



EUROPEAN COMMISSION

Brussels, 20.12.2010
C(2010)9504 final

**Subject: State aid SA.32040 (2010/N) – Hungary
Prolongation of "Temporary aid scheme for granting limited
amounts of compatible aid"**

Sir,

1. PROCEDURE

- (1) In its Decision of 24 February 2009, the Commission approved the "Temporary aid scheme for granting limited amounts of compatible aid" for Hungary (N 77/2009¹) based on Article 107(3)(b) of the TFEU and the Temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis" (hereinafter referred to as the "Temporary Community Framework")².
- (2) By an electronic notification registered at the Commission on 7 December 2010 (SANI 5223) the Hungarian authorities notified a prolongation of the above mentioned scheme pursuant to the Commission Communication "Temporary Union framework for State aid measures to support access to finance in the current economic and financial crisis" of 1 December 2010 (hereinafter referred to as the "Temporary Union Framework")³, which allowed Member States to prolong their temporary aid scheme for granting limited amounts of compatible aid under specific circumstances. The notification was made by means of the simplified notification procedure, in accordance with Article 4(2)(b) of Commission Regulation No.

¹ OJ C 73, 27.3.2009, p. 1

² OJ C 16, 22.1.2009, p.1

³ http://ec.europa.eu/competition/state_aid/legislation/temporary_framework_en.pdf

Őexcellenciája MARTONYI János
Külügyminiszter
Bem rakpart 47
H - 1027 BUDAPEST

794/2004⁴. Hungary was requested to provide additional information on 8 December 2010 (2010/118546) and provided the requested information to the Commission on 8 December 2010 (2010/118549).

2. DESCRIPTION OF THE EXISTING AID SCHEME

- (3) The original measure aims at remedying a serious disturbance in the economy of Hungary, which provides for the provision of limited amounts of compatible aid to companies until 31 December 2010. The scheme was explicitly based on Article 107(3)(b) of the TFEU, and relies on section 4.2.2 of the "Temporary Community Framework".
- (4) Aid under the scheme is provided in the form of direct grants, reimbursable grants, soft loans, interest rate subsidies, tax advantages, reduction of social security contributions, provision of risk capital, equity intervention (increase of capital by public companies where the maximum amount of capital increase in a given company cannot exceed EUR 500 000), debt write-off and public guarantees.
- (5) The budget of the scheme is HUF [...] * (approx. EUR [...]) and the aid amount per beneficiary does not exceed EUR 500 000.
- (6) The beneficiaries can be SMEs or large firms, but not firms that were in difficulty on 1 July 2008.
- (7) The scheme applies in all sectors, with the exception of the sectoral exclusions laid down in Temporary Community Framework sections 4.2.2 (d) ("fisheries") and (h) ("primary production of agricultural products"; exclusion of certain types of aid for the "processing and marketing of agricultural products").
- (8) Export aid and aid favouring domestic over imported goods and services are excluded (section 4.2.2 (e) of the Temporary Community Framework).
- (9) The current scheme satisfies all the remaining conditions of section 4.2.2 of the Temporary Community Framework for granting limited amounts of compatible aid, such as the rules on *de minimis*, cumulation, maximum aid intensities, as well as rules relating to beneficiaries active in the processing and marketing of agricultural products.
- (10) The approval decision N 77/2009 established that the measure constitutes state aid and that it is compatible with the internal market. It was designed to contribute to remedy a serious disturbance in the economy of a Member State on the basis of Article 107 (3)(b) of the TFEU and fulfilled the conditions of "compatible limited

⁴ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty. Article 4 of this Regulation states that alterations to existing aid shall be notified in the framework of the simplified notification procedure if the Member State wants to prolong an existing aid scheme by up to six years.

* Confidential information.

amount of aid" described in section 4.2.2 of the Temporary Community Framework.

3. DESCRIPTION OF THE PROLONGATION

- (11) The Hungarian authorities confirmed that the rules described above which were established in compliance with the Temporary Community Framework remain in place and will in fact be completed by the rules that the Temporary Union Framework added, such as the requirements that
- (a) the beneficiaries of the new scheme have submitted a complete application by 31 December 2010 based on the "Temporary aid scheme for granting limited amounts of compatible aid" (N 77/09)⁵;
 - (b) in case of co-financing with EU Structural Funds and other EU financing instruments, the rules applying to those Funds and instruments must be respected⁶;
 - (c) the detailed rules on monitoring and reporting requirements laid down in Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 83, 27.3.1999) p.1, and Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty will be respected⁷;
 - (d) a report on the measures put in place on the basis of the Temporary Union Framework will be provided no later than 15 September 2011⁸;
 - (e) the Hungarian authorities will require a declaration from the beneficiaries about any other *de minimis* aid and aid pursuant to this measure during the current fiscal year and they will check that the aid will not raise the total amount of aid received by a single beneficiary to a level above EUR 500 000 during the time period between 1 January 2008 and 31 December 2011⁹;
 - (f) the aid granted under the prolonged scheme is not granted later than 31 December 2011¹⁰;

⁵ See paragraph a of Point 2.2 of the Temporary Union Framework.

⁶ See sentence 4 of Point 2.6 of the Temporary Union Framework.

⁷ See sentence 1 of Point 4 of the Temporary Union Framework.

⁸ See sentence 3 of Point 4 of the Temporary Union Framework.

⁹ See paragraph h of Point 2.2 of the Temporary Union Framework.

¹⁰ See paragraph i of Point 2.2 of the Temporary Union Framework.

- (g) the prolonged scheme enters into force on 1 January 2011.
- (12) The Hungarian authorities confirmed that all other elements of the existing scheme remain unchanged.
- (13) The Hungarian authorities confirmed their acceptance that the Commission Decision is adopted in the English language due to the exceptional circumstances.

3.1. Legal basis

- (14) The Hungarian authorities indicate that the legal basis of the aid is Art. 23/A of the Government Decree 85/2004. (IV. 19.) on the *Procedure regarding State Aid defined by Article 87 (1) of the EC Treaty and on the Regional Aid Map*.

4. ASSESSMENT

4.1. Legality of the measure

- (15) By notifying the aid measure before putting it into effect, the Hungarian authorities respected their obligations under Article 108(3) of the TFEU.

4.2. Compatibility of the measure

- (16) In its decision of 24 February 2009, the Commission concluded that the scheme "Temporary aid scheme for granting limited amounts of compatible aid" for Hungary (N 77/2009) constitutes State aid within the meaning of Article 107(1) of the TFEU"). However, it found that the measure was compatible with the internal market under Article 107(3)(b) the TFEU, because it was apt to remedy a serious distortion of the Hungarian economy. To this end, the Commission had assessed the appropriateness, necessity and proportionality of the measure.
- (17) In view of the continued volatility of financial markets and the uncertainty about the economic outlook, the Commission has decided that a prolongation until the end 2011 of the Temporary Community Framework measures targeted to facilitate companies' access to finance is justified in order to assure a gradual return to normal state aid rules while limiting their impact on competition.
- (18) The Commission observes that the prolongation of the scheme is a response to the continuing difficulties that enterprises in Hungary experience in obtaining funding by the banks. Even though in broad terms the health of the banking sector has improved compared with the situation one year ago, the recovery is still fragile as the future evolution of financing remains uncertain. Thus, the risk persists that the banking system may not be ready to sustain the recovery when credit demands picks up.
- (19) Against this background and taking into account the residual fragility of the recovery process and the possibility of setbacks in that process, the continuation of the scheme "Temporary aid scheme for granting limited amounts of compatible aid" for Hungary (N 77/2009) can be deemed necessary to facilitate companies' access to finance. The Commission considers that an abrupt withdrawal of the scheme might put further stress on the recovery process. The Commission therefore

considers that the prolongation of the scheme until the end of 2011 is appropriate, necessary and proportional to remedy a serious disturbance of the Hungarian economy.

- (20) On the basis of the above, the notified prolongation of the "Temporary aid scheme for granting limited amounts of compatible aid" of Hungary does not alter the Commission's previous assessment in the decision of 24 February 2009 (N 77/2009).
- (21) On the basis of these considerations, the prerequisites for the compatibility of the scheme with Article 107(3)(b) TFEU that have been established by the Temporary Community Framework continue to apply. Furthermore, the Commission considers that the notified prolongation of the "Temporary aid scheme for granting limited amounts of compatible aid" complies with the requirements set out in Point 2.2 of the Temporary Union Framework and is therefore compatible with the internal market.

5. CONCLUSION

- (22) For these reasons, the Commission considers that the notified prolongation until 31 December 2011 of the Hungarian scheme "Temporary aid scheme for granting limited amounts of compatible aid" is in conformity with the requirements set out above and considers it to be compatible with the internal market on the basis of Article 107(3)(b) of the TFEU.
- (23) The Commission notes that Hungary has exceptionally agreed that the decision be adopted in English as its authentic language.

6. DECISION

- (24) The Commission has accordingly decided
- not to raise any objections on the notified prolongation on the ground that it is compatible with the internal market on the basis of Article 107(3)(a) of the TFEU.

Yours faithfully
For the Commission

Joaquín ALMUNIA
Vice-President