EUROPEAN COMMISSION

Brussels, 10.03.2009
C(2009)1856

<u>Subject:</u> **State aid N 114/2009 – Hungary**

Guarantee scheme under the Temporary Framework ("Application of rules relating to aid in form of guarantees under the Temporary Framework for an existing method applied by Garantiqa Hitelgarancia Zrt. to calculate the aid element in guarantees")

Madam,

1. PROCEDURE

(1) By electronic notification of 26 February 2009, Hungary notified a guarantee scheme ("Application of rules relating to aid in form of guarantees under the Temporary Framework for an existing method applied by Garantiqa Hitelgarancia Zrt. to calculate the aid element in guarantees") under the Temporary Framework for State aid measures to support access to finance in the current financial and economic crisis (hereinafter referred to as the Temporary Framework[1]). By communications of 2 March 2009 and 4 March 2009, Hungary amended the initial notification.

2. DESCRIPTION

2.1. Objective of the aid scheme

(2) Hungary considers that the financial crisis starts affecting the real economy. The notified measure forms part of an overall package of measures and aims at improving the access of firms to investment and working capital loans in order to

[1] Communication from the Commission - Temporary framework for State aid measures to support access to finance in the current financial and economic crisis, OJ C 16 of 22 January 2009, as amended on 25 February 2009 (not yet published)

Őexcellenciája Dr GÖNCZ Kinga Asszony
Külügyminiszter
Bem rakpart 47
H - 1027 BUDAPEST

compensate for the insufficient loan activity by private banks resulting from the financial crisis.

(3) The scheme is expressly based on Article 87 (3) (b) ECT, as interpreted by paragraph 4.3.2 of the Temporary Framework.

2.2. The nature and form of the aid

(4) The aid will be provided in the form of subsidised guarantees for investment and working capital loans as well as for financial leasing.

2.3. Legal basis

(5) The legal basis for the scheme is Article 12 of Decree 48/2002 (XII. 28.) of the Minister of Finance on the Detailed Rules Pertaining to the Assumption and Drawdown of Budgetary Counter-guarantees as well as the budget law of the Hungarian Republic for the period concerned (2009-2010).

2.4. Administration of the scheme

(6) The scheme is to be run by Garantiqa Hitelgarancia Zrt. ("HG")[2] on behalf of the Hungarian state.

2.5. Budget and duration of the measure

(7) The Hungarian authorities estimate that under the scheme a guarantee volume of HUF 1800 billion (EUR 6 billion) will be authorised amounting to HUF 7.7 billion (EUR 26 million) in aid.

(8) Under the scheme, guarantees can be granted as from its approval until 31 December 2010.

2.6. Beneficiaries

(9) The beneficiaries of the scheme are small and medium-sized enterprises, located in all regions of Hungary.

(10) Hungary commits not to apply this measure to firms which were, on 1 July 2008, firms in difficulty in the meaning of Art. 1 (7) of the General Block Exemption Regulation[3]. The scheme may apply to firms that were not in difficulty at that date but entered in difficulty thereafter as the result of the global financial and economic crisis.

---

2 HG has the task of supporting the access of small and medium-sized enterprises to loans and bank guarantees by means of granting them payment guarantees. Decree No. 48/2002 (XII. 28.) of the Minister of Finance on the Detailed Rules Pertaining to the Assumption and Drawdown of Budgetary Counter-guarantees sets out which are the activities HG has to perform in order to benefit from a state counter-guarantee covering its payment obligations.

3 OJ L 214, 9.08..2008, pp. 3-47, Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation).

2.7. Sectoral and regional scope of the scheme

(11) The scheme is open to all sectors. It applies to the whole territory of Hungary.

2.8. Basic elements of the scheme

(12) By decision of 12 November 2008 in the case N 201/a/2007[4], the Commission approved a methodology to calculate the aid element of guarantees for Hungary (to be applied by HG). By the present notification the Hungarian authorities avail themselves of point 4.3.2(c) of the Temporary Framework according to which "when the aid element in guarantee schemes is calculated through methodologies already accepted by the Commission in the field of State aid, Member States may also grant a similar reduction of up to 25 % of the annual premium to be paid for new guarantees for SMEs".

(13) Moreover, in line with point 4.3.2(f) of the Temporary Framework, under the scheme at hand the guarantee coverage will amount to up to 90% of the loan or leasing for the duration of the loan or leasing. Hungary confirms that in application of the present guarantee scheme, all other conditions of the approved method remain unchanged. In particular, the maximum amount of guarantee that can be undertaken in respect of a single debtor is the HUF equivalent of EUR 2.5 million.

(14) The reduction of the guarantee premium can be applied during a period of up to 2 years following the granting of the guarantee.

(15) The guarantees under the scheme relate to both investment and working capital loans as well as financial leasing for the procurement of production assets.

(16) The guaranteed loan (and/or value of the leased assets) may not exceed the total annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the company site but formally in the payroll of subcontractors) for 2008.

(17) In the case of companies created after 01.01.2008, the maximum loan (and/or leasing) may not exceed the estimated annual wage bill for the first two years in operation.

2.9. Cumulation

(18) The aid ceilings and cumulation maxima fixed under this scheme will apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Community.

(19) The temporary aid measure may not be cumulated with *de minimis* aid[5] for the same eligible costs.

---

4 Method of Hitelgarancia Zrt for calculating the aid element in guarantees. Available at http://ec.europa.eu/competition/elojade/isef/case_details.cfm?id=3_219675

5 OJ L 379, 28.12.2006, p. 5.

(20) Where *de minimis* aid was granted for the same purpose after 01.01.2008, it will be deducted from the aid equivalent of the guarantee fee reductions under the present scheme.

(21) Guarantees under this scheme may be cumulated with other compatible aid, which are not *de minimis* aid, or with other forms of Community financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block Exemptions Regulations are respected.

2.10. Monitoring and reporting, language of decision, business secrets

(22) The Hungarian authorities confirm that the monitoring and reporting obligations laid down in Section 6 and footnote 23 of the Temporary Framework will be respected (e.g., by 31 July 2009, a list of schemes put in place on the basis of the Temporary Framework must be provided to the Commission; detailed records regarding the granting of aid must be maintained for 10 years; by 31 October 2009 a report on the measures put in place should be provided).

(23) The Hungarian authorities confirm that the notification does not contain business secrets.

(24) The Hungarian authorities confirm their acceptance that the Commission decision is adopted in the English language, due to exceptional circumstances.

3. ASSESSMENT

3.1. Legality of the measure

(25) By notifying the aid measure before putting into effect, the Hungarian authorities respected their obligations under Article 88 (3) of the EC Treaty.

3.2. Existence of state aid

(26) State resources are involved in the notified scheme since financial obligations resulting from the guarantees given by HG are counter-guaranteed by the state. Moreover, a regulation sets out for HG the activities to be carried out in order to benefit from this counter-guarantee. The measure is thus imputable to the state.

(27) The measure is selective since guarantees are awarded only to certain undertakings.

(28) The measure confers an advantage by relieving the beneficiaries of costs which they would have to bear under normal market conditions since, without the intervention by the State, the beneficiaries would obtain loans only at higher costs, if at all.

(29) The measure affects trade between Member States since the scheme is not limited to beneficiaries which are active in sectors where no intra-community trade exists.

(30) In view of the above, the Commission considers that the notified measure constitutes State aid within the meaning of Article 87 (1) of the EC Treaty. The Hungarian authorities do not contest that conclusion.

3.3. Compatibility of the measure

(31) Having established that the measure involves state aid within the meaning of Article 87 (1) of the EC Treaty, it is necessary to consider whether the above mentioned measure can be found compatible with the common market.

(32) The measure aims at facilitating the access of firms to external finance in a period of time where the normal functioning of credit markets is severely disturbed through the financial crisis, and where the financial crisis ("credit crunch") is affecting the wider economy and is leading to severe disturbances of the real economy of Member States.

(33) By adopting the Temporary Framework on 17 December 2008, the Commission indeed acknowledged (section 4.1) the "seriousness of the current financial crisis and its impact on the overall economy of the Member States". The Commission concluded "that certain categories of State aid are justified, for a limited period, to remedy these difficulties and that the may be declared compatible with the common market on the basis of Article 87(3)(b)."

(34) The notified measure is one of a series of measures[6] conceived at national level by the Hungarian authorities to remedy a serious disturbance in their economy. The importance of guarantee measures to stimulate lending by private banks to enterprises of all sizes during the current credit crunch is widely accepted by economic commentators and the measure of a scale which can be reasonably anticipated to produce effects across the entire Hungarian economy. Furthermore, the measure has been designed to meet the requirements of the additional category of aid ("Aid in the form of guarantees") described in section 4.3.2 of the Temporary Framework.

(35) The Commission accordingly considers that the notified 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:

- The reduction of the applicable premiums defined in the approved method N 201/a/2007 is limited to 25% for SMEs (the scheme does not apply to large undertakings).
- The cumulation rules regarding combination with de minimis aid and aid for other purposes, as laid down in section 4.7 of the Temporary Framework, are respected.
- In line with Article 4.3.2(i) of the Temporary Framework firms in difficulty (situation as of 1.7.2008) are excluded from benefiting from the scheme.
- In conformity with Article 4.3.2(g) of the Temporary Framework the benefit of guarantees under this scheme is limited to investment and working capital loans as well as financial leasing. Financial leasing is a loan of material assets which

---

6 See N 77/2009 and N 78/2009

for the purpose of the Temporary Framework can be assimilated to an investment loan[7].

- Guarantees under this scheme are limited to 90% of the risk resulting from the underlying financial obligation (the loan and/or leasing), and this exposure rate must not be increased during the duration of the loan contract. The maximum loan/leasing amount per beneficiary, which may be covered by guarantees under the present scheme, is limited in line with the provisions of section 4.3.2(d) of the Temporary Framework.

- As required by Article 4.3.2(e) of the Temporary Framework, guarantees under the scheme can be granted until 31 December 2010, and the reduced annual premiums can be applied for a maximum of two years following the granting of the guarantee.

- The Hungarian authorities have confirmed that the monitoring and reporting rules laid down in Article 6 of the Temporary Framework will be respected.

3.4. Conclusion

(36) For these reasons, the Commission considers that the notified measure is in conformity with the Temporary Framework and considers it to be compatible with the Treaty on the basis of Article 87 (3) (b) EC. The Commission notes that the Hungarian authorities have confirmed that the notification does not contain business secrets, and that Hungary accepts that the decision be adopted in the English language.

4. DECISION

(37) The Commission has accordingly decided

– to consider the notified aid scheme as compatible with the EC Treaty.

Yours faithfully,
For the Commission

Neelie KROES
Member of the Commission

7 See similar treatment in the case N 201/a/2007