

MINISTRY
OF INNOVATION AND TECHNOLOGY
STATE AID MONITORING OFFICE

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Subject: Reporting obligation laid down in Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest: 2016-2017

Dear Sir,

With reference to the reporting obligation laid down in Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest¹ ('the Decision'), we wish to report the following information, based on the data submitted by aid-grantors and the experience of the State Aid Monitoring Office, on behalf of the Hungarian authorities.

1. Expenditure overview

general government expenditure on services of general economic interest (SGEI), all legal grounds (EUR million)	Year 2016	Year 2017
compensation granted on the basis of the Decision	87.912	141.915
compensation granted on the basis of the SGEI Framework	—	—

¹ OJ L 7., 11.1.2012, p. 3.

2. Description of the application of the 2012 Decision on services of general economic interest

1) Hospitals

No compensation

2) Social services

- a) **healthcare and long-term care**
- b) **child care**
- c) **access to and reintegration into the labour market**
- d) **social housing**
- e) **care and social inclusion of vulnerable groups**

content of entrustment	<p>In Hungary, aid-grantors met the entrustment obligation under Article 4 of the Decision by means of contracts (grant contracts, public service contracts and agency contracts) and legislation (acts, Government decrees, ministerial decrees and municipal decrees). The submitted data reveal that local authorities typically entrust public services to in-house providers.</p> <p>Under Government Decree No 37/2011 of 22 March 2011 on the procedure for State aid for the purposes of EU competition law and the regional aid map ('the Government Decree'), aid-grantors are required to submit their aid plan to the State Aid Monitoring Office, which assesses it and issues an opinion.</p> <p>The legal acts contained a reference to the Decision, the entrustment, the public service obligation, the duration of the entrustment, the parameters for calculating, controlling and reviewing the compensation, an obligation to keep the documents for 10 years, and the rules on avoiding and recovering any overcompensation.</p> <p>Where the beneficiary also engaged in activities falling outside the scope of public services, the compensation had to be recorded separately. This obligation was also established in the aid plans sent the State Aid Monitoring Office.</p> <p>Chapter 8 of and Annex 3 to Government Decree No 37/2011 govern the types of aid falling within the scope of the Decision. Section 20 states that it is the obligation of the body granting the aid to check whether the specific recording and communication obligations laid down in the Decision, as well as the various obligations set out above, are met. Section 20(5) requires the body granting</p>
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	the aid to submit a report to that effect, containing the information laid down in Annex 3, to the State Aid Monitoring Office.
forms of entrustment	public service contract
average duration of entrustment (in years)	1 year
exclusive or special rights	n.a.
aid instruments	direct aid
compensation mechanism	Most of the public service compensation provided by aid-grantors was in the form of non-refundable aid. All the plans applied the so-called cost-compensation method, where the compensation was used to cover justified costs incurred during the performance of a public service obligation, which were not covered elsewhere, and in certain cases to cover reasonable profits.
arrangements in place for avoiding and recovering any overcompensation	The State Aid Monitoring Office approved only those aid plans that contained the rules on repayment of overcompensation, taking account of the 10 % carry-forward rule. According to information received from aid-grantors, overcompensation rarely occurred. Where it did, it was either repaid by the beneficiary or deducted from the following year's compensation under the 10 % rule.
the amount of aid granted	2016: EUR 2 388 117
	2017: EUR 1 686 672
other numerical data	number of beneficiaries: 3; enterprises size: large enterprise

The aid was paid by local authorities.

3) Air and maritime services for islands

No compensation

4) Airports and ports

No compensation

5) Compensation not exceeding EUR 15 million per year for the provision of services of general economic interest

i. Postal services

content of entrustment	see 'content of entrustment' in point 2) on page 2
forms of entrustment	public service contract

average duration of entrustment (in years)	8 years
exclusive or special rights	n.a.
aid instruments	direct aid
compensation mechanism	see 'compensation mechanism' on page 3
arrangements in place for avoiding and recovering any overcompensation	see 'arrangements in place for avoiding and recovering any overcompensation' on page 3
the amount of aid granted	2016: —
	2017: EUR 13 827 064
other numerical data	number of beneficiaries: 1; enterprises size: large enterprise

ii. Energy

No compensation

iii. Waste collection

No compensation

iv. Water supply

content of entrustment	see 'content of entrustment' in point 2) on page 2, water utility
forms of entrustment	public service contract
average duration of entrustment (in years)	10 years
exclusive or special rights	n.a.
aid instruments	direct aid
compensation mechanism	see 'compensation mechanism' on page 3
arrangements in place for avoiding and recovering any overcompensation	see 'arrangements in place for avoiding and recovering any overcompensation' on page 3
the amount of aid granted	2016: EUR 2 162 079
	2017: EUR 42 464 787
total amount of aid paid by the central authority	2016: 0
	2017: EUR 40 569 115
total amount of aid paid by the local authority	2016: EUR 2 162 079
	2017: EUR 1 895 673
other numerical data	number of beneficiaries: 7; enterprises size: large enterprise

v. Culture

content of entrustment	see 'content of entrustment' in
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	point 2) on page 2
forms of entrustment	public service contract
average duration of entrustment (in years)	n.a.
exclusive or special rights	n.a.
aid instruments	direct aid
compensation mechanism	see 'compensation mechanism' on page 3
arrangements in place for avoiding and recovering any overcompensation	see 'arrangements in place for avoiding and recovering any overcompensation' on page 3
the amount of aid granted	2016: EUR 368 080
	2017: EUR 420 562
other numerical data	number of beneficiaries: 1 enterprises size: large enterprise

Aid was paid out by the local authorities.

vi. Financial services

No compensation

vii. Other Sectors

content of entrustment	Other sectors: 1. Local-government asset management 2. City management, urban development 3. Property management 4. Chimney sweeping rendered as a public service 5. Funeral services 6. Management of green spaces 7. Administrative and support activities linked to public security 8. Facilities support services, building maintenance and construction 9. Engineering and consultancy services 10. Motion picture, video and television programme production, radio programme production 11. Television programming and broadcasting activities 12. Traffic management 13. Sports services, management of sports facilities
forms of entrustment	public service contract, contract for specific task, invitation to tender
average duration of entrustment (in years)	3 years
exclusive or special rights	n.a.
aid instruments	direct aid
compensation mechanism	see 'compensation mechanism' on page

	3
arrangements in place for avoiding and recovering any overcompensation	see 'arrangements in place for avoiding and recovering any overcompensation' on page 3
the amount of aid granted	2016: EUR 82 993 712
	2017: EUR 83 515 601
Total amount of aid paid by the national central authority	2016: EUR 6 686 138
	2017: EUR 6 364 534
Total amount of aid paid by local authorities	2016: EUR 76 307 575
	2017: EUR 77 151 067
other numerical data	number of beneficiaries: 732 ² ; enterprise size: large enterprise

The 2016 amounts were calculated at an average annual exchange rate of HUF 311.46 to 1 EUR; the 2017 amounts were calculated at an average annual exchange rate of HUF 309.21 to 1 EUR.

We would note that under Section 20(2) and (4) of the Government Decree, aid-grantors are required to inform beneficiaries that undertakings have a special accounting obligation under Article 5(9) of the Decision and an obligation to register and provide information under Articles 7 and 8 of the Decision, and it is the aid-grantors' duty to meet the obligation to register and provide information under Articles 7 and 8 of the Decision. The State Aid Monitoring Office does not have a central website to register State aid under Commission Decision 2012/21/EU.

3. Problems encountered when applying the Decision

Most of the questions submitted to the State Aid Monitoring Office by aid-grantors concerned the starting date of the eligibility of costs and the determination of a reasonable profit. Given that the Decision does not allow for claiming costs incurred prior to entrustment by a Member State to provide services of general economic interest, the project preparation costs are not eligible for aid granted under the Decision. With regard to these cost elements, it is necessary to apply different rules to ensure a legal basis for compatibility with EU law. The use of several aid categories, however, makes it more difficult for both beneficiaries and aid-grantors to calculate compensation.

4. Complaints by third parties

No such complaints were received by the State Aid Monitoring Office.

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We wish to point out that Hungary has no aid measure containing public service compensation that was approved by the European Commission on the basis of the European Union framework³ for state aid in the form of public service compensation.

Budapest, 27 July 2018

² Small amounts of aid were granted in sectors under points 10 to 12, with the number of beneficiaries totalling 685.

³ OJ C 85, 2012.1.11, p. 15.