



Brussels, 17.4.2020
C(2020) 2535 final

PUBLIC VERSION

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Subject: State Aid SA.56994 (2020/N) – Hungary - Aid from Structural Funds aiming at supporting undertakings affected by the economic repercussions of the COVID-19

Excellency,

1. PROCEDURE

- (1) By electronic notification of 8 April 2020, Hungary notified a measure to support undertakings affected by the economic repercussions of the COVID-19 from the Structural Funds in the form of direct grants, loans and equity (“the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).¹
- (2) The Hungarian authorities confirm that the notification does not contain confidential information.
- (3) Hungary exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958,² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (4) The Hungarian authorities have adopted, since the beginning of March, progressive administrative measures to prevent the spreading of the coronavirus,

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1-9, amended on 3 April 2020, OJ C112 I, 4.4.2020, p.1-9.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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in the form of cancellation of events, closure of schools, travel restrictions and limitations of people's movements and curfew rules.

- (5) The consequences of these containment measures are that several sectors experience loss of orders, customers and revenues. A lot of retail shops and other workplaces have suspended their operations. In view of the recent increase of the number of unemployed people and of the global current economic uncertainty, the Hungarian authorities have decided to set up a measure to support undertakings affected by the current health crisis and its consequences, using the Structural Funds for that purpose.
- (6) The measure is expressly based on Article 107(3)(b) of the Treaty on the Functioning of the European Union ("TFEU"), as interpreted by Section 2 of the Temporary Framework.

2.1. The nature and form of aid

- (7) The measure provides aid in the form of direct grants, loans and equity.

2.2. National legal basis

- (8) The legal basis for the measure is the Government Decree 107/2020 (IV. 10.) on the Amendment to Government Decree 255/2014 (X. 10.) on State aid rules concerning the financial resources allocated to the 2014–2020 period.

2.3. Administration of the measure

- (9) Four ministerial departments (Ministry of Finance, Ministry of Human capacities, Ministry of Innovation and technology, Ministry of Agriculture) are responsible for administering the measure.

2.4. Budget and duration of the measure

- (10) The budget for the measure is estimated at HUF 350 000 million (around EUR 1 000 million³). The scheme is co-financed by the European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF)⁴, (hereinafter, the "Funds Involved").
- (11) No individual aid will be awarded beyond 31 December 2020.

2.5. Beneficiaries

- (12) The final beneficiaries of the measure are all undertakings active in Hungary, whatever their size and legal form, which are affected by the economic repercussions of the COVID- 19. Aid may be granted under the measure only to undertakings that were not in difficulty within the meaning of the General Block

³ Change rate 15/04/2020 : 1 EUR = 350.3 HUF
https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/euro_fxref-graph-huf.en.html

⁴ Including co-financing under European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII) related regulations.

Exemption Regulation, the Agricultural Block Exemption Regulation and the Fisheries Block Exemption Regulation ⁵ on 31 December 2019.

2.6. Sectoral and regional scope of the measure

- (13) The measure is in principle open to all sectors and applies to the whole territory of Hungary. The only geographical or sectoral exclusions that will apply are those provided for in the regulations governing the Funds Involved⁶ (e.g., territorial restrictions of individual Operational Programmes; sectoral restrictions in the scope of the ESI Funds regulations).

2.7. Basic elements of the measure

- (14) The maximum overall aid amount per undertaking (gross, i.e. before any deduction of tax or other charge) is the HUF equivalent of EUR 800 000. Where the aid is granted in the form of loans and equity the total nominal value of such measures remains below the overall cap of EUR 800 000 per undertaking.
- (15) The aid does not exceed the HUF equivalent of EUR 100 000 per undertaking active in the primary production of agricultural products.
- (16) The aid does not exceed the HUF equivalent of EUR 120 000 per undertaking active in the fishery and aquaculture sector.
- (17) The Hungarian authorities confirm that where the beneficiaries are undertakings active in the processing and marketing of agricultural products, the aid is not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.
- (18) For agricultural, fisheries and aquaculture sector, the Hungarian authorities confirm that:
- (a) aid to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market;
 - (b) aid to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1), (a) to (k) of Commission Regulation (EU) No 717/2014.

⁵ Undertakings in difficulties are respectively defined in Article 2(18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1; in Article 2(14) of the Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193 of 1.7.2014, p.1; in Article 3(5) of the Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369 of 24 December 2014, p. 37.

⁶ Including the European Structural and Investment (ESI) Funds, the EUSF and the CRII regulations.

- (19) Where an undertaking is active in several sectors to which different maximum amounts apply, Hungary will ensure, by appropriate means such as separation of accounts, that for each of these activities the relevant ceiling is respected and that the highest possible amount of EUR 800 000 is not exceeded in total.
- (20) The Hungarian authorities undertake to suspend the granting and/or payment of any aid covered by the notified aid scheme in respect of any undertaking which has benefited from an earlier unlawful aid declared incompatible by a Commission decision (either in the form of individual aid or aid covered by an aid scheme declared incompatible) until the undertaking has repaid or paid into a separate account the unlawful and incompatible aid and the corresponding recovery interest.

2.8. Cumulation

- (21) The aid ceilings and cumulation maxima fixed under the measure shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.
- (22) Aid granted under the measure may be cumulated with “de minimis” support, as well as with other block exempted schemes and aid under other sections of the Temporary Framework provided the cumulation rules in those Regulations are respected. The Hungarian authorities confirm that the respective cumulation rules, as set out in paragraph 20 of the Temporary Framework, will be respected.

2.9. Monitoring and reporting

- (23) The Hungarian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework, (*e.g.*, by 31 December 2020, a list of measures put in place on the basis of schemes approved under the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years upon granting of the aid, etc.).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (25) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (26) The measure is imputable to the State, since it is granted and administered by four ministerial departments (*i.e.* Ministry of Finance, Ministry of Human capacities, Ministry of Innovation and technology, Ministry of Agriculture) and it is based on

the legislative acts mentioned in recital (8). It is financed through State resources, since it is co-financed by the Funds Involved⁷, and the national authorities have discretion about the use of these Funds.

- (27) The measure confers an advantage on its beneficiaries in the form of direct grants, loans and equity (recital (7)). The measure thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.
- (28) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings eligible for structural funds in Hungary, with territorial and sectorial restrictions concerning the Funds Involved, which are affected by the economic repercussions of the COVID- 19.
- (29) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (30) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Hungarian authorities do not contest that conclusion.

3.3. Compatibility

- (31) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (32) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid *“to remedy a serious disturbance in the economy of a Member State”*.
- (33) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that *“the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings”*. The Commission concluded that *“State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs”*.
- (34) The measure is one of a series of measures conceived at national level by the Hungarian authorities to remedy a serious disturbance of the Hungarian economy. It aims at supporting undertakings affected by the economic repercussions of the COVID-19 in Hungary. The measure is of a scale that can be reasonably anticipated to produce effects across the entire Hungary’s economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid described in Section 3.1 of the Temporary Framework.

⁷ The notified measure is financed by European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD), European Maritime and Fisheries Fund (EMFF), European Union Solidarity Fund (EUSF) or the Coronavirus Response Investment Initiative (CRII) (see recital (10)).

- (35) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
- (a) The overall nominal value of grants, loans and equity does not exceed EUR 800 000 per undertaking (recitals (14) and (15)); the condition of paragraph 22(a) of the Temporary Framework is therefore considered to be met;
 - (b) The aid takes the form of direct grants, loans and equity, and therefore complies with paragraphs 22(a) and 23(a) of the Temporary Framework;
 - (c) The estimated budget of the scheme is HUF 350 000 million (recital (10)). Therefore, the condition of paragraph 22(b) of the Temporary Framework is considered to be met;
 - (d) In compliance with paragraph 22(c) of the Temporary Framework, the aid will only be granted to undertakings which were not already in difficulty on 31 December 2019 (recital (12));
 - (e) The aid will be granted no later than 31 December 2020 (recital (11)); hence the condition set out in paragraph 22(d) of the Temporary Framework is met;
 - (f) Aid granted to beneficiaries active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned (recital (18)); therefore, the condition of paragraph 22(e) of the Temporary Framework is considered to be met;
 - (g) The overall nominal value of grants, loans and equity does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector (recital (17)) or EUR 100 000 per undertaking active in the primary production of agricultural products (recital (16)); hence the condition set out in paragraph 23(a) of the Temporary Framework is met;
 - (h) aid to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (recital (19)(a)); hence the condition set out in paragraph 23(b) of the Temporary Framework is met;
 - (i) aid to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1), (a) to (k) of Commission Regulation (EU) No 717/2014 (recital (19)(b)); therefore the condition set out in paragraph 23(c) of the Temporary Framework is met.
 - (j) where an undertaking is active in several sectors to which different maximum amounts apply, in accordance with points 22(a) and 23(a) of the Temporary Framework, Hungary will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of these activities and that the highest possible amount of EUR 800 000 is

not exceeded in total (recital (19)); the condition set out in paragraph 23 bis of the Temporary Framework is considered to be met.

- (36) The Hungarian authorities committed to comply with all the monitoring and reporting provisions laid down in section 4 of the Temporary Framework (recital (23)). The Commission may request additional information regarding the aid granted, to verify whether the conditions laid down in this decision have been met.
- (37) Aid granted under section 3.1 of the Temporary Framework may be cumulated with aid under other sections of the Temporary Framework within the limits of the specific provisions of the other sections of the Temporary Framework and with aid granted under the “de minimis” Regulation or with other forms of Union financing provided that the cumulation rules in the relevant regulations and guidelines are respected (recital (22)).

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President