

**MINISTRY OF
Innovation and Technology
STATE AID MONITORING OFFICE**

File No: TVI/81897/2020-ITM

**Ms Monique Negenman
Head of
Department**

European Commission
DG Competition

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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: 2018-2019 – Hungary

Dear Ms Negenman,

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

	Year 2018	Year 2019
general government expenditure on services of general economic interest (SGEI), all legal grounds (EUR million²)	190	146
compensation granted on the basis of the Decision	190	146
compensation granted on the basis of the SGEI Framework	0	0

¹ OJ L 7., 11.1.2012, p. 3.

² The 2018 amounts were calculated at an average annual exchange rate of HUF 318 to 1 EUR; the 2019 amounts were calculated at an average annual exchange rate of HUF 325 to 1 EUR.

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

1) Social services

	<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).</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>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, and the various obligations set out above, are met. Section 20(5) requires the body granting the aid to submit a report to that effect, containing the information laid down in Annex 3, to the State Aid Monitoring Office.</p> <p>The submitted data reveal that local authorities typically entrust public services to in-house providers.</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>
content of entrustment	
forms of entrustment	public service contract
average duration of entrustment (in years)	10 years
exclusive or special rights	no data
aid instruments	direct grant (non-repayable grants)
compensation mechanism	<p>Most of the public service compensation provided by aid-grantors was in the form of non-refundable aid.</p> <p>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.</p>
arrangements in place for avoiding and recovering any overcompensation	<p>The relevant documents (legislation, contract, etc.) contain the rules on repayment of overcompensation, taking into account the 10% transferability rule.</p> <p>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.</p>
the amount of aid granted	<p>2018: EUR 345,748</p> <p>2019: EUR 336,382</p>
other numerical data	<p>number of beneficiaries: 1</p> <p>enterprises size: large enterprise</p>
granting aid	The aid was paid by local authorities.

2) Property management

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	contract for the provision of services and public service
average duration of entrustment (in years)	5.5
exclusive or special rights	no data
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	2018: EUR 38,199,511 2019: EUR 25,113,692
other numerical data	number of beneficiaries: 7 enterprises size: large enterprises
granting aid	The aid was typically paid by local authorities.

3) Transport and traffic management

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	public service and public task contracts
average duration of entrustment (in years)	7
exclusive or special rights	no data
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	2018: EUR 40,023,459 2019: EUR 36,241,487
other numerical data	number of beneficiaries: 5 enterprises size: large enterprise
granting aid	The aid was typically paid by local authorities.

4) 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 1) on page 2
forms of entrustment	legislation and public service contract
average duration of entrustment (in years)	8 years
exclusive or special rights	no data
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	2018: EUR 14,539,384
	2019: EUR 13,525,206
other numerical data	number of beneficiaries: 1 enterprises size: large enterprise
granting aid	The aid was typically paid by the central authority.

ii. Energy

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	no data
average duration of entrustment (in years)	no data
exclusive or special rights	no data
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	2018: EUR 6,757,867
	2019: EUR 23,501,067
other numerical data	number of beneficiaries: 5 enterprises size: large enterprise
granting aid	The aid was paid by the local and central authorities.

iii. Water services, waste water collection and management

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	no data
average duration of entrustment (in years)	no data
exclusive or special rights	no data
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	2018: EUR 67,231,308
	2019: EUR 13,746,425
other numerical data	number of beneficiaries: 6 enterprises size: large enterprise
granting aid	The aid was typically paid by the local and central authorities.

iv. Culture

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	public service contract
average duration of entrustment (in years)	1 years
exclusive or special rights	no data
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	2018: EUR 967,924
	2019: –
other numerical data	number of beneficiaries: 1 enterprises size: large enterprise
granting aid	The aid was paid by local authorities.

v. City management,

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	public service contract
average duration of entrustment (in years)	4
exclusive or special rights	no data
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	2018: EUR 5,224,229
	2019: EUR 2,951,586
other numerical data	number of beneficiaries: 9 enterprises size: large enterprise
granting aid	The aid was typically paid by local authorities.

vi. Chimney sweeping rendered as a public service

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	public service contract
average duration of entrustment (in years)	10
exclusive or special rights	no data
aid instruments	no data
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	2018: EUR 7,690,818
	2019: EUR 5,875,463
other numerical data	number of beneficiaries: 1 1
	enterprises size: large enterprise
granting aid	The aid was paid by local authorities.

vii. Funeral services

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	public service contract
average duration of entrustment (in years)	5
exclusive or special rights	no data
aid instruments	no data
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	2018: EUR 8,652,324
	2019: EUR 2,265,363
other numerical data	number of beneficiaries: 1 enterprises size: large enterprise
granting aid	The aid was typically paid by local authorities.

viii. Management of green spaces

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	public service contract
average duration of entrustment (in years)	10
exclusive or special rights	no data
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	2018: EUR 143,125
	2019: EUR 13,673,657
other numerical data	number of beneficiaries: 3 enterprises size: large enterprises
granting aid	The aid was typically paid by local authorities.

ix. Facilities support services, building maintenance and construction

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	agency agreement

average duration of entrustment (in years)	3.5 years
exclusive or special rights	no data
aid instruments	no data
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	2018: EUR 17,700
	2019: EUR 4,901,453
other numerical data	number of beneficiaries: 2 enterprises size: large enterprise
granting aid	The aid was paid by central authorities.

x. Engineering services and related technical consulting services

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	contract for the provision of services and public service
average duration of entrustment (in years)	3.5
exclusive or special rights	no data
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	2018: EUR 727,358
	2019: EUR 749,652
other numerical data	number of beneficiaries: 2 enterprises size: large enterprise
granting aid	The aid was typically paid by local authorities.

xi. Motion picture, video and television programme services

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	no data
average duration of entrustment (in years)	1
exclusive or special rights	no data
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	2018: –

	2019:2 EUR 166,840
other numerical data	number of beneficiaries: 155 enterprises size: micro, small, large enterprise
granting aid	The aid was typically paid by the central authority.

xii. Radio-broadcasting

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	grant contract
average duration of entrustment (in years)	1
exclusive or special rights	no data
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	2018: –
	2019: EUR 933,927
other numerical data	number of beneficiaries: 105 enterprises size: no data
granting aid	The aid was typically paid by the central authorities.

xiii. Other sector

Other auxiliary business activities not classified elsewhere

content of entrustment	see 'content of entrustment' in point 1) on page 2
forms of entrustment	no data
average duration of entrustment (in years)	3
exclusive or special rights	no data
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	2018: EUR 261,965
	2019: EUR 389,741
other numerical data	number of beneficiaries: 1 enterprises size: large enterprise
granting aid	The aid was typically paid by the central authority.

Aid beneficiaries can typically be considered to be small and medium-sized enterprises in terms of size and turnover, but in view of the fact that they are mainly municipally or state-owned, they are considered to be large enterprises under the relevant EU rules.

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. The provisions of another legal basis, compatible with EU law, need to be applied to these cost items. The use of several aid categories, however, makes it difficult to apply the method of calculating compensation for both beneficiaries and aid-grantors.

4. Complaints by third parties

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

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 framework for state aid in the form of public service compensation.

If you have any further questions, please do not hesitate to contact my colleague, Ms Csilla Bartos (csilla.bartos@itm.gov.hu, Tel.: +36 1 7959 866) or Angéla Herczeg(zita.angela.herczeg@itm.gov.hu, Tel.: +36 1 7957 937)

Budapest, 17 September 2020

Your sincerely,

Dr Anita Gyürkés
Head of Department

³ OJ C 85, 11.1.2012, p. 15.