZIF director-general, Jan Höck, dubbed ‘the agriculture boss’ behind the scenes, was suspected of influencing the pay-out of subsidies to the ZZN Chrudim firm, then controlled by Höck’s family. During his era, the police investigated a contract for the export³³ of grain³⁴ and charged Höck with misconduct while administering the property of another; according to a 2001 inspection by the Supreme Audit Office, the Fund had concluded contracts for wheat storage and export in a way that favoured AGF Trading, part of the Agrofert empire, a director of which at the time was František Janů, a friend of Höck’s for many years and the former director of Setuza. Janů and Höck came together in ZZN Chrudim. Janů also collaborated with Babiš and the controversial Czech businessman Tomáš Pitr. One of the issues investigated by the police was whether the Fund was granting illegal biodiesel subsidies.

There were other conflicts of interests linked with SZIF subsidies. One came to light in 2009; it concerned the Communist party MP Josef Šenfeld, who sat on the SZIF supervisory board while drawing tens of millions of crowns for his company Agro Hošťka in the form of subsidies. He failed to notify anyone about his conflict of interest.³⁵

In addition to the disputed subsidies, the SZIF also faced the issue of overpriced contracts, including one for the IT system used to award the subsidies. In a shortened tendering procedure, not made public, this contract was given to SAP, a company which asked for nearly half a billion crowns per year to build and operate the system.³⁶ Over the following years, SAP was paid several billion crowns.

There were still other problems: overpriced marketing contracts under which performance was inadequate or could not be demonstrated,³⁷ as reported not just in the media but also by the Supreme Audit Office (SAO).³⁸ In 2014, the SAO issued a report that highlighted a number of errors: subsidies awarded despite no points being awarded on scoring; mistakes in applications overlooked by the Fund; financial irregularities; and failures in large-scale public procurement, where contracts were awarded without tender to parties which had been approached directly. The SAO noted that the SZIF dispensed money for work that was not performed, or was not subject to public procurement procedures. Some of the money was used bizarrely – for instance, as part of a programme to support the ‘Klasa’ branding, selected journalists were treated to spa accommodation and Indian massages. These journalists then produced articles that often did not mention ‘Klasa’ at all. Among the problematic marketing contracts was a well-known campaign, **Ryba domácí**, or Domestic fish. This was run by Dorland agency, whose current owner, Lucie Češpivová was close to ODS, the party of government at the time. In its report, the SAO expressed concern about similar mistakes occurring in the following programming period, 2014–2020.

³³ <https://archiv.ihned.cz/c1-14361610-podnikatele-na-mne-nikdy-vyhody-nezadali-rika-jan-hock>

³⁴ <https://www.euro.cz/byznys/beloruska-cesta-807151>

³⁵ <https://archiv.ihned.cz/c1-37705080-poslanec-kscm-slouzi-statu-i-sve-firme>

³⁶ <https://www.euro.cz/archiv/prekrmena-it-chobotnice-778753>

³⁷ <https://www.nku.cz/cz/pro-media/tiskove-zpravy/kampan-ryba-domaci--stala-178-milionu-korun--spotreba-ryb-se-presto-nezvysila-id5032/>

³⁸ <https://www.irozhlaz.cz/node/5944809>

More doubts about the political independence of the State Agricultural Intervention Fund surfaced as soon as Andrej Babiš appeared as finance minister and deputy prime minister in Prime Minister Bohuslav Sobotka's government in 2014. This was because, once Babiš entered high politics, the overall total of subsidies disbursed to his business empire, Agrofert, increased sharply. The transparency of the SZIF's decisions was not aided by the fact that Andrej Babiš's right-hand man, Jaroslav Faltýnek, was appointed to the SZIF supervisory board; he concurrently served on the Agrofert board. From the point ANO entered politics, concern was expressed about Faltýnek and the departments in which he gained influence; he has been suspected of clientelist practices and various other machinations.³⁹ These concerns are ongoing, including the police investigation of the Stoka [Sewer] affair⁴⁰ and the disbanding of the ANO cell in Brno, the second largest city, where Jaroslav Faltýnek and his son have been alleged to exert significant influence.⁴¹

When Babiš became the prime minister in 2017, the situation in the SZIF did not improve. In 2018, he installed Miroslav Toman as agriculture minister; Toman had previously served briefly in the same position in Rusnok's government. Toman, the son of a former communist agriculture minister during the 1980s, represents like Babiš the big agricultural interests. Toman's family runs agriculture businesses and receives subsidies from the SZIF, something that did not escape the attention of the European Commission monitoring authorities.⁴² Nor have they ignored the fact that, though Babiš has put his Agrofert empire into various trust funds, he is still the ultimate beneficiary and personally derives financial profit from Agrofert's operations.⁴³ For the moment, the last word in the saga of Babiš's conflicts of interest over subsidies is the June 2020 proclamation by members of the European Parliament to the effect that he was conflicted and should receive no subsidy from Brussels via the SZIF.⁴⁴ The investigation continues.

Another of the SZIF's problem areas is public procurement and suspicions that have long been raised on the topic. In recent years, the SZIF has not hesitated to allow companies based in tax havens, with unclear owners, to win public procurement contracts. In addition to working with multinational corporations, which are frequently based offshore, the Fund has also collaborated with smaller Czech tax-haven residing companies, and some of these have been trying to conceal their true owners. For instance, the Fund provides storage facilities for dried milk to **Charlton**,⁴⁵ a joint-stock company based in Cyprus,⁴⁶ which, available information indicates, is controlled by the billionaire Pavel Tykač.⁴⁷

Until autumn 2016, **Dedeman**, an event manager, which has long worked for the SZIF and has won PR contracts from it, had a secretive owner, the non-transparent Vitasoft Growth Limited, based in the United Kingdom. A similar case was that of **Granville**, another long-term partner of the SZIF, whose owner until mid-2014 had been hidden behind the opaque London enterprise, Wicktrend Limited. Dedeman and Granville,

³⁹ <https://www.lupa.cz/clanky/ano-faltynek-hlina-feranec-cd-telematika-chaps-jak-se-to-rymuje/>

⁴⁰ <https://zpravy.aktualne.cz/domaci/stoka-schema/r~630ddad8f99611eaa25cac1f6b220ee8/>

⁴¹ https://www.irozhlas.cz/zpravy-domov/ano-jaroslav-faltynek-brno-volebni-snem_2006211547_vin

⁴² https://www.idnes.cz/zpravy/domaci/ministerstvo-zemedelstvi-audit-agrofert-dotace-evropska-komise-toman-babis.A190606_084526_domaci_lre

⁴³ https://www.tyden.cz/rubriky/domaci/babis-pry-stale-ovlada-agrofert-je-sverenskych-fondu-brani-se-premier_485201.html

⁴⁴ <https://www.seznamzpravy.cz/clanek/eu-debatuje-o-rozdeleni-miliard-na-obnovu-babis-ceka-na-verdikt-europoslancu-109912>

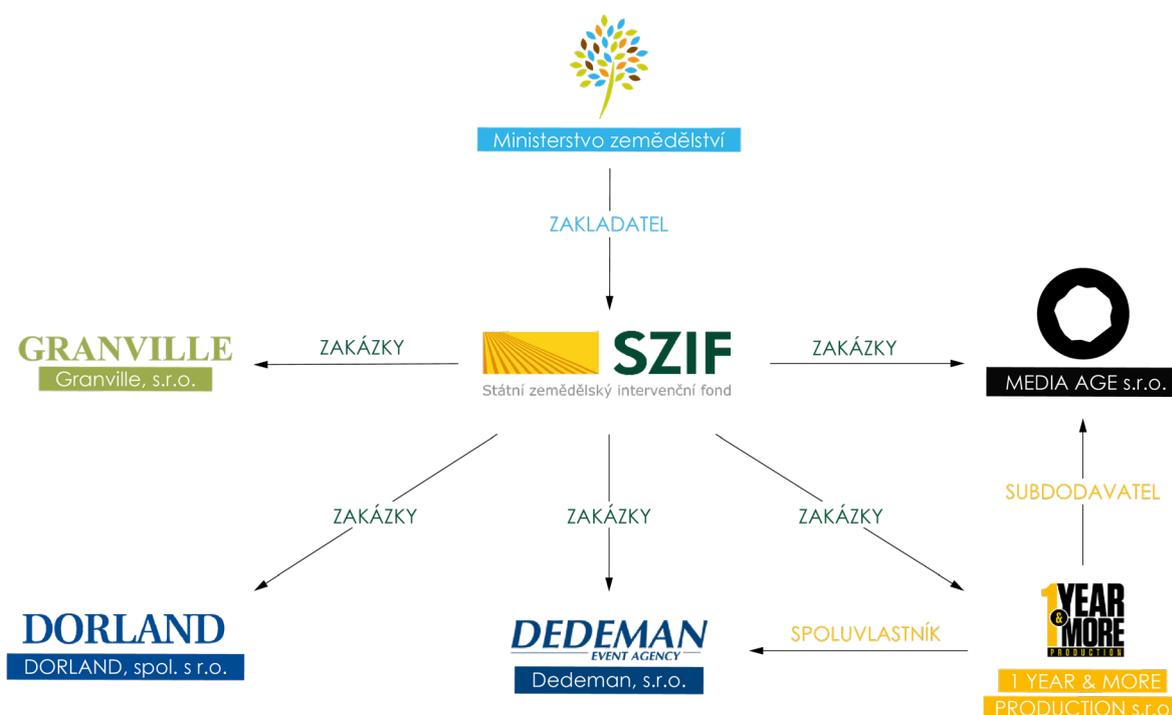
⁴⁵ <https://smlouvy.gov.cz/smlouva/1441170>

⁴⁶ <https://www.e15.cz/byznys/finance-a-bankovnictvi/policie-zastavila-prodej-rozsahlych-pozemku-po-zkrachovale-kampelicce-1350340>

⁴⁷ <https://archiv.ihned.cz/c1-19086070-jak-dnes-dela-byznys-pavel-tykac>

both formerly offshore companies, are linked with other firms that had, or still have, contractual relationships with the SZIF.

The first example is the Brno-based **Media age**, to which in 2018 the SZIF granted a public contract for a campaign to promote organic food, for which McCann-Erickson Prague and 1 Year & More Production made unsuccessful bids.⁴⁸ In January 2020, Media age won from the SZIF another advertising contract, worth 60 million Kč, for a ‘promotional campaign in support of bio food and environmentally-friendly agriculture’.⁴⁹ An inspection of deals lodged at the Register of Contracts shows that Media age’s subcontractor, thanks to which Media age was eligible for the contract in 2020, was 1 Year & More Production, which had been Media age’s competitor in the previous tender and which has also won other contracts from the SZIF on its own.⁵⁰ The contractual documents show that the main criterion in the tendering assessment was quality (70%) and the minority criterion was price (30%). According to the evaluator’s report, Media age won the contract because it offered the lowest price.⁵¹



The majority owner of 1 Year & More Production is **Ivana Petříková**, a collaborator of the advertising executive Lucie Češpivová of Dorland agency, in whose building in Prague’s Žižkov district 1 Year & More Production resides. Češpivová is not unknown to the general public, as in the past she was close to the high echelons of politics. Her name was often mentioned in connection with former PM Mirek Topolánek’s (ODS) adviser Marek Dalík, at the time of the latter’s greatest influence. The minority owner of 1 Year & More Production is **Attila Kováč**, in 2005-2010 a member of the board of directors at OTAVA resort a.s., owned by

⁴⁸ <https://www.mediar.cz/propagaci-biopotravin-pro-stat-zajisti-media-age>

⁴⁹ <https://vestnikverejnychzakazek.cz/Form03/Display/152725>

⁵⁰ <https://smlouvy.gov.cz/smlouva/6958767>

⁵¹ https://zakazky.szif.cz/contract_display_52.html

the former Dorland co-owner (until May 2020), Zdeněk Stejskal. Dorland first came to public notice thanks to wiretaps on **František Mrázek**, a notorious godfather of the Czech underworld; in the wiretaps Dorland's then co-owner and Lucie Češpivová's father was mentioned as Mrázek's associate. Later, Dorland became notorious for the 'Domestic fish' advertising campaign. Costing about 150 million Kč of public money, the campaign was criticised as overpriced and inefficient by the Supreme Audit Office.⁵² It is worth noting that with this campaign too, the evaluating criteria were set as quality (70%) and price (30%) – nor was it clear in this case how Dorland was chosen. This contract to promote Czech carp came to symbolise the lack of transparency, waste and suspicion attached to the Czech state's outsourcing of marketing jobs. There was suspicion of clientelism, too: Dalík's acquaintance, Lucie Češpivová previously ran advertising campaigns for Topolánek's party, ODS. Petříková and Češpivová also appeared in another case in which holiday homes were sold by the Forests of the Czech Republic far too cheaply. At a time when Češpivová worked for the firm, Petříková bought such a holiday home cheaply, only to sell it on to Češpivová for a small profit. Speculation appeared in the media that Češpivová was the hidden buyer from the beginning, as she could have obtained information about the planned sale thanks to her behind-the-scenes contacts at the Forests, for which she worked. Publicly available information indicates that Lucie Češpivová's **Dorland** is no longer winning contracts from the SZIF, but other Češpivová-linked firms are.

1 Year & More Production, together with **Aleš Konopásek** from the city of Most, own the **Dedeman** advertising agency, whose clients include the General Health Insurance Company (VZP) – the state-owned health insurer – and the SZIF. Much is known about Konopásek. He is a former agent of the StB (communist secret police) First Directorate, codename 'Kaprál', whose agenda was concerned with émigrés prior to the November 1989 revolution. After the revolution, he worked for Ústí nad Labem regional governors elected on behalf of ODS and ČSSD parties, despite the fact that he could not have had a clean lustration certificate. (He claimed to be in possession of one, but refused to show it.) In the end, Konopásek was removed from his post in 2013 for bullying his subordinates.⁵³ Since 2015, he has been in executive positions in Dedeman, a company that has received millions of crowns for arranging marketing events for the SZIF. The former owner of Dedeman – before 1 Year & More Production and Konopásek – was the already-mentioned non-transparent foreign company Vitasoft Growth Limited. Its director was a mysterious Liechtenstein citizen, **Markus Hasler**. Hasler came to public notice in 2009, when he rented a villa in Italy to Lucie Češpivová's acquaintance Marek Dalík. This was the 'Tuscany Affair', a secret gathering of the political leaders of ODS and ČSSD, public authority bosses and lobbyists in Monte Argentario.⁵⁴ Hasler and Wicktrend Limited, managed by him in 2014, sold Granville (also a long-term recipient of SZIF money) to another grant consultancy firm, **Foodservis**. This outfit helps its clients to win subsidies from the SZIF; it used to be owned by the Federation of the Food and Drink Industries of the Czech Republic (FFDI), then presided over by the current agriculture minister, Miroslav Toman. Shortly before Toman first became the minister in 2013, the FFDI got rid of Foodservis for reasons unknown; the new owner was the lawyer, Martin Purkyt. A long-term associate of the Toman family, in 2013–2020 Purkyt was the manager of Landreal s.r.o., owned by Kristina Tomanová. Another

⁵² <https://www.investigace.cz/kolotoc-se-toci-ministerstvo-plati/>

⁵³ https://www.idnes.cz/usti/zpravy/estebak-ales-konopasek-skocil-na-krajskem-uradu.A130412_1916151_usti-zpravy_alh

⁵⁴ <https://zpravy.aktualne.cz/domaci/toskanska-afera-sefa-ods-stale-chybi-klicove-odpovedi/r?i:article:643972/>

company owned by Tomanová, Smetanová cukrárna s.r.o., has on its staff Foodservis' sole managing director, Tomáš Vacek.

There are evident links between the SZIF on the one hand and the marketing companies around Lucie Češpivová, Miroslav Toman and Foodservis on the other. These are reinforced by the fact that Češpivová and Dorland⁵⁵ have long been winning contracts not just from the SZIF but from the FFDI as well.⁵⁶ Dorland, Dedeman, 1 Year & More Production and Granville can all be suspected of having won, or of continuing to win, contracts from the SZIF on the basis of the personal connections of their managers/owners, and not in transparent competition.

7. Other interesting findings about the Fund's public procurement

Interestingly, in recent years the SZIF has awarded consultancy contracts to ARVE CS s.r.o., owned by Vladimír Eck – a former SZIF director. In 2019, the Fund paid him 2,359,500 Kč for 'the provision of consultancy on the new shape of the Common Agricultural Policy after 2020'. Beyond his historic ties with the SZIF, since November 2018 Eck has been the chair of the board at the sister agency, the Farm and Forestry Support and Guarantee Fund (PGRLF),⁵⁷ which likewise approves subsidies to firms in the Agrofert empire. Two years ago, it transpired that PGRLF illegally paid subsidies to Agrofert, for which only small and medium-size enterprises were eligible according to the rules.⁵⁸ Shortly thereafter, Zdeněk Nekula ceased to be director of the fund, and was replaced by Vladimír Eck.

In May 2019, there was a change of owner at ARVE CS. The new proprietor of the firm, which provides consultancy to the Fund, was another Vladimír Eck, then aged 19 – a relative of the PGRLF board chair. Here again a serious conflict of interest may be suspected, as can Babiš's political influence on the current PGRLF leadership.

In 2016, the SZIF bought IT technology worth 2,735,024 Kč from **Juwital**, owned by Eva Andersonová,⁵⁹ who in 2014 stood for election in the Prague 2 borough on the ANO ticket. Juwital's main business is not selling computers at all; it manufactures cosmetics and herbal drinks, supplied to the Prague public transport corporation.⁶⁰

⁵⁵ <https://www.e15.cz/clanek/byznys/ostatni/dorland-vyhral-pastikovy-tendr-za-40-milionu-1038765>

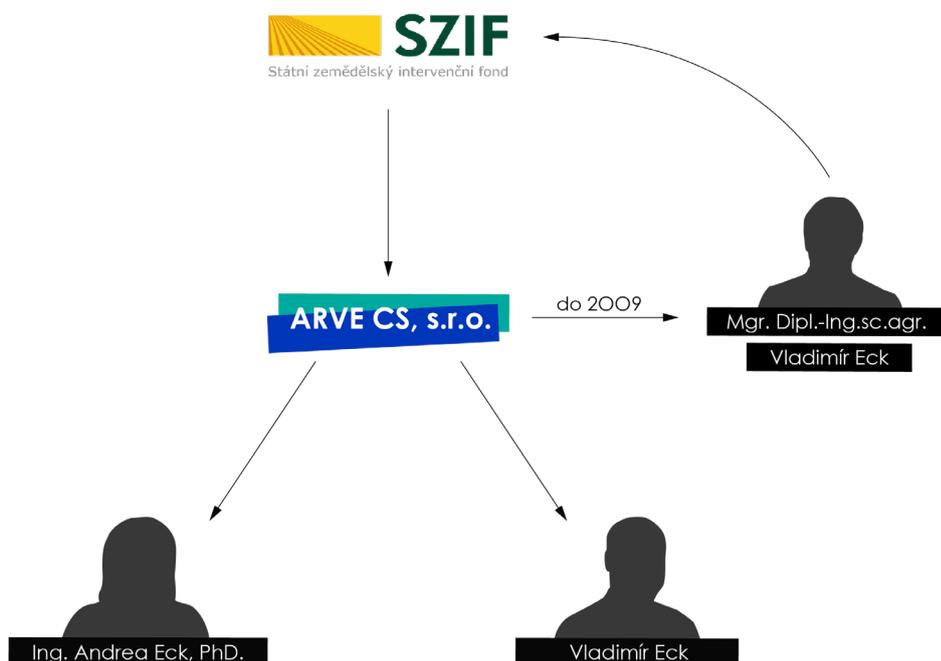
⁵⁶ <http://www.ceskamedia.cz/clanek/21855/mediaguru-kampa-pro-potravin-skou-komoru-zajist-dorland>

⁵⁷ <https://rejstrik-firem.kurzy.cz/49241494/podpurny-a-garancni-rolnicky-a-lesnicky-fond-as/>

⁵⁸ <https://zpravy.aktualne.cz/ekonomika/agrofert-neopravnene-cerpal-dotace-tvrdi-pirati-stat-to-uz-r/r~dfb27c7e791e11e8bb77ac1f6b220ee8/>

⁵⁹ <https://smlouvy.gov.cz/smlouva/238641>

⁶⁰ <https://smlouvy.gov.cz/smlouva/13232052>



8. Conclusion

The SZIF does not appear to be an impartially managed public authority. The information available allows the inference that the Fund exhibits all the signs of a captured institution – a subset and a symptom of a phenomenon called state capture.

The evidence cited above supports doubt about the impartiality of the Fund's supervisory board. It also seems that the Fund interprets the law to allow it to circumvent the Conflict of Interest Act and distribute money in a way that suits large agricultural businesses and the current ruling elites, embodied in the figures of Agriculture Minister Miroslav Toman and the Czech prime minister and ultimate beneficiary of Agrofert, Andrej Babiš. These actions may, among other things, damage the small and medium enterprises, including small farmers, for whom the subsidies are intended. The past and present relationships between the Federation of the Food and Drink Industries of the Czech Republic, the Foodservis consultancy firm, which helps its clients win SZIF subsidies, and Agriculture Minister Toman warrant further investigation.

The SZIF ought to be audited by an independent entity with no current or past link to any of the powers that be, in particular Miroslav Toman and Andrej Babiš. Particular attention should be given to the public contracts won by companies or individuals, where these contracts may appear to involve clientelism, favouritism or – such as in the case of various legal opinions or audits – work to a political order.