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**Subject: State Aid SA.107689 (2023/N) – Hungary
TCTF: scheme for accelerated investments in sectors strategic for the transition towards a net-zero economy**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 25 May 2023, Hungary notified aid for accelerated investments in sectors strategic for the transition towards a net-zero economy (*Government Decree 210/2014 (VIII. 27.) on the Appropriation of the Chapter Earmarked for Investment Promotion*, as modified, and *Act LXXXI of 1996 on Corporate Tax and Dividend Tax*, as modified, and *Government Decree 165/2014 (VII. 17.) on development tax allowance*, as modified, together the “measure”) under the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the “Temporary Crisis and Transition Framework”) ⁽¹⁾. Hungary submitted additional information on 16 and 24 June and on 2, 11, 15, 17, 21, 25 and 26 July 2023.

⁽¹⁾ Communication from the Commission on the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 101, 17.3.2023, p. 3). This Temporary Crisis and Transition Framework replaces the Temporary Crisis Framework adopted on 28 October 2022 (OJ C 426, 9.11.2022, p. 1), (“Temporary Crisis Framework”), which had already replaced the previous Temporary Crisis Framework adopted on 23 March 2022 (OJ C 1311, 24.3.2022, p. 1), as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1). The Temporary Crisis Framework was withdrawn with effect from 9 March 2023.

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- (2) 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 1/1958 ⁽²⁾ and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) Hungary considers that the Russian aggression against Ukraine and its direct and indirect effects, including the sanctions imposed and the counter-measures taken, for example by Russia have economic repercussions on the entire internal market (“the current crisis”). The current crisis created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods.
- (4) The current crisis, which caused serious disruptions in the supply of natural gas and electricity and significantly impacted electricity and gas prices, affected the Hungarian economy and highlighted the EU’s and Hungary’s dependence on fossil fuels. Additional investments in strategic goods for the transition towards a net-zero economy are thus required, particularly in the current global context where such investments are at risk of being diverted away from the European Economic Area (“EEA”). The automotive sector and its supply chain play a key role in the Hungarian economy as well as in the green transition: the automotive industry provides work to approximately 150 000 people in Hungary. Hungary considers that the measure will be mainly used by the electric vehicle (“EV”) battery industry. According to Hungary, the EV battery industry has a key role to play in the process of transforming the production model around electric mobility (since 2016, more than EUR 18 billion investments have created around 27 500 new jobs in the battery industry), with enormous economic, employment and competitiveness potential, impacting on new urban and metropolitan mobility, the industrial value chain, the electrification of transport and innovation in mobility. In particular, the role of battery manufacturers in the Hungarian industrial production represented in 2022 a 4.1 % share in the total production value of the manufacturing sector. With the measure, Hungary intends to create the necessary ecosystem for accelerated investments into the value chain for the production of batteries for EV, and hence to contribute to the transformation of the strategic automotive sector into an innovative industry. With the wide-range of application of batteries, battery production would contribute also to the establishment of power storage capacities for manufacturing activities, enabling the transition towards the net-zero economy.
- (5) Furthermore, Hungary intends to keep the measure open for other technologies strategic for the transition towards a net-zero economy, namely the solar energy sector, the wind energy sector, heat pumps, electrolysers and carbon capture usage and storage. Hungary considers that the current crisis illustrated the need to move away from fossil fuels and to incentivise further investments in those technologies that are essential for the transition towards a net-zero economy.

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

Hungary reminds that, as acknowledged by the Commission ⁽³⁾, “*batteries, windmills, heatpumps, solar, electrolysers, carbon capture and storage technologies*” are products that are “*key to meet the Commission’s climate neutrality goals*”. Thus, with the measure Hungary intends to create the necessary ecosystem for accelerated investments into the value chain for the production of such products.

- (6) Hungary confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.
- (7) The compatibility assessment of the measure is based on Article 107(3), point (c), TFEU, in light of sections 1 and 2.8 of the Temporary Crisis and Transition Framework.

2.1. The nature and form of aid

- (8) The measure provides aid on the basis of a scheme in the form of direct grants and/or tax advantage (more specifically a reduced corporate tax) ⁽⁴⁾.

2.2. Legal basis

- (9) The legal basis for the measure in the form of direct grants is Chapter IV/E of Government Decree 210/2014 (VIII. 27.) on the Appropriation of the Chapter Earmarked for Investment Promotion ⁽⁵⁾ (“the legal basis”), as it will be modified by draft Government Decree on the Amendment of Government Decree 210/2014 (VIII. 27.) (the “draft decree”) ⁽⁶⁾. The legal bases for the measure in the form of tax advantage are (i) a draft amendment to Act LXXXI of 1996 on Corporate Tax and Dividend Tax ⁽⁷⁾⁽⁸⁾; and (ii) a draft amendment to Government Decree

⁽³⁾ Communication from the Commission of 1.2.2023, A green deal industrial plan for the net-zero age, COM(2023)62 final.

⁽⁴⁾ The choice of the form of the aid will be made by the beneficiary, who will also be able to apply for aid in both forms, in which case Hungary confirms that the cumulation rules and maximum aid amounts and intensities will be respected.

⁽⁵⁾ Hungarian OJ (“*Magyar Közlöny*”), No. 166 of 2014 (<https://magyarkozlony.hu/dokumentumok/4f885f6e281e4a5b385344320b0410976b4a329a/megtekintes>).

⁽⁶⁾ The draft decree has been sent to the Commission services during the notification process.

⁽⁷⁾ *Magyar Közlöny*, No. 98 of 1996 (https://adt.arcanum.com/hu/view/MagyarKozlony_1996_084-107/?pg=368&layout=s). The amendment, which legislates the legal instrument of the corporate tax and dividend tax was published in the *Magyar Közlöny*, No. 141 of 2002 (<https://magyarkozlony.hu/dokumentumok/e1743b9f247b925334b6c7a6befb512fadaf3bb4/megtekintes>).

⁽⁸⁾ A draft of the changes to the act has been sent to the Commission services during the notification process.

165/2014 (VII. 17.) on development tax allowance ⁽⁹⁾ ⁽¹⁰⁾. These amending texts should be adopted after the notification of the Commission decision, and in any event they (or the modified text) contain a clause according to which aid under the measure may be granted only following the notification of the Commission's decision approving the measure. ⁽¹¹⁾

2.3. Administration of the measure

- (10) The Hungarian Ministry of Foreign Affairs and Trade is the granting authority, whereas the Hungarian Investment Promotion Agency (Non Profit Private Company Limited by Shares – “HIPA”) is responsible for managing the scheme (aid in the form of direct grant). The aid in the form of tax advantage will be granted and managed by the Hungarian Ministry of Finance.

2.4. Budget and duration of the measure

- (11) The estimated budget of the measure is approximately HUF 880 billion (EUR 2.36 billion) ⁽¹²⁾ and the measure is financed by the State budget.
- (12) Aid may be granted under the measure after the notification of the Commission's decision approving the measure until no later than 31 December 2025.

2.5. Beneficiaries

- (13) The beneficiaries of the measure are small and medium-sized enterprises (“SMEs”) ⁽¹³⁾ and large enterprises ⁽¹⁴⁾ that meet all the following conditions:
- (a) their registered office, branch or establishment is in Hungary;
 - (b) they must not be subject to an outstanding recovery order following a previous decision of the Commission declaring aid to the beneficiary illegal and incompatible with the internal market;
 - (c) undertakings in difficulty ⁽¹⁵⁾ are not eligible to receive aid;

⁽⁹⁾ *Magyar Közlöny*, No. 97 of 2014 (<https://magyarkozlony.hu/dokumentumok/6aae5aa3322566e7a30c95a31e46a60b7c935bd3/megtekintes>).

⁽¹⁰⁾ A draft of the changes to the Government Decree 165/2014 has been sent to the Commission services during the notification process.

⁽¹¹⁾ The draft amendment to Government Decree 165/2014 (VII. 17.) on development tax allowance will be adopted after the notification of the Commission decision.

⁽¹²⁾ Exchange rate on the day of notification: HUF 372.30 = EUR 1 (OJ C185 of 26.5.2023, p. 54).

⁽¹³⁾ As defined in Annex I to 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, 26.6.2014, p. 1).

⁽¹⁴⁾ As defined in Article 2, point 24, of Commission Regulation (EU) No 651/2014.

⁽¹⁵⁾ As defined in Article 2, point 18, of Commission Regulation (EU) No 651/2014.

- (d) in the absence of aid, they would carry out their productive investment in a sector of strategic importance for the transition to a net-zero emission economy in a country outside the EEA.
- (14) The Hungarian authorities confirm that credit institutions or other financial institutions are excluded as eligible final beneficiaries and that aid will not be channelled through credit or other financial institutions.
- (15) Hungary confirms that, according to the legal basis, the aid under the measure is not granted to undertakings under sanctions adopted by the Union, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the Union; or (iii) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions.
- (16) Hungary confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the Union or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations ⁽¹⁶⁾. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

2.6. Sectoral and regional scope of the measure

- (17) The investments eligible to both direct grants and/or tax advantage are:
 - (a) the production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture usage and storage (CCUS); or
 - (b) the production of key components ⁽¹⁷⁾ designed and primarily used as direct input for the production of the equipment defined under (a); or

⁽¹⁶⁾ For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

⁽¹⁷⁾ Key components for the production of heat pumps are: 4 way valve gas and liquid control unit; casing elements; compressor support unit; control panel support coordinating unit; coolant filters; EEV valve; evaporator; evaporator antifreeze unit; fixing support unit; gas piping system; heat exchanger; heat exchanger support unit; heat pump frame system; liquid piping system; oil separator support unit; oil separator tank; ventilator coordinator support unit; water pump support unit. Key components for the production of Li-ion (or Na-ion) batteries, future technology batteries are: cathode; anode; battery housings, cases and accessories; battery management system; battery module; battery pack; battery tabs/metal lead plate; busbars; wire harness; electrolyte; separator. Key components for the production of (Redox) Flow Batteries (RFB) are: current collectors (copper plate or foil); battery housings/enclosures and other plastic structural materials (tubes, sheets, plates); carbon plates, bipolar plates; cation or anion exchange membranes/separators; electrode materials (porous graphite felt, carbon felt, carbon cloth); electrolyte solution storage tanks; electrolyte solutions containing one or more electroactive redox pair systems (inorganic or organic); gaskets; pumps for circulating the electrolyte solution. Key components for the production of heat batteries are: battery management system; heat exchanger; phase-change material filling. Key components for the production of solar panels are: aluminium frame; glass cover; solar cells; encapsulant; back sheet; junction box. Key

- (c) the production or recovery of related critical raw materials ⁽¹⁸⁾ necessary for the production of the equipment and key components defined in (a) and (b) above.

(18) The measure applies to the whole territory of Hungary.

2.7. Basic elements of the measure

- (19) The purpose of the measure is to grant aid for investments for the production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture usage and storage (CCUS) (recital (17)(a)), of key components designed and primarily used as direct input for the production of batteries, solar panels, wind turbines, heat-pumps, and electrolysers (recital (17)(b)), and production or recovery of related critical raw materials necessary for the production of batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for CCUS and key components defined in recital (17)(c).
- (20) Only tangible and intangible assets required for the production or recovery of the goods listed in recital (17) may be eligible under the measure. Intangible assets must: 1) remain associated with the area concerned and must not be transferred to other areas; 2) be used primarily in the relevant production facility receiving the aid; 3) be amortisable; 4) be purchased under market conditions from third parties unrelated to the buyer; 5) be included in the assets of the undertaking that receives the aid; and 6) remain associated with the project for which the aid is awarded for at least five years (or three years for SMEs).
- (21) Works on the investment must start ⁽¹⁹⁾ only after the beneficiary has submitted the aid application, which will include the information required in Annex II of the Temporary Crisis and Transition Framework.

components for the production of electrolysers are: transformers; power electronics; converters; electric switchboards; high and low pressure gas cylinders; stainless steel piping; stainless steel connectors and fittings; manual on/off valves; solenoid valves; separators; radiators and evaporators; containers; cooling system deionizers; pressure regulators; temperature regulators; gas-detection system; ATEX components; compressors; operating and emergency ventilation; electronic control software; electronic control unit; tools and sensors; fuel cell stack and its components; gas filter system; gas dryers. Key components for the production of wind turbines are: nacelle; steel structure; crane and elements; crane rails; main axle; bearings; gearbox; coupling elements; generator; cables; cooling system (air-, oil-); transformer; switch cabinets; electrical protection; controllers; motors for nacelle turning; oscillation damper; bat sensor; blade; blade cup; motors for blade turning; lightning protection devices; stretch stamps; sensors; steel-body; control cabinet; UPS (uninterruptible power supply); current transformers; voltage transformers; circuit breakers; control building; control elements; measuring equipment. The list of key components does not include key components for CCUS equipment.

⁽¹⁸⁾ Hungary refers to the refers to the EU list of critical raw materials – <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0474>.

⁽¹⁹⁾ “Start of works” means either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible, whichever is earlier. Buying land and preparatory works such as obtaining permits and conducting preliminary feasibility studies are not considered as start of works.

- (22) The aid intensity may not exceed 15 % of the eligible costs and the total aid amount cannot exceed EUR 150 million, in nominal value, per undertaking in Hungary ⁽²⁰⁾. However:
- (a) for investments in assisted areas designated in the regional aid map 2022-2027 for Hungary ⁽²¹⁾ in accordance with Article 107(3), point (a), TFEU (“a” areas), the aid intensity may be increased to 35 % of the eligible costs and the total aid amount may not exceed EUR 350 million, in nominal value, per undertaking in Hungary;
 - (b) for investments made by small enterprises, the aid intensities may be increased by a further 20 percentage points and, for investments made by medium-sized enterprises ⁽²²⁾, by 10 percentage points.
- (23) The beneficiary must commit to maintain the investments in the area concerned for at least five years, or three years for SMEs, after the completion of the investment. Such a commitment should not prevent the replacement of plant or equipment that has become outdated or broken within this period, provided that the economic activity is retained in the area concerned for the minimum period. However, no further aid may be awarded to replace that plant or equipment.
- (24) Aid may not be granted to facilitate the relocation of the production activities ⁽²³⁾ to another contracting state of the EEA agreement. For this purpose, the beneficiary must confirm that, in the two years preceding the aid application, no relocation has taken place to the establishment in which the aided investment will be carried out and commit not to carry out such relocation for a period of two years after completion of the investment.
- (25) The Hungarian authorities confirm that the granting authority shall verify, *inter alia*, before granting the aid, the real risk that the investment will not be carried out in the EEA in the absence of aid and that there is no risk of relocation within the EEA, as defined in recital (24).
- (26) The Hungarian authorities confirm that they must inform the Commission within 60 days from the moment of granting the aid, about the granting date, the aid amount, the eligible costs, the beneficiary’s identity, the type and location of the investment supported on the basis of the information provided by the beneficiary in Annex II of the Temporary Crisis and Transition Framework.

⁽²⁰⁾ Pursuant to Article 26/ZZN (4) of the draft decree, in calculating the aid intensities mentioned in this recital, all figures used shall be taken into account before any deduction of tax or other charge.

⁽²¹⁾ See Commission Decision of 16 September 2021 in case SA.63934 (2021/N) – Regional aid map for Hungary (1 January 2022 – 31 December 2027), (OJ C 410, 8.10.2021, p. 1) and Commission Decision of 12 May 2023 in case SA.107119 (2023/N) – Amendment to the Regional Aid Map of Hungary (1 January 2022 – 31 December 2027) (OJ C 195, 2.6.2023, p. 1).

⁽²²⁾ Within the meaning of Annex I to Commission Regulation (EU) No 651/2014.

⁽²³⁾ Within the meaning of footnote 147 to the Temporary Crisis and Transition Framework.

2.8. Compliance with relevant provisions of Union law

- (27) The Hungarian authorities confirm that the proposed measure does not by itself, or by the conditions attached to it or by its financing method constitute a non-severable violation of Union law.

2.9. Cumulation

- (28) The Hungarian authorities confirm that aid under the measure may not be cumulated with aid under the COVID-19 Temporary Framework ⁽²⁴⁾ or the Temporary Crisis Framework, as Hungary has no aid schemes relevant under these frameworks.
- (29) The Hungarian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Crisis and Transition Framework provided the provisions in those specific sections are respected.
- (30) The Hungarian authorities confirm that aid granted under the measure can be cumulated with State aid in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable under any of the relevant rules. Under no circumstances will the total aid amount exceed 100 % of the eligible costs.

2.10. Monitoring and reporting

- (31) The Hungarian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis and Transition Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 6 months from the moment of granting ⁽²⁵⁾).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (32) By notifying the measure before putting it into effect (recital (9)), the Hungarian authorities have respected their obligations under Article 108(3) TFEU.

3.2. Existence of State aid

- (33) 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

⁽²⁴⁾ 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 Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

⁽²⁵⁾ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014.

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.

- (34) The measure is imputable to the State, since it is granted by the Hungarian Ministry of Foreign Affairs and Trade or the Hungarian Ministry of Finance (recital (10)) and it will be based on legislative and regulatory acts (recital (9)). It is financed through State resources, since it is financed by public funds (recital (11)).
- (35) The measure confers an advantage on its beneficiaries in the form of direct grants and/or tax advantage (recital (8)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions and, to the extent the aid is provided in the form of tax advantages, the measure relieves those beneficiaries of costs which they would have had to bear under normal tax rules.
- (36) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings who meet the criteria listed in recital (13) and who pursue investments referred to in recital (17).
- (37) 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.
- (38) 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

- (39) 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.
- (40) Pursuant to Article 107(3), point (c), TFEU, the Commission may declare compatible with the internal market “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.”
- (41) The current crisis has demonstrated the urgent need to reduce dependency on imports of fossil fuels and to accelerate the energy transition. In that context, the Commission considers that Member States may need to take additional measures to address the productive investment gap in sectors strategic for the transition towards a net-zero economy in order to achieve the Union’s climate targets. The adoption of the Temporary Crisis and Transition Framework demonstrates the Commission’s view that State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3), point (c), TFEU for a limited period of time if it contributes to accelerating the economic transition and addressing the productive investment gap in sectors strategic for the transition towards a net-zero economy by providing incentives for their fast deployment,

also considering global challenges posing a threat of new investments in these sectors being diverted in favour of third countries outside the EEA.

- (42) The Commission considers that the measure is necessary, appropriate and proportionate to address the productive investment gap in strategic goods for the transition towards a net-zero economy in the current context and can be declared compatible with the internal market on the basis of Article 107(3), point (c), TFEU. In particular:
- (a) The measure is aimed at investment projects with strategic importance for the transition towards a net-zero economy. The measure will support the following activities: production of relevant equipment for the transition towards a net-zero economy, namely batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture usage and storage (CCUS) (recital (17)(a)); the production of key components designed and primarily used as direct input for the production of batteries, solar panels, wind turbines, heat-pumps and electrolysers (recital (17)(b)); the production or recovery of related critical raw materials necessary for the production of batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for CCUS and key components (recital (17)(c)) (recital (19)). The measure therefore complies with point 85(a) of the Temporary Crisis and Transition Framework.
 - (b) The aid is granted under the measure on the basis of a scheme with an estimated budget (recital (11)). The measure therefore complies with point 85(b) of the Temporary Crisis and Transition Framework.
 - (c) Aid under the measure can be granted until 31 December 2025 (recital (12)). The measure therefore complies with point 85(c) of the Temporary Crisis and Transition Framework.
 - (d) The measure provides that beneficiaries must apply for the aid before the start of works and must provide the information required in Annex II of the Temporary Crisis and Transition Framework (recital (21)). The measure therefore complies with point 85(d) of the Temporary Crisis and Transition Framework.
 - (e) Aid under the measure will be granted in the form of direct grants and tax advantage (recital (8)). The measure therefore complies with point 85(e) of the Temporary Crisis and Transition Framework.
 - (f) The calculation of eligible costs as set out in recital (20) fulfils the requirements of point 85(f) of the Temporary Crisis and Transition Framework.
 - (g) The aid intensities and the overall aid amounts under the measure (recital (22)) correspond to the thresholds in point 85(g) of the Temporary Crisis and Transition Framework. In addition, the nominal amount of the tax advantage under the measure does not exceed the applicable aid intensity and overall aid amounts, in line with points 85(e), 85(g) and 85(h) of the Temporary Crisis and Transition Framework.

- (h) Hungary commits that beneficiaries under the measure will maintain the investments in the area concerned for at least five years, or three years for SMEs, after the completion of the investment, and to respect the additional conditions set in line with point 85(i) of the Temporary Crisis and Transition Framework (recital (23)). The measure therefore complies with point 85(i) of the Temporary Crisis and Transition Framework.
 - (i) Hungary commits that before each individual grant of aid under the scheme, the granting authority will verify, on the basis of the information provided by the beneficiary, the concrete risks of the productive investment to be supported under the measure not taking place within the EEA and that there is no risk of relocation within the EEA (recital (25)). The measure therefore complies with point 85(j) of the Temporary Crisis and Transition Framework.
 - (j) Hungary commits that beneficiaries under the measure will have to (i) confirm that in the two years preceding the application for aid, they have not carried out a relocation to the establishment in which the aided investment is to take place; and (ii) commit not to carry out such relocation up to a period of two years after completion of the investment (recital (24)). The measure therefore complies with point 85(k) of the Temporary Crisis and Transition Framework.
 - (k) Aid under the measure will not be granted to undertakings in difficulty (recital (13)(c)). The measure therefore complies with point 85(l) of the Temporary Crisis and Transition Framework.
 - (l) Hungary confirmed that aid under the measure may be cumulated with State aid in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable under any of the relevant rules (recital (30)). Under no circumstances may the total aid amount exceed 100 % of the eligible costs (recital (30)). The measure therefore complies with point 85(m) of the Temporary Crisis and Transition Framework.
 - (m) Hungary committed to inform the Commission, within 60 days from the moment of granting individual aid under the measure, about the granting date, the aid amount, the eligible costs, the beneficiary's identity, the type and location of the investment supported on the basis of the information provided by the beneficiary (recital (26)). The measure therefore complies with point 85(o) of the Temporary Crisis and Transition Framework.
- (43) State aid measures that entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law cannot be declared compatible with the internal market ⁽²⁶⁾.
- (44) The Hungarian authorities confirmed that the proposed measure does not by itself, or by the conditions attached to it or by its financing method constitute a non-

⁽²⁶⁾ Judgment of 31 January 2023, *Commission v Braesch and Others*, C-284/21 P, EU:C:2023:58, paragraphs 96 *et seq.*

severable violation of Union law (recital (27)). In addition, the Commission has no indications of any possible breach of Union law that would prevent the notified measure from being declared compatible with the internal market.

- (45) Therefore, the Commission considers that the measure does not infringe any relevant provisions of Union law.
- (46) The Hungarian authorities confirm that, as required by point 51 of the Temporary Crisis and Transition Framework, the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (6)).
- (47) The Hungarian authorities confirm that, as required by point 52 of the Temporary Crisis and Transition Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the Union, including but not limited to:
 - (a) persons, entities or bodies specifically named in the legal acts imposing those sanctions;
 - (b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the Union; or
 - (c) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions (recital (15)).
- (48) The Hungarian authorities confirm that the monitoring and reporting requirements set out in section 3 of the Temporary Crisis and Transition Framework will be respected (recital (31)). The Hungarian authorities further confirm that aid under the measure may only be cumulated with other aid if the specific provisions in the relevant sections of the Temporary Crisis and Transition Framework (recital (29)).
- (49) The Commission has taken due consideration of the fact that the measure facilitates the development of certain economic activities and of the positive effects of that measure, which accelerates the economic transition and overcomes the current crisis, when balancing those effects against the potential negative effects of the measure on the internal market. The Commission considers that the positive effects of the measure outweigh its potential negative effects on competition and trade, and it is compatible with the internal market pursuant to Article 107(3), point (c), TFEU since it meets all the relevant conditions of the Temporary Crisis and Transition Framework.

4. CONCLUSION

The Commission has decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3), point (c) 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: <https://competition-cases.ec.europa.eu/search?caseInstrument=SA>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President