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Subject: SA.31722 - Hungary
Supporting the Hungarian sport sector via tax benefit scheme

Sir,

1. SUMMARY

- (1) I am pleased to be able to inform you that the European Commission has assessed the measure "*Supporting the Hungarian sport sector via tax benefit scheme*" (hereinafter: "the scheme") and decided not to raise objections as the State aid contained therein is compatible with Article 107(3)(c) TFEU.

2. PROCEDURE

- (2) Following pre-notification discussions with the Commission services, by letter registered on 29 April 2011, pursuant to Article 108 (3) TFEU, the Hungarian authorities notified the measure to the Commission. On 6 May 2011 and 29 June 2011, the Commission requested additional information on the measure, to which the Hungarian authorities replied on 3 June 2011 and 7 September, respectively. Additional clarifications were supplied on 22 September 2011 and 21 October 2011.

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3. CONTEXT

- (3) Hungary considers the development of the sport sector as one of its key priorities. Sport is seen as an important contributor to increase the well-being and the health situation of the citizens¹ and could also have positive effects on the economic development of the country².

The national sport development strategy

- (4) A comprehensive sport strategy is being finalized with the main objective to increase the participation of the citizens in sport activities. The National Sport Strategy involves initiatives concentrating on the supply side (such as renovating and building sport facilities, improve the availability of sport facilities and equipments for local citizens, increase the safety of sport infrastructures for the general public, etc.) and also on the demand side (for instance, by focusing on the training of the new generation, promoting amateur sports and mass sport events, increasing the number of physical education classes in primary and secondary schools, etc.). Additional regulatory and administrative measures are also being implemented (anti-hooliganism law, anti-doping law, etc.).
- (5) A crucial part of this strategy is to ensure access of the general public to adequate sport infrastructure facilities. According to Hungary, one of reasons of the population's weak involvement in sport related activities is the lack of well equipped and modern sport infrastructure. They claim that the sport infrastructure in Hungary is deteriorated, obsolete and often in dangerous conditions. Therefore, it is necessary to promote these investments that, in most cases, cannot be profitably operated under normal market conditions³ due to the low purchasing power, the relatively low density of population and long distances in the countryside. For this reason, it is very difficult to attract market investors for this field.
- (6) Private investors are also not able to fill the funding gap necessary to modernize the infrastructures. According to the statistics provided by Hungary, the yearly budget of professional sport clubs is only a fraction of similar European clubs, and therefore, they cannot finance these investments on their own. The annual budget of the professional football clubs in Hungary are generally below € million of which the infrastructural expenditure makes up only 2-4% of this budget. In case of the other four most popular team sports in Hungary (namely basketball, ice hockey, water polo, and handball) the average annual budget is even lower: below €1 million.

¹ Hungary has one of the highest mortality rate in the EU27 with disproportionately high death causes due to unhealthy way of living. According to a WHO study cited by Hungary, every dollar spent for physical activity could save 3.2 dollars in the health sector. WHO (2003): Health and development through physical activity and sport. Geneva: World Health Organisation.

² Concerning the latter, according to the Hungarian authorities, the higher participation in sport activities could indirectly increase the overall employment rate in Hungary, which is one of the lowest among all the EU-27 countries and could produce significant savings for the central budget.

³ Partly due to low spending on sports: according to the statistics provided by Hungary, households spend merely 0.2% of their total expenditures to sport activities (excluding bets) compared to European benchmarks of 1%.

- (7) According to the statistics provided by Hungary, many of the sport facilities are located in small settlements. The table below summarizes the geographical distribution of the sport facilities in Hungary in the five most popular team sports described above. Hungary argues that the below ratios demonstrate that the development of sport infrastructure would primarily serve the interests of smaller local settlements.

Settlements	%
Budapest	23%
County town	23%
Other settlements	9%
Settlements with less than 2500 inhabitants	45%

Table 1 -Geographical distribution of sport facilities in Hungary regarding the five most popular team sports

- (8) Hungary asserts that the development of sport is also an engine of regional development, urban rehabilitation and rural development. There are synergies between sport and tourism. It encourages the development of infrastructure and creates partnership for the realization of sport and recreational facilities. Support for sport effectively contributes to the society, as sport offers a behaviour model for the young generations and help them improve their personality. It is also an important pillar of healthy life.

Scope of the notification

- (9) Therefore Hungary designed an aid scheme with the objective to channel additional funds to the sport sector by incentivizing commercial undertakings through tax benefits to contribute to sport development. These funds could be used for three main purposes: (1) training of the young generation, (2) personnel costs, (3) investments to create or modernize sport infrastructure.
- (10) Hungary argues that in line with the Commission's case precedent in this field⁴, training of the young generation is outside to the scope of EU State aid rules. Concerning the funding of personnel costs and the investments to create or modernize sport facilities, Hungary believes that the scope of an EU State aid notification should focus only on the professional sport clubs, since amateur clubs are generally not considered to be undertakings within the meaning of Article 107(1) TFEU⁵. Since, as confirmed by the Hungarian authorities, personnel costs of professional sport clubs will only be financed under the general block

⁴ Commission decision in case N118/2000 *Subventions publiques aux clubs sportifs professionnels, France*. JOCE C/333/2001 of 28.11.2001.

⁵ In line with White Paper on Sport (COM (2007) 391 final, Judgment of the Court in case Höfner and Elser v Macrotron GmbH [1991] ECR I-1979 (C-41/90).

exemption regulations⁶ or "*de minimis aid*"⁷, the scope of the State aid notification (and of the present decision) is limited to investments in and renovation of tangible assets used by professional sport clubs, as such measure could constitute State aid within the meaning of Article 107(1) TFEU⁸.

4. DESCRIPTION OF THE MEASURES

4.1. Objective

(11) The primary objective of the scheme is to promote the culture of sport, sport education, health and physical activity by increasing the involvement of the citizens in sports. Hungary argues that the objective is fully in line with the Nice Declaration⁹, which underlines that "*sporting activity should be accessible to every man and woman, with due regard for individual aspirations and possibilities*".

4.2. Legal bases

(12) The national legal bases for the scheme are as follows:

- Amendments to Act LXXXI of 1996 on Corporate Tax and Dividend Tax incorporated in Articles 2-6 and 13 of Act LXXXII of 2011 on the Amendment of Certain Acts on Sports Support relating to Articles 4, 22/C, 29/M and 30 of Act LXXXI of 1996 and Act LXXXIII of 2010 on the Amendment of Acts related to Sport;
- Government Decree 107 of 2011 (VI. 30.) on the Issue of Tax Certificate Required for the Aid of the Five Most Spectacular Branches of Sport and on Accounts, Monitoring and Recovery of the Aid;
- Act LXXXI of 1996 on Corporate Income Tax and Dividend Tax;
- Act XCIII of 1990 on Transfer Tax;
- Amendments to Act XCIII of 1990 on Duties incorporated in Articles 8-12 of Act LXXXIII of 2010 on the Amendment of Certain Acts on Sports Support relating to Articles 26, 86, 87, 99 and 102 of Act XCIII of 1990.

4.3. Budget and funding instruments

(13) The scheme consists of two main parts.

⁶ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation).

⁷ Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis aid* Official Journal L 379 of 28.12.2006.

⁸ The precise scope is defined in paragraph (35).

⁹ European Council (2000). Nice declaration: Declaration on the specific characteristics of sport and its social function in Europe. Nice: European Council.

4.3.1. Donation for certain sport objectives by corporate tax benefit

- (14) This funding instrument was designed on the basis of existing tax benefit schemes of Hungary supporting film production and arts organizations¹⁰.
- (15) The donation by an undertaking to the sport sector would be backed by corporate tax incentives. It allows corporate donors to deduct their donation to sport support both from their taxable income and from their tax liability. The tax benefit can be maximum 70% of the donor undertaking's yearly corporate tax payment obligation and available in the year of the donation and the following three financial years.
- (16) From the side of the donors, the scheme is open for any undertaking operating in any sector that is subject to corporate tax. The donor is provided by the state authority responsible for supervising this scheme with a "tax certificate", which will be the supporting document for exercising the corporate income tax incentives (entitling to a deduction from the tax base and a parallel credit against the tax payable).
- (17) For the sake of an example, in case a company, with a tax base of maximum HUF 500 million (€ 1.8 million) and hence subject to 10% corporate tax rate¹¹, donates HUF 1 million for sport development under the notified scheme, it can reduce its tax liabilities with HUF 1.1 million: HUF 1 million could be deducted from the company's tax payable, while the tax base could also be reduced with HUF 1 million resulting in an overall saving of 10% (i.e. the corporate tax rate).¹²
- (18) The Hungarian authorities argue that in line with the Commission's preceding decisions¹³, the scheme from the donors' point of view is a general measure not subject to State aid assessment. They also underline that the tax benefit is given to donating companies in order to incentivise their participation in the scheme and is designed merely as a compensation for their financial costs¹⁴ involved in the donation and to cover additional risks¹⁵ as well as transaction/administrative¹⁶ costs faced by these companies. Hungary also asserts that if the

¹⁰ Commission decisions in cases N202/2008 *Hungarian film support schemes*, JOCE C/273/2008 of 28 October 2008 and N464/2009 *Indirect state aid for the performing arts organizations*. JOCE C/313/2009.

¹¹ According to the situation in October 2011, the corporate tax rate is 10% for companies with a tax base up to 500 million HUF, while further profits are taxed at a rate of 19%.

¹² For the purpose of this Commission decision, an exchange rate of 280 EUR/HUF has been applied.

¹³ See footnote 10.

¹⁴ The potential tax benefits could only be exercised as of 31 May in the year following the financial period in which the donation was granted.

¹⁵ Such as profit risk - the potential tax benefit will not materialize if the donor company ends the tax year with a loss. The delay in using the potential tax benefit would further increase the financial costs of the donor company, whereas there is also a risk that the tax benefit could not be fully utilised at all. Furthermore, this form of contribution is not a liquid form of 'investment' (as opposed to e.g. securities) and cannot be converted into cash in short term basis and thus justifies additional risk premium.

¹⁶ These involve the costs related to searching for sports organisation to donate, drafting and signing the donation agreements, applying for the relevant certificate from the authorities.

Government operated the financing on its own, this would attract additional administration costs and financial costs¹⁷.

- (19) The legal basis specifically stipulates that contracts requiring any kind of compensation against the payments of the donor companies (e.g. advertising, merchandising) within the framework of this scheme are not allowed and will be considered void and, in such case, the tax incentives cannot be exercised.
- (20) According to Hungary, with the introduction of the tax benefit scheme in many cases (for instance in case of supporting amateur sports) only the source of funding would change from the central budget to the commercial sector. Hungary argues for the merits of introducing a general tax exemption, as such measure shall be considered as one of the least distortive type of state intervention (for instance, in comparison with direct grants). Additionally, Hungary's long term objective is to incentivize the spending of more private funds to sport development on commercial basis. The current scheme establishes a direct link between companies and local sport clubs thus, could have the potential to pave the way for more market based co-operations in the medium and long term. Hungary hopes that in the longer term, companies will not need this extra incentive from the budget, but they will have their own commercial agreements with the sport clubs (e.g. sponsoring, merchandising etc). Thus the idea behind this scheme is to provide the first step (correcting the "market failure" now), and planning that the market will be sustainable on its own later.

4.3.2. *Transfer Tax exemption*

- (21) In the case of purchase of a "sport site" available for sport activity, the buyer/investor is entitled to a transfer tax exemption. The condition of the exemption is that the property should be used as sport facility for a minimum of fifteen years. Land acquisition is also eligible for aid if a sport site will be created within four years. "Sports sites" inter alia constitute the following facilities: sport site within the meaning of the land registry, sport field, swimming pool, stadium, sport hall, ice field, ice rink, gym, gym room, gym yard, water sport site.
- (22) The scheme would also enable the development and establishment of sporting facilities owned by local municipalities if the beneficiaries of the support (i.e. sport federations, sport organizations, public foundations) concluded a cooperation agreement with the municipalities on the operation of these facilities, helping the municipalities meet their public obligations in this area. In this way, the local municipalities could guarantee better conditions for organizing and developing school sport activities, trainings and participation in sport competitions.
- (23) The maximum amount of the transfer tax set by the law is HUF 200 million (€15.000) per property. The rate of transfer tax per property of value up to HUF 1 billion (€3.57 million)

¹⁷ Considering that the minimum costs of such an administrative organisation could be millions of Hungarian forints, as well as the financing of the donation should be made by the state at least 5 months earlier than currently (the tax benefits can be exercised as of 31 May of the following year the earliest whereas sport organization require the financing in the beginning of the previous year), the operation of a state managed sport financing fund could incur significant costs.

is 4%, and for the part of value exceeding that threshold the rate is 2%, but subject to a maximum of HUF 200 million in total.

- (24) According to the estimation of Hungary, the waiver of the transaction tax could cost €4 million per year for the state and could have the potential to mobilize €130 million of investment in this sector (assuming an average aid intensity of 3%). Hungary argues that although the potential aid deriving from this financial instrument might seem particularly low, combined with the tax benefit measure (the two measures can be cumulated); the two instruments would reinforce each other thereby achieving the overall objectives of the measure.
- (25) The Hungarian authorities have given assurance that outside the scope of the five sports, which are already parts of the tax benefit scheme, the transfer tax exemption will be covered by the general block exemption regulation and the '*de minimis*' regulation¹⁸. Therefore, the part of this tax scheme outside the scope of the five sports is not covered by the present decision.

4.4. Duration and budget

- (26) The scheme will be introduced following this Commission decision and will continue until 30 June 2017.
- (27) According to the preliminary estimations of Hungary, the overall financial support to the sector could reach annual HUF 20 billion (€71.4 million) from the tax benefit scheme and HUF 1.2 billion (€4.4 million) from transfer tax exemption, which would translate into an aid amount of €455 million during the entire duration of the notified scheme. Thus the foreseen budget reflects an overall average of €1 million aid per professional sport club coming from the notified scheme.

4.5. Beneficiaries

- (28) According to Hungary, the direct beneficiaries (i.e. the recipients of aid) of the measure will be "sport organizations": (1) the sport associations of the five most popular team sports: namely football, basketball, ice hockey, water polo, and handball; (2) professional sport clubs that are members of the sport associations specified in the previous point and (3) investors of the sport sectors if they can benefit from transfer tax exemption.
- (29) According to Hungary, the most popular branches of sport on national and international level are the ball games. Thus support focusing on the five most popular team sports (i.e. football, basketball, ice hockey, water polo, and handball) can have the greatest impact on local communities through involving local citizens to sport activities, as 90% of the

¹⁸ For references, see footnotes 6 and 7.

sporting population and 75% of the total number of the officially registered sportsmen and sportswomen are linked to these five team sports¹⁹.

- (30) For reasons explained in paragraph (10), the scope of the State aid notification is aid to professional sport organisations of these five most popular team sports. Professional sport organisations are defined as follows: "sport organisations" (sport association or sport undertaking), which a) participates in the highest adult league in the championship invited by one of the federations of the referred five most popular team sport, or b) in case of lower adult leagues, a sport club which employs professional players.
- (31) Hungary stresses that although the scope of the state aid notification is only aid to professional sport organization as defined above, the measure should be understood within its context: for instance, no professional sport club could receive aid under the current scheme if such plans are not part of a sport development strategy approved by the Controlling Authority that must include development plans inter alia for youth sport, training of the young generation or promotion of mass sport events or involvement of the general public in sport events.
- (32) Concerning the indirect beneficiaries of the measure, the aim of Hungary is that the positive effects of the aid measure shall be distributed to the widest possible number of beneficiaries. Accordingly, they claim that the indirect beneficiaries of the scheme will be (1) sport organizations using the subsidized facilities; (2) the sportsmen, sportswomen of the professional sport clubs and the general public having access to better sport equipment and facilities. These improved equipment and facilities will inter alia (3) improve the quality of school and student sport, enlarge sport possibilities and make the population more interested in sport activities. (4) The increasing popularity of professional sports will have a positive impact on the popularity of sports enlarging the social base of mass sports by putting young generations in touch with them and popularizing sport attitude.
- (33) Hungary argues that direct beneficiaries of a sport infrastructure development measure could also be the local municipalities who to a large extent own as well as operate the sport facilities. According to the data provided by Hungary, in case of the five most popular team sports, on average 86% of these facilities are publicly owned. The professional sport clubs usually pay a rental fee for using the sport facility. Hence professional sport organizations (as recipients of the aid) spending the available funding to renovate and upgrade the existing sport infrastructure facilities will in most cases increase the value of the infrastructures owned by the public authorities.

¹⁹ In Hungary, approximately 200.000 sportsmen have competition licence, about the half of them are children. More than 150.000 registered sportsmen and sportswomen play in the five most spectacular branches of sport subject to the present scheme covering more than 75% of the registered sportsmen.

	Football	Handball	Water-polo	Basketball	Ice-hockey
State or local government ownership	92.5%	96%	90%	73%	83%
State owned operator	90%	83%	71%	n.a.	67%

Table 2 - Overview of the ownership and operation of the sport infrastructure used by the professional sport clubs of the five most popular team sports in Hungary

- (34) Thus the Hungarian authorities stress that even if professional sport clubs will be recipients of state aid within the context of the scheme, the monies will be spent primarily on infrastructures owned by public authorities. Since the professional sport clubs will pay benchmarked prices for the renting of those infrastructures, their benefit from the scheme will result primarily from the access to better, upgraded facilities.

4.6. *Eligible costs*

- (35) Sport organizations can use the grant to invest in and to renovate tangible assets in: a) Sport equipment used in competitions, tournaments, trainings; b) Preparation of a website to follow-up the implementation of the sport development program²⁰; c) Investment in or renovation of tangible asset undertaken by sport organizations, sport foundations or municipalities to fulfil the task laid down in the legal basis.

4.7. *Tender procedure*

- (36) The Hungarian authorities will oblige the aid recipients to conduct an open, non-discriminatory selection process for the construction in case of construction/upgrade of sport facilities if the costs of the project are over HUF 10 million (€37.000).

4.8. *Setting of prices for the rental fees*

- (37) Hungary argues that in the specific case of sport infrastructures, in most cases it is not possible to conduct an open tender for the operation and/or usage of the infrastructure, because the facilities are typically dedicated to specific, local sport clubs. Therefore Hungary decided to introduce a central price benchmarking mechanism to limit the advantage granted to the potential indirect beneficiaries and consequently to reduce any distortion of competition arising from state intervention.
- (38) Hungary asserts that the operators and the undertakings using the infrastructures will pay prices for the usage of the new/renovated infrastructures based on a benchmarking mechanism. In the case of infrastructures dedicated to a specific local sports club, operator

²⁰ Such investments are required within the context of the current scheme for transparency and monitoring reasons.

and user will usually coincide. The investments undertaken with the help of State aid will be reflected in the renting fee/concession fee of the infrastructures in accordance with the Act on Corporate Income Tax.

- (39) When monitoring compliance with these conditions, the Controlling Authority will take into account local and national benchmarks for the price of renting infrastructures with similar characteristics. Compliance with the condition to benchmarked prices for the usage of the infrastructure is ensured at several stages. First, the Controlling Authority will only start assessing requests for support in case the declaration that the beneficiary will pay a price based on the benchmark for usage is enclosed. Furthermore, during 15 years following putting the infrastructure into use, the Controlling Authority is entitled to monitor compliance with the conditions of the scheme by checking invoices and carrying out on-the-spot visits, if necessary. On the other hand, rents will be monitored by the Controlling Authority that will not deliver tax certificate to the beneficiary where a considerable price-value disproportion is detected. Tax certificate is one of the conditions for receiving aid.
- (40) Hungary also stresses the peculiar context of the current scheme: the aid recipients (i.e. the professional sport organizations) will in most cases not be the owners of the infrastructure concerned and that they will have to pay benchmarked prices for the use of the new or renovated infrastructure. Therefore, a large part of the advantage they receive will be clawed back in the form of higher rents.
- (41) Finally, Hungary has given an undertaking to the Commission that the rental fee will never be set lower than 50% of the actual depreciation costs of the rented infrastructure (including the investments that have been covered by aid measures) and the operational costs, pro rata of the used capacity, by the professional sport organizations) of the infrastructure in comparison to the overall effectively used capacity of the infrastructure.

4.9. Benefits for the general public

- (42) According to Hungary, the possibility of having renovated and/or new facilities available for the general public in places where they have not existed previously can by itself increase the participation of the general public in sport activities and sport events. However, Hungary decided to request additional commitments from the beneficiaries to ensure that the benefits of the subsidized sport infrastructure will reach the largest number of users.
- (43) Firstly, as stipulated in the legal basis, all subsidized sport sites/facilities shall be open for use by the general public. Any aid recipient shall specify in detail how the general public will benefit from any aid granted within the context of this scheme. Aid shall only be granted if such commitments are found proportionate with the aid amount and intensity of the planned project, which shall be part of the sport development plan subject to approval of the Controlling Authority (for more details, see section 4.11).
- (44) Secondly, in case of receiving aid for sport infrastructure developments, the aid recipients have to undertake to make the sport establishment concerned available for the purposes of school and student sport, leisure sport or other community events for a period of at least 15

years after putting the establishment into operation, in at least 20% of its daily operation time plus for at least 10 entire days a year.

- (45) Thirdly, all subsidized sport sites/facilities shall be adequate to be used for other purposes besides the activities of the professional sport clubs: they shall be facilities with multifunctional character. Without jeopardising the primary sport objective, the subsidized infrastructures shall be adequate for instance for mass sporting events, physical education and youth sport as defined in the law on sport, as well as other non-sport related activities like cultural or tourism-related events.
- (46) The Controlling Authority will approve the sport infrastructure development programme of potential beneficiaries only if the beneficiary complies with the above specified obligations. When assessing the programmes, the Authority will pay particular attention to the quality of such commitments and their ability to meet local community needs. The fulfilment of this obligation will continuously be monitored by the Controlling Authority.

4.10. Aid intensity

- (47) The aid intensity is maximum 70% of the investment costs per year, but it can also be lower.
- (48) In order to incentivize the beneficiary sport organizations to use less State aid in case they have better access to market funds, Hungary introduced a scaling mechanism proportionally with the aid intensity. The scaling mechanism would ensure that beneficiaries receiving higher aid intensity must undertake access for the general public to the establishment in a relatively higher proportion thus incentivizing beneficiaries to use less State aid at least in the medium term.

Aid intensity (%)	Engagements		
	In years	in days per year	in percentage of daily operation time
70	15	10	20
50	15	8	16
30	15	6	12

4.11. Control and monitoring mechanism

- (49) The Hungarian authorities designed a strong control and monitoring mechanism to avoid any misuse of public funds or cross-subsidization of other activities of the sport organizations. A Controlling Authority was set up, which is a legal entity under the Ministry of National Resources (responsible for sport).
- (50) In the framework of the application process, every sport organization intending to obtain subsidies will be required to present a strategic development plan to the Control Authority and this authority will specifically review and approve or reject the development plans

submitted. As a result, upon the approval of the development plans, each beneficiary will be given a subsidy limit which it cannot exceed, even if it was able to raise more subsidies. No subsidy is available under the scheme for those applicants whose plans were rejected.

- (51) The scheme will be subject to strict ex ante and ex post controlling processes regulated by the Act on Corporate Income Tax and the decree as follows:
1. Annual approval on the development plan applications for the period from 1 July to 30 June (further: assessment period). Development programs with costs in excess of HUF 500 million (€1.78 million) in present value can only be approved by the Controlling Authority after taking due consideration of the opinions of the ministers responsible for sport and tax policy.
 2. Review of the monitoring reports submitted every calendar quarter
 3. Review of the final report presented by the sport organization and confirmed by an independent auditor.
 4. The Hungarian authorities also intend to control the potential spending in a way that investments in tangible assets above HUF 10 million (€ 35.700) can only be post-financed, i.e. the subsidy will be granted on the base of the invoices, so to prevent that relatively big investments take unnecessarily high amount of subsidies without real financial capabilities of the investor.
- (52) Once the application is approved, the sport organization will be given the maximum amount of donations that can be raised from the donors (corporate income taxpayers): no additional state aid could be raised if that would go over the approved development plan. If a donor intends to give a donation to a sport organization, the latter shall have an approved development plan, on the basis of which it shall request the Controlling Authority to issue a tax certificate to the donor. The Controlling Authority keeps a register on the amount of subsidies obtained by the sport organizations and monitors the process.
- (53) In every three months the sport organizations will be required to submit monitoring reports on the status of the development plan, detail the actual costs incurred, the allocable subsidies exercised and the availability of subsidies held on a specified, separated bank account.
- (54) Within 30 days from the end of the assessment period (i.e. by 30 July every year) the sport organization will be liable to submit a final report on the results of the development, and submit every financial and accounting documents substantiating the proper use of the subsidies. The report will also have to be confirmed by an independent auditor who shall mutually stand responsible for financial consequences if the Controlling Authority found any misstatements.
- (55) The Controlling Authority or any other state authority (e.g. National Tax and Customs Office, Government Controlling Office, State Supervisor Authority, etc) involved by the Controlling Authority can have direct access to the accounts of the sport organization or they can initiate field audits at the premises of the sport organization if necessary. If the

Controlling Authority finds any misstatements in the financial reports causing illegal use of subsidies, the difference must be repaid as a tax liability and 50% penalty can also be imposed if the Controlling Authority finds the misstatement not accidental.

- (56) The Ministry of National Resources will be in charge of investigating complaints concerning the measure in line with the general provisions on complaints included in Act XXIX of 2004.
- (57) Hungary has also undertaken to submit an annual report to the Commission until end of October each year in accordance with Article 22/c (para 6e) of the Act on Corporate and Dividend Tax. The monitoring report will inter alia contain information on the total aid amount allocated on the basis of this scheme, the sport infrastructure projects funded, their aid intensities, their beneficiaries, the parameters applied for benchmarking prices, the rents effectively paid by the professional sport organizations, as well as a description on the benefits provided to the general public and on the multifunctional usage of the infrastructures.

4.12. Transparency

- (58) The Hungarian authorities have undertaken several initiatives to increase the transparency of the use of these funds. Inter alia, the beneficiaries shall keep separate accounts for the support received under the scheme. If the support received by one beneficiary is above HUF 20 million (€71.000), all accounts shall be validated by an independent auditor. The Controlling Authority will also publish on its webpage the investments/use of public funds it has decided to approve (and financed from the notified measure). The sport organization benefitting from state aid will be required to present the details (including financial ones) of the plan on its website, as well as the amount of public funding received by beneficiaries and its usage will be available for the general public.

4.13. Additional competition safeguards

- (59) As explained by Hungary, the measure will be mainly used to upgrade existing facilities and will most likely bring few new infrastructures on the market. In order to avoid the crowding out of private investments, the Control Decree contains provisions in this respect. In particular, the Controlling Authority will check whether the construction of a new establishment is justified by the fact that such services are absent in the area/region concerned and cannot be provided by upgrading the existing facilities.
- (60) The sport clubs will be obliged to show in detail in their infrastructure development plan that the planned investment does not create overcapacity or duplication of infrastructures. Based on the detailed description, the Control Authority will have the power not to approve the investment if there is a risk that the planned investment has crowding out effect.
- (61) Hungary also asserts the local character of the sport clubs potentially benefiting from the notified aid scheme – as most of them only play at a national level, but do not qualify to international sport events - and, hence, limited effect on intra-EU trade. They argue that the impacts of the measure would be beneficial at national level, but would not be significant on EU level, especially when taking into account the budget of the measure. When looking

at the budget of the Hungarian professional sport clubs and sport undertakings²¹, which primarily limits the amount of donations to be received, very limited possible effects on competition and trade are apparent. For instance out of the total number of potential beneficiaries of the scheme (approximately 3800 organisations) only 0,8% can or has participate(d) in international championships, while successful participations at these championships, the rate is only 0,1 %.

- (62) Hungary also stresses the limited effects on competition and trade by the fact that most of the beneficiaries are falling into the category of SME²² and those who are not, are falling outside this category mainly because they are owned by municipalities, but their activity is only local or regional.

5. STATE AID ASSESSMENT

- (63) According to Article 107 (1) TFEU, “*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market*”. It follows that in order for a measure to qualify as state aid, the following cumulative conditions have to be met: 1) the measure has to be granted out of State resources, 2) it has to confer an economic advantage to undertakings, 3) the advantage has to be selective and distort or threaten to distort competition, 4) the measure has to affect intra-EU trade.

- (64) Hungary has informed the Commission that the transfer tax exemption outside the referred five team sports will be granted under block exemption regulations or “*de minimis*” aid as described in paragraph (25), and has notified only the funding provided to the professional sport organizations clubs of the five team sports – independently whether that derives from tax benefit scheme or transfer tax exemption. The present decision only covers the notified measure; it is up to the Hungarian authorities to ensure compliance with the block exemption and “*de minimis*” regulations.

5.1. *Presence of State aid: tax deduction or transfer tax exemption available for the donor undertakings*

- (65) State resources are clearly involved in the scheme since the Hungarian central budget suffers a loss of fiscal revenue as a result of the scheme.
- (66) The scheme confers economic advantage to the donors, as explained in sections 4.3.1 and 4.3.2. Undertakings participating in the tax benefits scheme will be able to earn on their donation.

²¹ The yearly budget of professional sport clubs is only a fraction of similar European clubs. For instance in case of football clubs, the wealthiest Hungarian football club in 2010 disposed over a yearly budget of 4.4 million euro in comparison with 450 million euro of Real Madrid, 150 million euro for Lyon or by local competitors such as the 15 million euro annual budget of CFR Cluj (Romania).

²² As defined by Annex I of Regulation 800/2008/EC.

(67) As regards the selectivity of the measure from the donors' perspective, since the tax deductions are available to all undertakings in all sectors without any limitation, i.e. any company can be a donor, the scheme shall be considered as a general measure that does not provide selective advantage to any undertakings²³.

(68) Consequently, the tax deduction to the donors participating in the scheme shall not be considered as State aid within the meaning of Article 107(1) TFEU²⁴.

5.2. *Presence of State aid: the beneficiary undertakings*

(69) Infrastructure cases should be assessed by reference to several different levels concerned²⁵. The levels vary in accordance with the type of infrastructure, but in general, at least three levels could be distinguished: (1) owner level: builds the infrastructure and provides access to it by leasing/renting it out to the operator/concession holder; (2) concession holder/operator level: the concession holder/operator maintains and exploits the funded infrastructure to generate revenues collected from the users; (3) user level: users of the infrastructure typically for rental fees. This distinction will serve as a reference point when assessing the presence of State aid concerning the notified scheme.

Economic nature of the activities

(70) The European Courts have defined the term “undertaking” broadly to include “*every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed*”²⁶.

(71) Professional sport represents a large and fast-growing sector of the economy: according to World Economic Forum estimates²⁷, around 2% of global GDP is generated by the sport sector. A salient example for the economic importance of the sport sector is football: the European football market amounted to €16.3 billion in 2009/2010²⁸, several clubs are listed on stock exchanges, professional clubs fiercely compete for viewers, broadcasting revenues, players and merchandising rights.

(72) As regards the owners and operators of the facilities, sport infrastructures used by professional sport clubs are subject to commercial exploitation by the operator of the infrastructure, thus the measure clearly has an economic nature. In this regards, it is not relevant for the classification of a certain activity as economic whether a private investor

²³ In line with Commission decisions in cases N202/2008 *Hungarian film support schemes*, JOCE C/273/2008 of 28 October 2008 and N464/2009 *Indirect state aid for the performing arts organizations*. JOCE C/313/2009.

²⁴ The Hungarian authorities are reminded that tax treatment of donors shall be compatible with the fundamental freedoms as guaranteed by the TFEU.

²⁵ See for instance *Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks*. OJ C 235 of 30.9.2009, p. 7.

²⁶ Case 41/90 *Klaus Höfner and Fritz Elser v Macroton GmbH* ECR 1991 I-1979, para. 21.

²⁷ World Economic Forum, Davos, 2009. In: Communication from the Commission: Developing the European Dimension in Sport. COM (2011).

²⁸ Annual Review of Football Finance 2011. Report of Deloitte.

would carry out the activity or not, i.e. for an activity to be classified as economic, it does not need to be profitable²⁹.

- (73) According to the Court jurisprudence³⁰, not only the operation and management of an infrastructure constitutes an economic activity but also that the construction of infrastructure, which cannot be separated from its later operation. Since the market of professional sport is characterized by high level of competition with significant private and commercial investments, the exploitation of a sport infrastructure used by a professional sport club constitutes an economic activity and its financing by the State is therefore subject to State aid control.
- (74) As regards the main users, sport clubs shall be considered undertakings to the extent they carry out economic activities e.g. by selling tickets to the sport events, selling broadcasting rights or concluding sponsoring or advertising agreements³¹. Sports associations shall be considered as economic undertakings if they themselves carry out economic activity, for instance by commercially exploiting a sport event³².

Presence of state resources

- (75) The funds used to provide the support under this scheme are derived from the fact that the State foregoes tax revenues. Consequently, State resources are involved in the scheme.

Selectivity

- (76) Concerning the *owners*³³ and *users* of the infrastructures, the measure is selective in nature that it targets only sport infrastructure facilities and other tangible assets used by the five most popular team sports in Hungary.
- (77) Furthermore, in case of infrastructure, selectivity is particularly evident where the construction of infrastructure qualifies, as in the present case, as "dedicated infrastructure" for the sole or at least predominant benefit of one or few beneficiaries³⁴. Sport infrastructure facilities are typically dedicated to particular professional sport clubs. In the current scheme, such 'pre-defined' professional sport club will operate and/or will be the

²⁹ Joint Cases T-455/08 *Flughafen Leipzig-Halle GmbH and Mitteldeutsche Flughafen AG c/ Commission* and T-443/08 *Freistaat Sachsen and Land Sachsen-Anhalt c/ Commission* [2011], not yet published in ECR.

³⁰ See for instance Judgment of the European Court of Justice of 24 October 2002 in Case C-82/01P *Aéroports de Paris v Commission* [2002] ECR I-9297. T-196/04 *Ryanair Ltd v Commission*, Joint Cases T-455/08 *Flughafen Leipzig-Halle GmbH and Mitteldeutsche Flughafen AG c/ Commission* and T-443/08 *Freistaat Sachsen and Land Sachsen-Anhalt c/ Commission* [2011].

³¹ See Case T-313/02 *David Meca-Medina and Igor Majcen v. Commission* ECR 2004 II-3291 and Case C-519/04 P *David Meca-Medina and Igor Majcen v. Commission* ECR 2006 I-6991.

³² Commission decisions in Cases 33384 and 33378 *Distribution of package tours during the 1990 World Cup*, OJ 1992 L326/31 or Case 37398 *Joint selling of the commercial rights of the UEFA Champions League*, OJ 2003 L 291/25.

³³ Including undertakings purchasing sport facilities or land that will be later used for sport purposes exempted from paying the transfer tax for those types of transactions - see details in Section 4.3.2.

³⁴ [Commission decision in case C 30/2010 \(ex NN 45/2010\(ex CP 327/2008\)\) Alleged Infrastructure Aid to Propapier, Germany. JOCE C/131/2008.](#)

main user of the subsidized infrastructure. Therefore selectivity can also be established due to the *captive* use of the (local) infrastructure by the professional sport clubs.

Advantage

- (78) As regards the *owners of the infrastructure*, they receive direct (if the infrastructure is owned by the sport organisation) or indirect (if the infrastructure is owned by a public or private operator distinct from the sport organisation) public funding through the aid recipients (i.e. the professional sport organizations) to upgrade and create new sport infrastructures which would not otherwise be available on the market due to the situation for sport infrastructures in Hungary as explained in section 3. The funding received provides an advantage to these owners as such investment costs should be borne fully by these entities under normal market conditions.
- (79) As regards aid at the level of the *concession holder/operator* (if separate from the owner) and the *user* of the infrastructure, the Commission observes that in the present case, the infrastructure in question constitutes dedicated infrastructure (see above recital (77)). According to the Commission decision practice, in the case of dedicated infrastructure, the concession holder/operator and the user of the dedicated infrastructure receive an economic advantage if they do not bear the full cost of the infrastructure.³⁵ In the present case, as a consequence of the aid, the concession holder/operator do not bear the full cost of the infrastructure, and therefore receive an advantage.

Distortion of competition

- (80) Concerning the distortion of competition, the intervention of the State will alter existing market conditions, in that a number of new/upgraded infrastructures will be available in Hungary that would allow the owners, operators and the users of the infrastructure to benefit from facilities that would not be available on market terms. Hence the measure has the effect of distorting competition.

Effect on trade

- (81) Since competition between professional sport clubs clearly have an international dimension and many tournaments have a European or world-wide dimension, the measure could have an effect on intra-EU trade. Furthermore, for instance in case of ice hockey, several non-Hungarian teams (for instance teams from Romania) are also participating in the Hungarian first division, hence State aid to the professional Hungarian clubs would clearly have an intra-EU effect.

Conclusion

³⁵ Commission Decision 1999/646/EC of 25 November 1998, Aid to InfraLeuna, OJ L 260, 6.10.1999, p.1, in particular section II.4.4 and section IV.3.3.1; Commission Decision 2002/14/EC of 12 July 2000, Aid to Kimberly-Clark/Scott, OJ L 12, 15.01.2002, p. 1, recital 196 and 201; Commission Decision 2000/194/EC of 14 July 1999 on Aid granted by Germany to Weida Leder GmbH (Weida), OJ L 61, 8.03.2000, p. 4, recital 35.

- (82) On the basis of foregoing assessment, the contributions received by sport organizations from the tax incentives constitute State aid within the meaning of Article 107(1) TFEU. The compatibility of this aid therefore has to be assessed.

5.3. *Compatibility of the measure*

- (83) The Commission notes that there are no horizontal guidelines covering this type of aid and there are no sectoral guidelines on aid to this particular sector. The Commission, therefore, considers that the assessment of the compatibility of the notified subsidy scheme with the EC state aid rules needs to be based directly on Article 107(3)(c) TFEU, which states that: "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*" may be considered to be compatible with the common market.
- (84) In order for the notified scheme to be compatible with Article 107(3)(c) it must not affect trading conditions to an extent contrary to the common interest. The trade off between the advantages i.e., pursuing by the goal of increasing the participation of the general public in sport activities and events, and the disadvantages i.e., distorting competition and trade caused by favouring certain undertakings engaged in professional sport activity needs to be assessed. The notified subsidy scheme should also be proportionate to the goal pursued, and as such its scope evaluated.
- (85) It is established Commission practice that measures may be declared compatible directly under Article 107(3)(c) TFEU if they are necessary and proportionate and if the positive effects for the common objective outweigh the negative effects on competition and trade³⁶. The Commission considers it appropriate here to ask the following questions:
- (a) Is the aid measure aimed at a well-defined objective of common interest, i.e. does the proposed aid address a market failure or other objective?
 - (b) Is the aid well designed to deliver the objective of common interest? In particular:
 - (i) is State aid an appropriate policy instrument, i.e. are there other, better placed instruments?
 - (ii) is there an incentive effect, i.e. does the aid change the behaviour of undertakings?
 - (iii) is the aid measure proportional, i.e. could the same change in behaviour be obtained with less aid?
 - (c) Are the distortions of competition and the effect on trade limited, so that the overall balance is positive?

(a) *Is there a well-defined market failure or an objective of common interest?*

- (86) The European Commission and the European Courts acknowledge the special characteristics of sport having also been confirmed by the inclusion of Article 165 into the

³⁶ Community framework for State aid for research and development and innovation, OJ C 323, 30.12.2006, p. 1, point 1.3; Community guidelines on State aid for environmental protection, OJ C 82, 1.4.2008, p. 1, point 1.3. or Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks. OJ C 235 of 30.9.2009, p. 10.

TFEU: *"The Union shall contribute to the promotion of European sporting issues, while taking account of its specific nature, its structures based on voluntary activity and its social and educational function"*.

- (87) The Commission highlighted³⁷ that the sport sector has enormous potential for bringing the citizens of Europe together, reaching out to all, regardless of age or social origin. Sport has an educational role, as well as social, cultural and health dimension. The document also argues that there is an overall European need to better use the potential of sport as an instrument for social inclusion in the policies, actions and programmes of the European Union and the Member States. This includes the potential of sport as an employment creation factor, particularly in disadvantaged areas. The European Commission also emphasized that due to its important societal role (e.g. improvement of public health, social inclusion, education and training, voluntary activities) as well as economic dimension (e.g. contribution to employment and jobs) sport could be an important contributor to the Europe 2020 Strategy³⁸.
- (88) The primary objective of the Hungarian sport development strategy (that includes the notified scheme) is to increase the participation of the general public in sport activities, by inter alia, promoting mass sport events, training of the young generations as well ensuring adequate sport infrastructure and equipment for the general public.
- (89) Within the specific Hungarian context, State aid to the sport sector could provide a remedy for a well-defined market failure, i.e. situations where individual market investors do not invest even though this would be efficient from a wider economic perspective, e.g. due to the positive spill-over effects. Many of the sport infrastructure facilities in Hungary are in bad conditions, not meeting the minimum safety standards and there is no prospect by the private sector to undertake such investments on commercial terms for the reasons explained in sections 3. State aid for the sport sector shall also be viewed as a tool to achieve equity objectives: the general public will be an important beneficiary of the measure as ensured by the commitments requested by Hungary from the aid recipients (detailed in section 4.9) and sport has important social and educational function as acknowledged by Article 165 TFEU. Support for sport infrastructures potentially has positive impact in terms of more stable and better adapted sport structures, which potentially enhances the quality of sport services, which in turn can help to ensure people's access to local sport structures.
- (90) Thus the objective of the scheme within the context of the general sport developments strategy, taking into account the commitments provided by Hungary to ensure that the benefits will be distributed to the widest possible beneficiaries, is in line with the common interest.

(b) Is the aid well designed to deliver the objective of common interest?

- (91) Concerning the appropriateness of an aid instrument in the current case, Hungary proved that main issue is the lack of investments in sport infrastructures.

³⁷ The Commission staff working document on the EU and Sport: Background and context – accompanying document to the White Paper on Sport (COM (2007) 391 final).

³⁸ Communication from the Commission: Developing the European Dimension in Sport. COM (2011).

- (92) The sport facilities are overwhelmingly owned by the local authorities (on average 86%) or by the State or public authorities. These facilities are in bad condition and run-down and very often do not meet the safety requirements either. Nevertheless, sport clubs and owners (local governments) do not have enough funds at their disposal to finance the project either as explained in paragraph (6). The profitability of these investments will be further deteriorated, given the objective to create infrastructures with multifunctional character and to provide access in significant time to the general public to these infrastructures in accordance with the public tasks of the local government owner. Given the low number of spectators, the investments would not otherwise be profitable for private actors. Therefore, private investors are generally not interested in these projects even if financial incentives are offered.
- (93) Taking into account the under-investments in sport infrastructure facilities in Hungary in the last twenty years, the effects of the economic and financial crisis, the objectives of the measures cannot be achieved by any other means available for the government. Scarce public resources do not allow investing more into sport nor have undertakings more financial means to support the sport sector on commercial terms (e.g. through sponsoring). Hence in current situation, as evidenced by Hungary, there seems to be no alternative to grant public funding to overcome the lack of investments in sport infrastructure facilities and general tax measure providing non-selective benefits to the donor companies as well as the beneficiary sport organizations is appropriate to achieve the set of objectives.
- (94) Regarding the incentive effect of the measure, it needs to be examined whether the investment concerned would not have been undertaken within the same timeframe without any State aid. As explained by Hungary these facilities are in bad condition and run-down because of underinvestment in the last 20 years, and there the limited profitability prospect of such infrastructures in the Hungarian context (as proved by Hungary described in Section 3). Accordingly the Commission can conclude that the investment concerned would not have been undertaken within the same timeframe without any State aid. It should also be highlighted that the planned measures as they are not using direct grants, give wide freedom for the donor companies to decide on the amount, the aim, the beneficiaries. The scheme also aims at involving local undertakings into the financing of local sport clubs, developing their cooperation and the local mass sport and cohesion of the local society.
- (95) As regards the proportionality of the measure, i.e. *whether the same change in behaviour could be obtained with less aid*, Hungary introduced a scaling mechanism as described in paragraph (48) to incentivize professional sport clubs with potentially better access to market funds (for instance, via sponsoring) to rely less on State aid – at least in the medium term. As described in paragraph (20) the long-term goal of Hungary is to encourage cooperation between sport organizations and commercial undertakings in the medium- long term envisaging more market-based transactions (such as sponsoring, merchandising, etc.) between the parties. The strong ex ante and also ex post control of the State (as Section 4.11) contributes also to the criteria of proportionality. The strong ex post control and potential sanctions (for instance unused donations have to be paid back with interest, exclusion from the system) exclude overcompensation, incite the beneficiaries to submit realistic plans and use the donations only to real and professionally well founded needs.

- (96) As justified by Hungary with detailed calculation explained in paragraph (18), the measure does not provide disproportionate benefit to the donors: the tax benefit merely compensates them for the financial and administrative costs as well as the risks faced by the companies involved in the donation.
- (97) To ensure the proportionality of the measure, Hungary furthermore introduced several safeguards in the scheme.
- (1) Prices based on benchmarking for the use of the infrastructure: operators and users of the subsidized infrastructure will pay prices set by the Controlling Authority for the use of the infrastructure based on benchmarks, and the investments undertaken with the help of State aid will be reflected in the renting fee/concession fee of the infrastructures. Proper pricing mechanism will ensure that aid granted will serve to replicate market conditions, limit distortion of competition *vis-à-vis* privately owned and funded sport infrastructures, keep the aid amount the minimum and limit any overcompensation of the beneficiary sport organizations.
 - (2) Setting a minimum rental price: Hungary has given undertaking to the Commission that the rental fee (paid by the professional sport organizations will never be set lower than 50% of the actual depreciation costs of the rented infrastructure (including the investments that have been covered by aid measures), pro rata of the used capacity of the infrastructure by the professional sport organizations in comparison to the overall effectively used capacity of the infrastructure.
 - (3) Proportionate benefits for the general public: In exchange for benefitting from State aid, as a quid pro quo, the beneficiary professional sport clubs shall ensure the widest possible benefits to the general public. As described in detail in section 4.9., Hungary proposed meaningful commitments within the context of the scheme to increase the participation of the general public in sport activities. The scheme will result in more and better infrastructure available to the public since the facilities supported by the scheme will have to be open to the general public and will have a clear commitment to increase the participation of the general public in sport events.
 - (4) Support of infrastructures with multifunctional character: as stipulated in the legal basis, the subsidized infrastructures shall be open to the general public and without jeopardising the primary sport objective; they shall be used for other purposes besides the activities of the professional sport clubs. This commitment would ensure that several different types of users and sectors will be able to benefit from the subsidized sport infrastructure facility.
 - (5) Monitoring and control mechanism: as described in detail in section 4.11, Hungary has implemented strong control and monitoring mechanisms to ensure that the investment will take place that will ensure comprehensive ex ante as well as ex post monitoring of the spending of the public funds.
 - (6) Limiting of any potential crowding out: taking into the low aid amount foreseen per professional sport clubs, the Commission notes that the scheme will mostly concern renovation of existing infrastructures and to lesser extent creation of new ones. In

case of a creation of a new facility, the Controlling Authority will implement a mechanism to ensure that the planned investments do not create overcapacity or duplication of infrastructures as described in section 4.13.

- (7) National Sport Strategy: the notified aid measure is part of a comprehensive sport development strategy of Hungary. The current scheme forms an integral part of this strategy that could further reinforce the effective use of public monies.
 - (8) Transparency: Hungary undertook several commitments to increase the transparency of the use of State aid as described in section 4.12. to further enhance the accountability of these funds.
- (98) The Commission takes the view that these measures are capable of ensuring the proportionality of the measure. In particular, the Commission notes that the introduction of a minimum rental price level ensures that all indirect users bear a significant level of the costs of their infrastructures themselves, and that the benchmarking of prices ensures comparability of the conditions under which sport clubs compete. Considering the specific Hungarian context as described in section 3, the scheme is well-designed to achieve its objectives.

(c) Are the distortion of competition and the effect on trade limited, so that the overall impact of the measure is positive?

- (99) The Commission considers that the scheme has several features which limit the distortions of competition: it is open to all teams active in the five sports covered; it ensures that a significant part of the infrastructure costs is borne by the sport clubs; it is limited in its overall amount per club; and it ensures a level playing field by benchmarking the level of renting fees/concession fees.

5.4. Conclusion

- (100) The Commission therefore concludes that the safeguards proposed by Hungary ensure that distortions of competition arising from the state intervention are limited, and the overall impact of the measure is positive.

6. DECISION

- (101) On the basis of the foregoing assessment, the Commission has accordingly decided that the aid measure "*Supporting the Hungarian sport sector via tax benefit scheme*" is compatible with Article 107(3)(c) TFEU.
- (102) The Commission requests Hungary to submit the legal basis of the scheme to the Commission as soon as it has been adopted in order to complete the Commission's file. The Commission also reminds Hungary to submit annual reports on the application of the aid measure and to inform the Commission pursuant to Article 108(3) TFEU on all plans to approve a new or to modify this aid measure.

(103) If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the internet site: http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm.

Your request should be sent by encrypted e-mail to stateaidgreffe@ec.europa.eu or, alternatively, by registered letter or fax to:

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Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President