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**Subject: State Aid SA.60367 (2020/N) – Hungary
Amendment to the scheme SA.59477 - COVID-19: Scheme for the protection of the economy during the second state of emergency scheme**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 17 December 2020, Hungary notified modifications to the State aid scheme SA.59477 “*Covid-19: Scheme for the protection of the economy during the second state of emergency*” (“the existing scheme”), which was approved by the Commission by its Decision of 10 December 2020¹ (“the initial decision”) in the context of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).²

¹ Commission Decision C(2020) 9106 final.

² Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 35, by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 218, 2.7.2020, p. 3, and by Communication from the Commission C(2020) 7127 final of 13 October 2020 on the Fourth Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak and amendment to the Annex to the Communication from the

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- (2) The existing scheme consists of four measures, offering wage subsidy measures to employees occupied in certain sectors severely affected by the COVID-19 outbreak and a compensation scheme for service providers in the accommodation sector. The notified modifications (“the Measure”) amend only the wage subsidies, i.e., wage subsidies in the form of exemption from fiscal obligations (“Measure A”), and wage subsidies in the form of direct grants (“Measure B”)³ of the initial decision. In particular, the Measure consists of a temporal extension for the aid granted, an extension in the scope of the eligible beneficiaries and an increase in the budget of the wage subsidy measures authorised by the initial decision.
- (3) Hungary exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958⁴ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (4) Hungary considers that the COVID-19 outbreak has affected the real economy and put at risk the jobs of workers and employees of undertakings that have suspended partially or entirely their activities due to the state of emergency and containment measures enforced by the national authorities. As a result, there is a risk of significant redundancies⁵. Hungary has therefore taken measures to provide temporary relief to and preserve employment at undertakings in sectors particularly hit by the containment measures whose personnel would have been laid off due to the COVID-19 outbreak. Given that the lockdown measures have been extended until at least 15 January 2021 and while keeping Measures A and B under constant review, Hungary intends to modify them in order to ensure that they continuously achieve their objective to support the national economy throughout the current economic and health crisis.

2.1. Basic elements of the Measure

2.1.1. Prolongation

- (5) As described in the initial decision (recitals (18) and (23), respectively), Measure A provides for exemptions from levies and contributions payable for November

Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ C 340 I, 13.10.2020, p. 1.

³ The detailed description of those Measures is laid down in recitals (13) to (24) of the initial decision.

⁴ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁵ The Hungarian authorities submit that, in the context of the announcement of 9 December 2020 of the extension of the state of emergency declared on 11 November 2020 until the 11 January 2021, the Hungarian Government decided to maintain closed all restaurants, bars, sport clubs, theatres and cinemas and introduced a general curfew from 8pm to 5am every day. As a result, millions of jobs in Hungary are put at risk since as the COVID-19 outbreak and the relevant restrictive measures have seriously limited the possibilities for all companies in the above- mentioned sectors to generate income.

2020, while Measure B consists of a wage subsidy amounting to 50% of the employees' gross salary for November 2020.

- (6) The Measure extends the temporal scope of Measures A and B for the months of December 2020 and January 2021.
- (7) Hungary clarifies that the administrative procedure for the extension of each measure will be different. As regards the fiscal measures (Measure A), the beneficiaries⁶ will have to apply again for the months of December 2020 and January 2021, in order to benefit from the exemptions from the fiscal obligations corresponding to those months. The application process will be the same as the one defined for the month of November 2020, as described in recitals (16) and (17) of the initial decision and as further refined and adjusted by the national authorities.
- (8) As regards the direct grants (Measure B), the beneficiaries will not have to submit any additional application. The undertakings, which have already submitted their applications for November 2020, will be deemed to have re-applied for December 2020 and January 2021 for the same employees, and will be bound by the same necessary declarations and commitments, including the commitment to maintain the employees in continuous employment for the entire period for which the aid will be granted.⁷ Hungary submits that the national authorities will check whether the employees have been maintained in continuous employment for the entire period for which the aid will be granted, in accordance with recital (17) of the initial decision.

2.1.2. Extension of the scope of beneficiaries

- (9) Six new economic sectors, as defined in the classification of economic activities (NACE codes), are added to the eligible beneficiaries listed under Measure A and B under recital (15) of the initial decision (the first four of the sectors below were previously only subject to Measures C and D of the initial decision):
 - (a) Hotels and similar accommodation (5510),
 - (b) Holiday and other short-stay accommodation (5520),
 - (c) Camping grounds, recreational vehicle parks and trailer parks (5530),

⁶ In section 2.1.1 every reference to “beneficiaries” means beneficiaries under Measures A and B as described in recital (15) of the initial decision.

⁷ However, beneficiaries, who may not wish to benefit from Measure B for the extended period, have the possibility to opt out by submitting an opt-out declaration to the managing authority by 31 December 2020. The Government Office of the area where the employer is located is the managing authority of Measure B, as defined in recital (8)(b) of the initial decision. Hungary clarifies that the opt-out declaration may refer to certain (and not all) employees, meaning that, if the employer wishes to be covered for fewer employees in the following months, it can submit an opt-out declaration only for those who will be excluded from the subsidies in December 2020 and January 2021. Conversely, if the employer wishes to be covered for additional employees in the following months (i.e. employees who were not covered in the initial application of November 2020), it should submit a new application for the employees concerned. The latter will be covered for December 2020 and January 2021.

- (d) Other accommodation (5590),
 - (e) Travel agency activities (7911),
 - (f) Tour operator activities (7912).
- (10) If the beneficiaries' main activity⁸ falls under one of the sectors mentioned above, they will be eligible to receive aid under Measures A and B as follows:
- (a) The sectors mentioned under (9)(a), (b), (c) and (d) will be eligible to receive aid under Measures A and B only for the months of December 2020 and January 2021.
 - (b) The sectors mentioned above under (a)(9)(e) and (f) will be eligible to receive aid under Measures A and B for the months of November 2020, December 2020 and January 2021.
- (11) Hungary submits that the fact that the Measure also covers the months of November and December 2020 for some sectors aims at further supporting its purpose, namely to ensure and increase liquidity for the employer both for the present and for the future months. In that way, the employer will be able to maintain the employees in continuous employment and avoid any potential lay-offs considered in the course of December 2020 and January 2021. *De facto*, with the amount acquired from the wage subsidies for November 2020, December 2020 and January 2021, the employer will be able to continuously retain the employees in employment in these very months. Hungary considers that such an aggregation is acceptable since the fiscal obligations covered by Measure A and the direct grants covered by Measure B are calculated on the gross salary cost and the measures alleviate the latter by a total amount which is below the maximum acceptable ceiling of 80% of the gross salary. Liquidity support is crucial for the covered sectors, the economic activity of which has been heavily disrupted on an ongoing basis since March 2020.
- (12) The beneficiaries belonging to the sectors defined in recital (9) will have to submit their applications for aid. As regards Measure A, beneficiaries will have to apply for each month they wish to be covered for. As regards Measure B, beneficiaries will have to apply only once and they will be covered for the entire period, for which the aid is granted. In their applications, they will also have to make the same declarations and commitments as described in initial decision (recitals (16) and (17) of the initial decision), including the declaration that they would have to lay off the employees in the absence of the aid, as well as the commitment to maintain the employees in continuous employment for the entire period for which the aid will be granted. Hungary submits that the national authorities will check whether the employees have been maintained in continuous employment for the entire period for which the aid will be granted, in accordance with recital (17) of the initial decision.
- (13) All other definitions, conditions and commitments stipulated in the initial decision will continue to apply without any further modification. This includes,

⁸ The concept of 'main activity' is explained in recital (15) of the initial decision.

but is not limited to, the maximum amounts of aid, the administrative procedure for the applications, as well as the cumulation, monitoring and reporting obligations.

2.2. Legal basis

- (14) The legal basis for the Measure is Government Decree 571/2020 (“571/2020 (XII.9.) Korm. Rendelet a veszélyhelyzet ideje alatt egyes gazdaságvédelmi intézkedésekről szóló kormányrendeletek módosításáról”), amending Government Decree 485/2020 on certain measures for the protection of the economy during the state of emergency, published in the official Hungarian Gazette on 9 December 2020 (Magyar Közlöny, year 2020, volume 273).

2.3. Budget and duration of the Measure

- (15) The estimated budget of the Measure is approximately HUF 42 billion (equivalent to EUR 117 million⁹), in addition to the budget authorised for Measures A and B by the initial decision, amounting to HUF 47.5 billion (or EUR 132.5 million). The distribution of the additional budget between Measures A and B takes place as follows:
- (a) For Measure A: HUF 12 billion (approximately EUR 34 million),
 - (b) For Measure B: HUF 30 billion (approximately EUR 83 million).
- (16) Aid may be granted under the Measure as from the notification of the Commission’s decisions until no later than 30 June 2021. Hungary commits that, even though the national legal basis has already been put into effect, no application for aid will be examined and no aid will be granted by the managing authorities until the notification of the present decision.

2.4. Sectoral and regional scope of the Measure

- (17) The Measure is open to the sectors described in recital (15) of the initial decision, as well as the identified in recital (9), which are introduced in addition to the former. It applies to the whole territory of Hungary.

2.5. Cumulation

- (18) All commitments relating to cumulation provided in the initial decision continue to apply (see recitals (36) to (39) of the initial decision).
- (19) In particular, Hungary recognises that the sectors described in recital (9)(a), (b), (c) and (d) are the same as the eligible sectors under Measures C and D of the initial decision (recital (26) of the initial decision). In addition, the eligibility period of Measure C (11 November to 10 December 2020) slightly overlaps with the period of Measures A and B for these sectors (i.e. the first 10 days of

⁹ On the date of notification, *i.e.* 17 December 2020, the exchange rate was: HUF 1 = EUR 0.002771, available at: https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/euro_fxref-graph-huf.en.html.

December 2020). For this reason, Hungary commits that this fact will be taken into account by the national authorities when carrying out their *ex-post* control on the amount of aid granted under Measure C¹⁰, as well as when checking the cumulation obligations¹¹. Any payment exceeding the final amount of aid will be recovered.

- (20) The Hungarian authorities commit that aid granted under the Measure may be combined with support granted under other generally available measures or with aid schemes in the form of employment support measures duly authorised by the Commission, provided the total amount of combined support does not lead to overcompensation of the wage costs of the personnel concerned.

3. ASSESSMENT

3.1. Existence of State aid

- (21) 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.
- (22) The Commission refers to the qualification of the existing schemes as State aid in the initial decision (recitals (45) to (48) of the initial decision). The Measure does not affect that qualification. The Hungarian authorities do not contest that conclusion.

3.2. Lawfulness of the Measure

- (23) Pursuant to the standstill clause of Article 108(3) TFEU, new aid measures must not be put into effect before the Commission has taken a decision authorising such aid. The legal basis for the Measure was adopted on 9 December 2020. However, the Commission observes that the Hungarian authorities committed neither to process nor to approve any application submitted to the competent national authorities in the context of the Measure before the Commission approves it (recital (16)). The Commission therefore considers that, the Hungarian authorities have respected their obligations under Article 108(3) TFEU.

3.3. Compatibility

- (24) In the initial decision, the Commission concluded that Measures A and B fulfilled the conditions set out in section 3.10 of the Temporary Framework and were therefore compatible with the internal market on the basis of Article 107(3)(b) TFEU. The Commission refers to its compatibility analysis as set out in recitals (53) to (67) of that decision. The Commission considers that the Measure does

¹⁰ The *ex post* control will be carried out as described in recitals (33) and (34) of the initial decision.

¹¹ In particular, it will be taken into account in the context of the commitment included in recital (40) of the initial decision.

not alter the Commission's conclusions on the compatibility of Measures A and B as set out in the initial decision. In particular:

- (a) As required by point 43(a) of the Temporary Framework, the aid granted under the Measure aims at preserving employment and avoiding redundancies during the COVID-19 outbreak. In this case, the Measure translates into employment security and main income support for employees occupied in severely affected sectors of the economy, who would run a high risk of being laid off in the present and the near future, in view of the reduced economic activity of their employers (recital (4) of the present decision and recitals (3) and (14) of the initial decision). Additionally, the applicants are required to maintain their employees in continuous employment for as long as the Measure applies (recitals (7), (8), (12)); thus, the Measure achieves the objective of avoiding lay-offs.
- (b) As required by point 43(b) of the Temporary Framework, aid is granted in the form of a scheme to undertakings active in specific sectors, which are particularly affected by the COVID-19 outbreak (recital (15) of the initial decision and recital (9) of the present decision).
- (c) As required by point 43(c) of the Temporary Framework, aid will be granted under the Measure: (i) for a period of no more than twelve months, namely for three months in total (November and December 2020 and January 2021) (recitals (5) and (10)), (ii) for employees that would otherwise have been made redundant as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak (recitals (11) and (12) of the present decision and recitals (14) and (16) of the initial decision) and (iii) subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted (recitals (7) and (8) of the present decision and recital (16) of the initial decision).
- (d) As required by point 43(d) of the Temporary Framework, the monthly wage subsidy will not exceed 80% of the monthly gross salary of the benefitting personnel (recital (13) of the present decision and recitals (23) and (24) of the initial decision).
- (e) As required by point 43(e) of the Temporary Framework, the Hungarian authorities confirm that if wage subsidies granted under the Measure are combined with other generally available or selective employment support measures, overcompensation of the wage costs of the personnel concerned will be excluded (recital (20) of the present decision and recital (39) of the initial decision).
- (f) As required by points 20bis and 43bis of the Temporary framework, the Measure does not exclusively target employees from the financial sector (recital (9) of the present decision and recital (15) of the initial decision).

- (25) Apart from the amendments referred to in recital (2), the Commission notes that there are no other alterations to the existing scheme.
- (26) The Commission therefore considers that the Measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

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.

The decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President