Chapter 13

Hungary: Doomed to Victory

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Abstract

This chapter focuses on the Hungarian state aid law and policy and its recent challenges. It also covers the historical view, economic aspects, and basic statistics while providing an overview of the domestic applicable law, fully considering the fact that the other chapters are devoted to the EU law on state aid policy and taxation matters. State aid may produce contradictory effects. On the one hand, it can restore market efficiency, while on the other, it can adversely intervene in the market mechanisms. Furthermore, political goals can be channelled through governmental subsidies. Without geographical and sectoral analyses of the economy, the question of the state aid's raison d'être cannot be answered. In Hungary, domestic state aid law is merged with the EU law; hence, a sovereign state aid policy cannot be pursued. This process started even before the country's accession to the EU. Aid measures under the general block exemption comprised the largest part of the spending between 2011 and 2021. Notified aid was the other important element in this period. In the last couple of years, the ratio changed; notified aid overtook general block exemption in terms of estimated value. Many large investments were financed through state aid between 2014 and 2022 in Hungary. Hungarian state aid institutions have thus proven their practical efficiency. The country was successful in addressing the impact of COVID-19 and the Russo-Ukrainian War through the provision of state aid. National tax sovereignty was not subordinated to the state aid law of the EU in the judgements related to Hungary in the CJEU. Some room for manoeuvre is preserved in its tax policy, especially in applying progressive tax rates on turnover, even if the multinational companies bear a higher burden of taxes than their domestic competitors. When the crises blow over, Hungary is keen on maintaining effective prohibition of state aid in the EU and making the most successful use of exceptions to the

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main rule. The country's near future is determined by how it will use the Recovery and Resilience Facility.

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1. Overview of the Hungarian subsidy policy and law[1]

1.1. The Hungarian economy and economic policy

Through the lens of classical economists, state aid is a tool for correcting market failure.[2] Its main function is to restore market efficiency. Beyond this, it is now widely accepted that political motivations underlie the granting of state aid. Considering the diverse society and economy within the EU, regional, distributive, employment, and industrial political purposes must be mentioned. Nevertheless, state aid clearly intervenes in the market mechanism and can cause significant distortions of competition. In other words, state aid can lead to economic costs.[3] Consequently, it can be argued that state aid can work for and against market efficiency. Without geographical and sectoral analyses of the economy, this cannot be explained.

To understand the background of the Hungarian subsidy policy and law and draw conclusions, the economy of Hungary has to be examined at least at the level of basic indicators and key issues at two decisive points in the modern history of Hungary: when the country joined the EU (2004), and when the COVID-19 pandemic was followed by the war in the neighbouring country of Ukraine (2022).

1.1.1. Accession to the EU (in 2004)

In 2004, Hungary's GDP per capita was USD 16,269. The Organisation for Economic and Co-operation Development (OECD) average amounted to USD 28,469 in

1 As there is a separate chapter on the EU state aid law in this book, this section deals with Hungarian rules and practices and does not intend to interpret or comment on the EU law (rules, definitions etc.) regarding state aid. However, exceptions were required to make the chapter understandable. One remarkable exception is the regional state aid map for Hungary, which is laid down in a decision of the Commission (see section 1.4. of this chapter). This map is so profoundly defining that it cannot be skipped from this country-specific chapter. Furthermore, although the author aimed to focus on recent years, a brief historical overview could not be ignored either.

2 Haucap and Schwalbe, 2011, p. 5.

3 Haucap and Schwalbe, 2011, p. 13.

the same year, while the EU average was USD 25,926.[4] The Hungarian tax-to-GDP ratio was 36.91% in 2004, higher than the OECD average (32.15%).[5] In Hungary, the tax wedge (51.743% of labour cost) was well above the OECD average (35.685% of labour cost) in 2004.[6] General government debt of Hungary was 65% and the OECD members' debt-to-GDP ratio for 2004 was 67.53%.[7] Two branches of the economy were decisive in 2004. Industry and manufacturing added 26% and 22.1%, respectively, to the Hungarian gross value. The only other branch that reached the ratio of 10% was 'wholesale and retail trade; repair of motor vehicles and motorcycles' (10.2%).[8] Hungary was placed at the 33rd position in the Growth Competitiveness Index.[9] The Hungarian Central Bank did not issue its own competitiveness index in 2004.

The OECD Economic Surveys on Hungary in 2004 reveal that Hungary's strong growth comes primarily from deepening and widening its export-based industries. In maintaining the level of international competitiveness to achieve this, the authorities face long-standing issues of a weak transport infrastructure and a high tax wedge on labour. More recently, other challenges have emerged, particularly, high growth in wages. In mobilising untapped labour resources, grey-economy activities complicate the assessment of the true size of the active population. Further, opportunities in the grey sector are an additional factor in the economic incentives of those without official employment, alongside those generated by the tax-benefit system. Inactivity is relatively high among all age groups as per official figures, even among men in their prime.[10]

OECD emphasised the importance of joining the EU. According to the survey cited above, access to structural funds through EU membership would help in faster development of the transport network and other infrastructure; in 2004, the total value of structural and cohesion funds as well as pre-accession instruments was Hungarian Forint (HUF) 500,550 billion, or about 0.7% of the GDP. As was mentioned in 2004, membership would affect and, arguably, has already affected Hungary's competitiveness.[11]

1.1.2. Almost 20 years later

In 2022, Hungary's GDP per capita was USD 41,907. The OECD average amounted to USD 53,966 , and the EU average was USD 54,237.[12] The Hungarian tax-to-GDP

4 OECD, 2023a.
5 OECD, 2023b.
6 OECD, 2023c.
7 OECD, 2023d.
8 Hungarian Central Statistical Office, 2023. Note: The Hungarian Central Statistical Office treats the 'wholesale and retail trade; repair of motor vehicles and motorcycles' sectors as one branch of the economy.
9 IESE, p. 4.
10 OECD, 2004, p. 41.
11 OECD, 2004, p. 31.
12 OECD, 2023a.

ratio was 34%, which was almost equal to the OECD average (34.11%).[13] In 2022, the tax wedge in Hungary (41.5% of labour cost) exceeded the OECD average (34.586% of labour cost) by 7%.[14] The general government debt of Hungary was equal to the OECD average (89%).[15] Industry added 22.5%, and manufacturing added 20% to the Hungarian gross value in 2021.[16] Two other branches of the economy that touched 10% were 'wholesale and retail trade; repair of motor vehicles and motorcycles' (10.7%) and real estate activities (10.5%).[17]

In 2022, Hungary ranked 39th in the World Competitiveness Ranking,[18] improving by three places compared to 2021. The Hungarian Central Bank has been publishing a competitiveness report pertaining to its own competitiveness index since 2017. According to its 2022 report, Hungary was the 17th EU member state, attaining 47.9 points out of 100. This is higher by 1.4 points to the average score of the other three Visegrad countries (Czech Republic, Poland, Slovakia); however, the average of all EU member states was 51.3. The first on the list was Sweden, scoring 66.9.[19]

According to the critical country report on Hungary published by the European Commission, since 2017, Hungary is catching up fast with the average income level in the EU. Hungary's GDP per person rose from around 69% of the EU average in 2017 to 74.7% in 2022. The labour market improved significantly, with the employment rate (80.2%) rising well above the EU average and the unemployment rate (3.6%) remaining well below it in 2022. The main poverty indicators also improved. Investment and economic growth were boosted by fiscal and monetary policy stimulus. The budget deficit has been consistently above the EU average since 2017, and monetary conditions were supportive until mid-2021. The structure of investments did not favour productivity growth. Growth in labour productivity was similar to the regional average, despite a higher aggregate investment rate. This is because the structure of investment has changed since 2017 from a productivity enhancing machinery and intellectual assets to construction. Expansionary economic and fiscal policies contributed to the deterioration of external balance and rising inflation and house prices. Russia's war of aggression against Ukraine magnified the macroeconomic challenges. Sharply rising energy prices widened the current account deficit to 8.2% of the GDP in 2022. Government debt is still above pre-COVID-19 levels, and its relatively short average maturity leads to a rapidly rising burden of interest payments. Higher commodity prices, currency depreciation, and indirect tax increases raised inflation to 25.9% in the first quarter of 2023, the highest in the EU. However, Hungary has also benefitted from a significant amount of EU cohesion

13 OECD, 2023b.
14 OECD, 2023c.
15 OECD, 2023d.
16 Note that 2022 data have not been published yet.
17 Hungarian Central Statistical Office, 2023.
18 IMD, 2022.
19 Hungarian Central Bank, 2022, p. 19.

funds, complemented by the Recovery and Resilience Facility (hereinafter referred to as RRF).[20] Since joining the EU in 2004, Hungary has received the equivalent of around 2% of its GDP annually from EU funds in net terms. In the coming years, EUR 21.7 billion of cohesion policy funds in the 2021-27 financial cycle and EUR 5.8 billion in grants under the RRF have been allocated to Hungary.[21]

1.2. A concise summary of the evolution of Hungarian state aid law

1.2.1. European Agreement 1991 and Accession Partnership 1998

State aid in the EU and in Hungary is considered an integral part of the competition law.[22] The underlying reason for this is that governmental subsidy can distort competition between undertakings. Accepting this approach, which makes sense, discussing state aid in socialist regimes is futile. On this ground, a short description of the evolution of Hungarian state aid law must begin from 1989-90 when the country saw a transition from socialism to capitalism.

Revival of the Hungarian state aid law was designed to happen in accordance with the EU law. The Agreement of 16 December 1991, establishing an association between the European Community and its Member States and the Republic of Hungary (hereinafter referred to as European Agreement), was aimed at guaranteeing the accord. The European Agreement was adopted by the Hungarian Parliament in 1994.[23] Art. 62 para. 1 of the European Agreement states that three practices are incompatible with the functioning of the European Agreement, insofar as they may affect trade between the Community and Hungary.[24]

Art. 62 para. 2 of the European Agreement provides a 'benchmark rule' for EU state aid law application saying that any practice contrary to these points shall be assessed on the basis of criteria arising from the application of the rules of Arts. 85, 86, and 92 of the Treaty establishing the European Economic Community.[25] It must be noted that Decision 30/1998 (VI. 25.) of the Constitutional Court of Hungary established a constitutional requirement that the Hungarian executive authorities shall not directly apply the criteria referred to in Art. 62 para. 2 of the European

20 See: *The Hungarian Recovery and Resilience Plan* [Online]. Available at: https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility/country-pages/hungarys-recovery-and-resilience-plan_en (Accessed: 2 October 2023).

21 European Commission, 2023b, pp. 2–4.

22 Papp, 2016, pp. 1031–1032; Staviczky, 2018, pp. 22–23.

23 Act I of 1994.

24 These are as listed: (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings that have as their object or effect the prevention, restriction, or distortion of competition; (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of Hungary as a whole or in a substantial part thereof; (iii) any public aid that distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

25 Basically, these ex-articles are identical to the present text of Arts. 107–109 and 112 of the TFEU.

Agreement. According to the decision, the mechanism of direct applicability of the referred articles (85, 86, 92) would have been contrary to the Hungarian Constitution as the Hungarian legal order has a dualist approach in relation to international and domestic law. The European Agreement per se does not contain the text of the referred articles. Without adoption or promulgation, their contents shall not constitute as applicable law in accordance with the rule of law. On the one hand, these articles do not belong to the Hungarian legal system. On the other, the EU legal system does not extend to the territory of Hungary. A simple cross-reference is not enough constitutionally to avoid or replace the lawful integration of the whole state aid law of the EU into the Hungarian law.

Hungary officially became a candidate state to the EU when the Accession Partnership Treaty was signed in 1998.[26] This meant that with regard to state aid, further efforts were necessary to ensure full transparency, particularly through the establishment and updating of a comprehensive state aid inventory in accordance with EU practice. Moreover, the legal framework for granting of state aid must be aligned with the Commission's state aid legislation. All existing aid measures had to be reviewed and measures incompatible with the Europe Agreement were to be modified or abolished. The necessary powers and procedures had to be established for the state aid monitoring authority to implement the monitoring of new aid on a systematic basis. Regarding sectors traditionally subject to monopolies, the policy of liberalising and opening up to competition was to continue.[27]

A legislation was passed responding to the decision of the Constitutional Court. An amendment to Act XXXVIII of 1992 on public household enacted the following rule into Hungarian law: any aid granted by the governmental budget in any form, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods or the provision of certain services, shall insofar as it affects trade between Member States and Hungary, is forbidden.[28] This came into force on the 1st of January 2002. At the same time, Government Decree 163/2001. (IX. 14.) listed aids that are exempted. These were similar to exemptions laid down in the existing EU law. For example, aid for research and development projects, environmental protection, investment in small- and medium-sized enterprises, and training were exempted. Certain sectors – such as the automotive industry – came under permissive regulation according to this decree.

These facts lead to the conclusion that the political objective even in the early 90s has been for Hungarian law to follow EU law in connection with state aid. The Hungarian Constitutional Court, however, did not allow EU law to formally govern state aid before EU accession. Accession partnership confirmed at the political level

26 Hungary: Accession Partnership 98/C 202/04.

27 Hungary: Accession Partnership 98/C 202/04. Annex Point 3.1.

28 Art. 15 of Act XXXVIII of 1992 on the public household. Effective from the 1st of January 2002 until Hungary joined the EU.

that EU law will permeate Hungarian law regarding state aid. In 2002, the legislator enacted a rule that was identical in terms of its function to the EU state aid law.

1.2.2. Accession Treaty 2003

Undeniably, the most significant milestone from the aspect of the state aid law was Hungary's accession to the European Union.[29] This paved the way for EU law to prevail directly over the domestic law not only from a political but also from a legal point of view. Since the focus of this chapter is on the effective legal regulation of recent years, it is sufficient to note that certain aid schemes were considered as existing aid and individual aid effective in Hungary before the date of accession and still applicable after that date shall be regarded upon accession as existing aid: (i) aid measures effective before 10 December 1994; (ii) aid measures listed in the appendix of the Accession Treaty;[30] (iii) aid measures prior to the date of accession assessed by the state aid monitoring authority of Hungary and found to be compatible with the *acquis*, and to which the Commission did not raise an objection on the compatibility of the measure with the common market.[31]

Accession gave direct way to EU law in the field of state aid, and the respective domestic law was required to conform to EU law. The next section covers the Hungarian legal regime, which is not voluminous, because EU law regulates this in detail and leaves little room to national law.

1.3. The applicable Hungarian law and the State Aid Monitoring Office

The applicable legal background for implementing state aid control in Hungary is Government Decree 37/2011. (III. 22.) on procedures relating to state aid measures under EU competition law and the regional aid map (hereinafter referred to as Government Decree). This contains procedural rules relating to prior notification obligation of state aid measures, sets out cumulation provisions of aid from different sources, serves as a legal basis for the Hungarian regional aid map, and establishes rules relating to transparency of state aid measures and on the required content of aid measures. The scope of the Government Decree covers the legal procedure to be followed by the minister responsible for the management of sources from the EU, if the procedure is in connection with state aid. The minister of regional development

29 Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union. Adopted in Hungary via Act XXX of 2004. A referendum on joining the EU was held in Hungary on 12 April 2003. The proposal was approved. Hungary subsequently joined the EU on 1 May 2004.

30 With respect to Hungary, 21 existing aid measures were listed in the Appendix to Annex IV of the Accession Treaty 2003.

31 Accession Treaty 2003 Annex IV Point 3.

according to the present structure of the Hungarian government[32] does not have his own ministry. A few governmental institutions provide him support for back-office work. This is now the State Aid Monitoring Office (hereinafter referred to as SAMO) in relation to the tasks under the scope of the Government Decree.

The procedural rules of the Government Decree oblige all aid grantors to notify their planned aid measures to SAMO, which is responsible for assessing the compatibility of each proposal against the relevant EU rules and regulations. SAMO also provides guidance and assistance to the aid-granting bodies when they draft a specific aid measure to ensure compatibility with the EU law.

The procedure followed by SAMO depends on the characteristics of the planned aid measure. If during the preliminary assessment, SAMO finds a measure that could be incompatible with EU state aid rules, it can recommend modifications. It can also ask for additional information from aid grantors. In case a state aid measure requires approval from the European Commission, SAMO represents Hungary and serves as an intermediary between aid grantors and the Commission. It keeps the aid grantor informed of any additional questions and the decision of the Commission concerning the notified aid measure. Additionally, SAMO is responsible for sub-scheme (calls for applications) control.

Apart from state aid control and representing Hungary in proceedings before the Commission, the other duties of SAMO involve compiling the annual report on aid and fulfilling Hungary's obligation in the field of State Aid Transparency. SAMO also coordinates the Hungarian position regarding appropriate measures proposed by the Commission for the amendment of existing aid schemes and plays a key role in formulating the official national position on state aid related legislation. SAMO also keeps aid grantors informed about the recovery or suspension of any aid scheme or individual aid assessed by the Commission.[33]

1.4. The Hungarian regional aid map for the period 2022-2027

The European Commission has approved Hungary's map for granting regional aid from 1 January 2022 to 31 December 2027.[34] The Hungarian regional aid map is among the first maps approved by the Commission within the framework of the revised Regional Aid Guidelines (hereinafter referred to as RAG). Hungary's regional aid map defines the Hungarian regions eligible for regional investment aid. The map also establishes the maximum aid intensities in the eligible regions. Aid intensity is the maximum amount of state aid that can be granted per beneficiary, expressed as a percentage of eligible investment costs. Under the revised RAG, regions covering

32 Act II of 2022, Government Decree 182/2022. (V. 24.).

33 See this description of SAMO: *Welcome to the website of the State Aid Monitoring Office* [Online]. Available at: https://tvi.kormany.hu/home (Accessed: 2 October 2023).

34 Commission decision of 16 September 2021 in case SA.63934 (2021/N) Regional aid map for Hungary (1 January 2022–31 December 2027).

82.09% of the population of Hungary is eligible for regional investment aid. These regions are all among the most disadvantaged ones in the EU, with a GDP per capita below 75% of the EU average. Therefore, they are all eligible for aid under Art. 107 para. (3) point (a) TFEU (so-called ‘a’ areas), with maximum aid intensities for large enterprises as follows: a maximum aid intensity of 50% is allowed for large enterprises in the regions of HU12 Pest, HU23 Southern Transdanubia, HU31 Northern Hungary, HU32 Northern Great Plain, and HU33 Southern Great Plain. A maximum aid intensity of 30% is permitted for large enterprises in the regions of HU21 Central Transdanubia and HU22 Western Transdanubia. In the latter two areas, the maximum aid intensities can be increased by 10 percentage points for investments made by medium-sized enterprises and by 20 percentage points for investments made by small enterprises, for their initial investments, with eligible costs up to EUR 50 million.[35]

In 2023, the Hungarian authorities notified an amendment to the regional aid map for Hungary to increase the aid intensities for the territories identified for support from the Just Transition Fund.[36] In their notification, the Hungarian authorities proposed increasing the aid intensity for three counties (Baranya, Borsod-Abaúj-Zemplén, Heves)[37] as areas eligible for aid under Art. 107 para. 3 point (a) of the TFEU. These counties are located in the NUTS 2 regions of HU23 Southern Transdanubia and HU31 Northern Hungary. The Commission decided to approve the proposal, and consequently, the maximum aid intensity increased to 60% in these Hungarian counties.[38]

The Hungarian regional aid map for the period 2014-2021 was less favourable for Hungary. During these years, counties Pest and Budapest, which are located in the heart of County Pest were not divided into two regions from the aspect of allocation of state aid. As the capital is the most developed area in Hungary in terms of GDP

35 European Commission, 2022.

36 The Commission provides support to Member States having identified the territories expected to be the most negatively impacted by the transition towards climate-neutrality. The Just Transition Fund supports the economic diversification and reconversion of the territories concerned. This means up- and reskilling of workers, investments in small- and medium-sized enterprises, creation of new firms research and innovation, environmental rehabilitation, clean energy, job-search assistance, and transformation of existing carbon-intensive installations. This fund is governed by two regulations. Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund, OJ L 231, 30.6.2021, 1–20; Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, OJ L 231, 30.6.2021, 159–706.

37 These are NUTS3 units in the nomenclature of territorial units for statistics (hereinafter referred to as NUTS).

38 State aid SA.107119 (2023/N) – Hungary Amendment to the Regional aid map for Hungary (1 January 2022–31 December 2027) – increased aid intensities for territories identified for support from the JTF.

per capita, its GDP significantly raised the average GDP per capita in the territory of the united county of Pest and Budapest. This led to the maximum aid intensity becoming zero in most of the territory of County Pest and in the whole of Budapest. The separation made the whole territory of County Pest eligible for state aid with 50% intensity, while the aid intensity in Budapest remains zero.[39] This change was of paramount importance in the state aid law in Hungary.

2. State aid in times of crisis

2.1. General and recent trends and stats in Hungary

Table 1 provides an overview of state aid spending in Hungary between 2011 and 2021. The total spending was EUR 28.5 billion stemming from four alternative types of procedures.

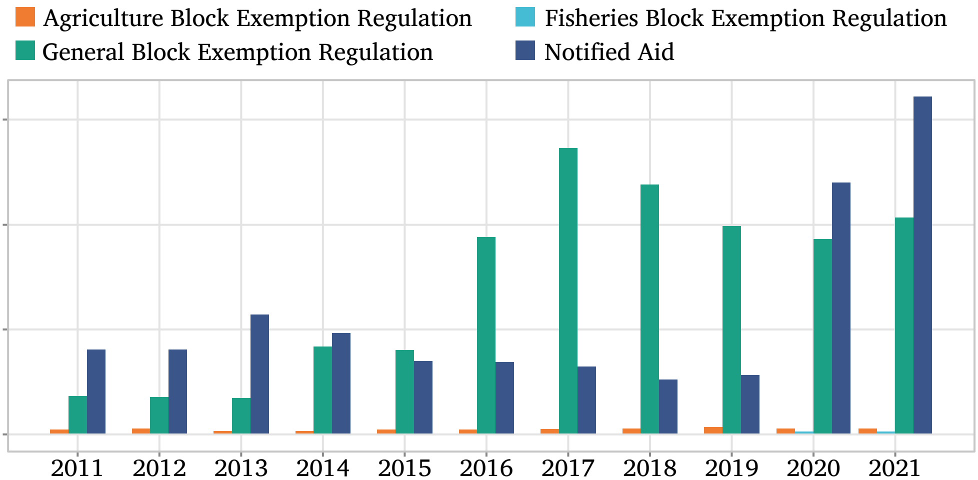
Table 1: State aid expenditure in current prices during 2011-2021 in Hungary[40]

Type of Procedure	Expenditure (Billion EUR)	Share of Total
Agriculture Block Exemption Regulation	0.5	1.8%
Fisheries Block Exemption Regulation	less than 0.1	less than 0.1%
General Block Exemption Regulation	15.6	54.7%
Notified Aid	12.4	43.5%
Total	28.5	100.0%

From Table 1, it is clear that aid measures under General Block Exemption (hereinafter referred to as GBE) comprised the largest part of the spending between 2011 and 2021. Notified aid was the other very important element in this period. The statistics suggest that agriculture and fisheries block exemptions did not play a prominent role during the investigation period. More interesting is the change in the ratio between GBE and notified aid in recent years. The latter overtook the former in 2020 and 2021 compared to previous years, when GBE was higher. This is illustrated in Figure 1.

39 Nyikos, 2022, pp. 20–24.
40 European Commission, 2023a, p. 167.

Figure 1: State aid spending in Hungary in billion EUR (2011-2021) (current prices)[41]



Hungarian commentators draw attention to the fact that the Commission approved all notifications of Hungary between 12 March 2020 and 31 December 2022. In this period, the legal basis of state aid was Art. 107 para. (3) point (b) of the TFEU in 20 cases out of the 25 notifications from Hungary.[42] The Hungarian Government published a long list on aid granted by its individual decisions.[43] During the investigation period, it was found that a substantial part of these aids was for undertakings in the automotive industry and for battery manufacturing. Data for the current year (2023) show new beneficiary schemes such as aid for installing solar panel systems, constructing solar power plants, and enhancement of thermal insulation of buildings.[44] These are in accord with the RRF of Hungary.

2.2. COVID-19 era

In 2020, European governments enforced strict public health measures in an attempt to stem the spread of the COVID-19 pandemic. The European economy faced a double shock of supply and demand. A drop in production and consumption was observed. This led to a decline of 6.3% in the European GDP in 2020.[45] What was the

41 European Commission, 2023a, p. 168.
42 Horváth, Bartha and Lovas, 2023, pp. 466–468.
43 *Szerződések/megállapodások, EKD támogatások* [Online]. Available at: https://kormany.hu/dokumentumtar/szerzodesek-megallapodasok (Accessed: 2 October 2023).
44 Owing to lack of access to control data on the governmental homepage, no specific figures are provided here. For instance, the governmental homepage does not communicate decision numbers.
45 Collin et al., 2022, p. 1.

Commission's reaction to this situation? The State Aid Temporary Framework[46] was adopted on the 19th of March 2020 to enable Member States to use the full flexibility foreseen under state aid rules to support the economy in the context of the coronavirus outbreak. This framework, which was amended seven times, expired on the 30th of June 2022 with some exceptions. Investment and solvency support measures may continue until 31 December 2023. Furthermore, the framework already provides for a flexible transition, under clear safeguards, particularly for the conversion and restructuring options of debt instruments, such as loans and guarantees, into other forms of aid, such as direct grants, until 30 June 2023.[47]

Under the Temporary Framework, 23 state aid measures were adopted in relation to Hungary.[48] In 2021, the COVID-19 related expenditure for Hungary amounted to EUR 2,448.3 million, that is, 45.9% of the total state aid expenditure. In 2020, this amounted to EUR 1,781.6 million, that is, 41.3% of the total.[49] This ratio seems high, but it must be noted that the COVID-19 related expenditure at the EU-27 level was higher by 10–15% in both years than the level in Hungary. Thus, although the share of COVID-19 state aid expenditure was substantial, it was not as decisive as it could be. In almost half of the cases (45.9%) in 2021, the state aid objective was the remedy for a serious disturbance in the economy, as laid down in Art. 107 para. 3 point (b) of the TFEU. Since this was the outstanding objective, it is worth examining its conditions briefly.

The Commission considered the remedy for a serious disturbance in the economy as compatible with the internal market, provided a few conjunctive conditions were met: (i) The aid did not exceed EUR 800,000 per undertaking in the form of direct grants, repayable advances, tax, or payment advantages; (ii) The aid was granted on the basis of a scheme with an estimated budget; (iii) The aid was granted to undertakings that were not in difficulty within the meaning of the General Block Exemption Regulation on 31 December 2019;[50] it could be granted to undertakings that that were not in difficulty on 31 December 2019, but faced difficulties thereafter as a result of the COVID-19 outbreak; (iv) Aid was granted no later than 31 December 2020;[51] (v) Aid was granted to undertakings active in the processing and marketing of agricultural products conditional on not being partly or entirely passed on to primary producers and not fixed on the basis of the price or quantity of products purchased from the primary producers or put on the market by the undertakings concerned.

46 Communication from the Commission: Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, 2020/C 91 I/01, HL C 91I., 2020.3.20, 1–9.

47 *The State Aid Temporary Framework* [Online]. Available at: https://competition-policy.ec.europa.eu/state-aid/coronavirus/temporary-framework_en (Accessed: 2 October 2023).

48 16 measures in 2020, 5 measures in 2021, 2 measures in 2022.

49 European Commission, 2023a, p. 171.

50 This definition is very elaborate. See: Art. 2 para. 18 of 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, 1–78.

51 As is mentioned above, the deadline was extended, with some original exceptions to this date.

In the 21st century, COVID-19 caused the second big economic crisis. The first was experienced in 2008/2009 caused by turmoil in the financial market. The Temporary Framework was more generous in comparison with the support offered during the 2008/2009 financial crisis, considering that it allowed for significantly larger amounts of compatible aid. Another remarkable difference between the two state aid responses was in terms of the sectors of the economy supported. In 2008/2009, state aid was limited to undertakings in the financial market. Of course, this is only logical since COVID-19, unlike the previous crisis, hit almost all sectors.[52]

2.3. Russia-Ukraine war period

On 23 March 2022, the European Commission adopted a Temporary Crisis Framework to enable Member States to support the economy in the context of Russia's invasion of Ukraine. The Temporary Crisis Framework complements the existing state aid toolbox with many other possibilities already available to Member States. The Commission amended the framework twice and finally adopted a new one, which is presently applicable.[53] The new regime is called Temporary Crisis and Transition Framework.

Two legal grounds exist for state aid under this framework. Pursuant to Art. 107 para. (3) point (b) of the TFEU, the Commission may declare compatibility with the internal market aid 'to remedy a serious disturbance in the economy of a Member State'. The other ground for the new temporary framework is Art. 107 para. (3) point(c) of the TFEU, which states that 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, may be considered by the Commission to be compatible with the internal market.

Aggression against Ukraine by Russia and its direct and indirect effects, including the sanctions imposed by the EU or its international partners and the countermeasures taken, were considered by the Commission to disrupt trade flows and supply chains and lead to exceptionally large and unexpected price rise, especially in natural gas and electricity, and in numerous other input and raw materials and primary goods. These effects, taken together, caused a serious disturbance of the economy in all Member States; the need now is to facilitate energy management. For example, aid may be approved for (i) promoting energy use from renewable sources and energy storage, (ii) increasing the electricity generation capacity of existing installations to the maximum, (iii) substantially reducing greenhouse gas emissions, and (iv) producing relevant equipment for the transition towards a net-zero economy, namely, towards batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture, usage, and storage.

52 Tóth, 2020, pp. 69–71.

53 Communication from the Commission: Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, Brussels, 9.3.2023 C(2023) 1711 final.

On these grounds, the Commission launched 8 types of state aid to support Member States in addressing the serious disturbance in the economy. Undertakings affected by the Russian aggression against Ukraine and/or by its direct or indirect effects may be subsidised by Member States through these tools: type (i) limited amounts of aid, type (ii) liquidity support in the form of guarantees, type (iii) liquidity support in the form of subsidised loans, type (iv) aid for additional costs due to exceptionally severe increases in natural gas and electricity prices, type (v) aid for accelerating the rollout of renewable energy and energy storage relevant for REPowerEU,[54] type (vi) aid for the decarbonisation of industrial production processes through electrification and/or the use of renewable and electricity-based hydrogen fulfilling certain conditions and for energy efficiency measures, (vii) aid for additional reduction of electricity consumption, and (viii) aid for accelerated investments in sectors strategic for the transition towards a net-zero economy.

Until the end of August 2023, in 13 cases, the Commission considered aid given by Hungary as compatible with the internal market.[55] Moreover, the Commission decided not to raise any objections to the aid. The legal grounds for the aid were Art. 107 para. (3) point (b) of the TFEU in 10 decisions and Art. 107 para. (3) point (c) of the TFEU in the remaining 3 decisions. These are instant and a substantial boost for Hungarian undertakings amounting to a total of 27.3 billion EUR. Table 2 presents the most relevant information of the measures.

Table 2: Approved state aid for Hungarian undertakings under the Temporary Crisis and Transition Framework[56]

Decision number	**Aim of state aid**	**Legal ground**	**Estimated budget in billion EUR**	**Date of decision**
SA.102986	Crisis Agricultural Guarantee Programme	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 2	0.226	17.6.2022

54 In response to the hardships and global energy market disruption caused by Russia's invasion of Ukraine, the European Commission is implementing its REPowerEU Plan. Launched in May 2022, REPowerEU is helping the EU save energy, produce clean energy, diversify its energy supplies. *REPowerEU – Affordable, secure and sustainable energy for Europe* [Online]. Available at: https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/repowereu-affordable-secure-and-sustainable-energy-europe_en (Accessed: 2 October 2023).

55 *Az ideiglenes válság- és átállási keret (TCTF) alapján elfogadott magyar intézkedések listája* [Online]. Available at: https://tvi.kormany.hu/tctf-magyar-intezkedesek (Accessed: 2 October 2023).

56 Complied by the author based on the website of SAMO.

Decision number	Aim of state aid	Legal ground	Estimated budget in billion EUR	Date of decision
SA.103089	Hungarian umbrella scheme to support companies in the context of Russia's invasion of Ukraine	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 1	1.14	20.6.2022
SA.103315	'Krízis 2' (Crisis 2) Guarantee Program	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 2	0.5	11.7.2022
SA.104009	Hungarian umbrella scheme to support companies in the context of Russia's invasion of Ukraine (amendments to SA.103089)	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 1	1.58	31.8.2022
SA.104515	Support scheme in the form of guarantees and subsidised loans	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 2, 3	1.25	26.10.2022
SA.104850	Amendments to SA.102986, SA.103089 (as amended), SA.103315 and SA.104515	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 1, 2, 3	4.2	9.12.2022
SA.106542	Amendments to SA.103089 (as amended) and SA.104515 (as amended)	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 1, 2, 3	6.87	9.3.2023
SA.104385	Aid for additional costs due to exceptionally severe increases in natural gas and electricity prices	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 4	1	13.4.2023

Decision number	Aim of state aid	Legal ground	Estimated budget in billion EUR	Date of decision
SA.107379	Fourth amendment to the umbrella scheme to support companies in the context of Russia's aggression against Ukraine (SA.103089)	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 1	7	13.06.2023
SA.102428	Aid for energy storage facilities for the integration of weather variable renewable energy sources	107 para. (3) point (c) of the TFEU; Temporary Crisis and Transition Framework type 5	1.134	21.6.2023
SA.107772	Hungarian Development Bank agricultural, fishing, and food industry working capital loan scheme in the form of subsidised loans	107 para. (3) point (b) of the TFEU; Temporary Crisis and Transition Framework type 3	0.0771	26.6.2023
SA.107689	scheme for accelerated investments in sectors strategic for the transition towards a net-zero economy	107 para. (3) point (c) of the TFEU; Temporary Crisis and Transition Framework type 8	2.36	28.7.2023
Total estimated budget		**27.3371**		

2.4. Proven practices from the Hungarian point of view

What does a successful notification procedure to support large investments require? A researcher working for the SAMO posed this question in an article in 2022. Eighteen state aid decisions of the Commission were analysed. All decisions – except four – authorised state aid. Six investments were located in Hungary, and the rest were in France, Germany, Italy, Poland, Portugal, and Slovakia. The following recommendations are worth keeping in mind because between 2014 and 2021, seven large investment projects were approved for Hungary, whereas only ten were approved in the rest of the previous six states altogether. Further, the value of these large investments projects was higher for Hungary than the sum-total value of the other six Member States. Hungary's large investments were higher in terms of number and value.[57]

57 Hargita, 2023, pp. 41–62.

Individual aid notified under the guidelines on national regional aid[58] (hereinafter referred to as regional guidelines) are authorised if it complies with the common assessment principles. The Commission assesses whether (i) a credible counterfactual scenario exists, (ii) aid has an incentive effect, (iii) aid contributes to regional development, and (iv) the contribution of the aid to regional development outweighs its negative effects on trade and competition.

Considering the first criterion: a counterfactual scenario is for illustrating what would happen if no aid was provided. The emphasis is on 'credibility'. The company has to prove that there exists at least one realistic alternative site; a fictional alternative is not credible. Further, it is important that the story about the alternative project not only must be credible and have a realistic alternative site, but also must prove that the selection process is supported by contemporary internal company documents generated in the company's decision-making process, demonstrating that the options in question were actually explored by the beneficiary in its decision-making process. This means that the beneficiary hoping to receive the grant must maintain detailed records not only of the final decision but also of the entire decision-making process, namely, the main steps followed and its outcome. Supporting documents must also be presented to the Commission, and submission of these documents to the Commission cannot be denied on the grounds that they contain confidential information.

Considering the second criterion: to demonstrate the incentive effect, the guidelines recognise two scenarios. (i) Without the aid, the investment would not be sufficiently profitable for the aid beneficiary anywhere in the EU. (ii) The investment would have been made elsewhere, and the aid only compensates for the cost disadvantage of the less developed region. A vast majority of the notifications from Member States fall under the latter scenario.

Considering the third criterion: the primary objective of regional aid is to improve economic and social cohesion by reducing disparities in the level of development between areas. The notification procedure must include a detailed demonstration of the contribution of the investment to the development of the region lagging behind. According to SAMO, the frequently used points to demonstrate the contribution to regional development are direct and indirect job creation, knowledge transfer, technology transfer, clustering effect, duration of the investment, environmental aspects, and social responsibility.

Considering the fourth criterion: according to the Commission, the following points manifest negative effects that cannot be offset by the positive effects of the investment and, therefore, it does not authorise the aid. For instance, (i) when the planned aid exceeds the amount calculated based on the reduced aid intensity; the action to be supported or the conditions of the aid infringe on EU law; (ii) when the investment leads to an increase in capacity in an absolutely declining market; (iii)

58 Communication from the Commission: Guidelines on regional state aid, 2021/C 153/01, OJ C 153, 29.4.2021, 1–46.

when significant market power exists; (iv) the investment is in a region that is no less developed than an alternative scenario, which is called the anti-cohesion effect, a remarkable point for the Commission not to authorise the aid; or (v) the investment is relocated from another EU Member State and a causal link exists between the aid and the relocation.[59]

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3. CJEU cases relating to Hungary

A few important and relatively new cases of the CJEU can be cited in the field of indirect (fiscal) and direct state aid.[60] Of course, these cases have other aspects – especially limitation of fundamental freedoms and violation of the non-discrimination principle – that are beyond the scope of this chapter.[61] National courts do not play a decisive role in state aid law because – with exceptions[62] – they do not have the competence to determine whether governmental subsidy violates EU law.[63]

3.1. Hungarian tax on turnover linked to advertisements

On 15 August 2014, the act on progressive tax on revenue linked to the publication and broadcasting of advertisements came into force in Hungary. The intent of the new Hungarian tax policy of that time was to impose sectoral turnover taxes to shift the tax burden from the general direct taxes on income of persons and corporations. The more specific goal was to make budgetary leeway to decrease taxes on labour income. The new tax was contested, because two taxpayers had to bear almost the entire burden of tax in the whole country. The biggest taxpayer was a part of the foreign group. The advertisement tax, based on the net turnover of taxable persons who broadcast or publish advertisements (print media, audiovisual media, or billposters), prevailing in Hungary, initially included a scale of six progressive rates based on turnover; later, it was adapted to include only two brackets, accompanied by the option, for taxable persons whose profits before tax in 2013 were

59 Hargita, 2023, pp. 45–56.

60 The latest Hungarian related case is the judgement of the General Court of 13 September 2023, T-57/22, *Hungary v. Commission*, ECLI:EU:T:2023:546. The court dismissed the action brought by the Hungarian Government. Hungary sought the partial annulment of the Commission Implementing Decision (EU) 2021/2020 of 17 November 2021 excluding from the European Union financing certain expenditure incurred by the Member States under the European Agricultural Guarantee Fund and under the European Agricultural Fund for Rural Development.

61 Note that this book contains a separate chapter written by Balázs Károlyi who covers these issues.

62 See the exception: CJEU, 19 June 1973, C-77/72, *Carmine Capolongo v. Azienda Agricole Maya*, ECLI:EU:C:1973:65; CJEU, 11 December 1973, C-120/73, *Gebrüder Lorenz GmbH v. Federal Republic of Germany and Land Rheinland-Pfalz*, ECLI:EU:C:1973:152. Papp, 2022, p. 252.

63 Széles, 2021, pp. 5–6. This is why the points below are about the jurisprudence of the CJEU.

zero or negative, to deduct from their tax base 50% of the losses carried forward from previous years. The Commission considered, by its decision of 4 November 2016,[64] that the tax measure adopted by Hungary, on account of both its progressive structure and the possibility of deducting the losses carried forward that it included, constituted state aid that was incompatible with the internal market and ordered the immediate and effective recovery of the aid paid to the beneficiaries thereof.

The General Court annulled this decision, holding that the Commission had erred in finding that the tax measure at issue and the mechanism for the partial deductibility of losses carried forward constituted selective advantages.[65] The Court of Justice, sitting as the Grand Chamber, dismissed the appeals brought by the Commission against the judgements under appeal.[66] In support of its appeals, the Commission claimed in particular that the General Court had infringed Art. 107 para. (1) of the TFEU in holding that the progressive nature of the taxes on turnover respectively at issue did not lead to a selective advantage.

The Court of Justice reaffirms, in the sphere of state aid, that, given the current state of harmonisation of EU tax law, Member States are free to establish the system of taxation they deem most appropriate so that the application of progressive taxation falls within the discretion of each Member State, provided the characteristics constituting the measure at issue do not entail any manifestly discriminatory element. Considering the fiscal autonomy that Member States are recognised to have outside the fields subject to harmonisation under EU law, they are free to establish the system of taxation they deem most appropriate and to adopt, as required, progressive taxation. In particular, EU law on state aid does not preclude Member States from deciding to opt for progressive tax rates, intended to consider the ability of taxable persons to pay; nor does it require Member States to reserve the application of progressive rates only to taxes based on profits, to the exclusion of those based on turnover. Furthermore, the Court of Justice found that the General Court did not err in considering that the transitional measure of the partial deductibility of losses carried forward did not lead to a selective advantage. The establishment of a transitional measure considering profits is not inconsistent with the redistribution objective pursued by the Hungarian legislature when establishing tax on advertisements. The Court of Justice highlighted in this regard that, in such a case, the criteria concerning the lack of profits recorded in the financial year preceding the entry into force of that tax were objective in nature, since the undertakings benefiting from the transitional measure of partial deductibility of the losses had, from that point of view, a lesser ability to pay than others.[67]

64 Commission Decision (EU) 2017/329 of 4 November 2016 on the measure SA.39235 (2015/C) (ex 2015/NN) implemented by Hungary on the taxation of advertisement turnover, OJ 2017 L 49, p. 36.

65 CJEU, 27 June 2019, T-20/17, *Hungary v Commission*, ECLI:EU:T:2019:448.

66 CJEU, 16 March 2021, C-596/19 P, *Commission v Hungary*, ECLI:EU:C:2021:202.

67 C-596/19 P. See the critics in the literature: Varju and Papp, 2021, pp. 379–402; Deák, 2021, pp. 111–119; Szudoczky and Károlyi, 2020, pp. 251–270.

3.2. Vodafone and Tesco cases

Hungary levied special taxes on the turnover of telecommunications operators and of undertakings in the retail trade sector in 2010. The effective date of these taxes was originally between 2010 and 2012.[68] These taxes had progressive rates. These special taxes were mainly borne by undertakings owned by persons of other Member States owing to the fact that these undertakings achieved the highest turnover in the Hungarian markets concerned. The Court of Justice decided that these taxes do not breach the EU state aid law.[69] The Court recalled that these taxes do not fall within the scope of the provisions of the TFEU concerning state aid unless they constitute the method of financing an aid measure and form an integral part of that measure. For a tax to be an integral part of an aid measure, it must be hypothecated to the aid measure under the relevant national rules. In this case, the Court found, however, that the applications for exemption from the special taxes submitted by the applicant companies to the Hungarian tax authorities concern general taxes, the revenue from which is transferred to the state budget and that these taxes are not specifically allocated to the funding of a tax advantage for which a particular category of taxable persons qualify. The Court concluded that the special taxes imposed on these applicant companies are not hypothecated to the exemption for which some taxable persons qualify, and consequently any illegality under EU rules relating to state aid of such an exemption would not affect the legality of these special taxes themselves. Accordingly, the applicant companies cannot rely, before the national courts, on that possible illegality to avoid paying these taxes.

3.3. Paks II case

The Hungarian Government, prior to the energy crises caused by the Russian aggression over Ukraine, decided to establish a new nuclear power plant with two reactors in Paks, next to the currently operating one. According to the original plan, Russian technology was to assist in the installation and operation of the new nuclear power plant as was done in the case of the older plant. The plant was constructed under the legal personality of a state-owned company called MVM Paks II Nuclear Power Plant Development Private Company Limited by Shares (hereinafter referred to as Paks II). The Commission approved the investment aid, notified by Hungary, for Paks II, in 2017.[70] The above-mentioned investment aid, comprising two new nuclear reactors, free of charge, to Paks II, was largely financed by a loan in the form of a revolving credit facility of EUR 10 billion granted by Russia to Hungary

68 Taxes following these were adopted by Hungary subsequently, but the objects of the cases were the taxes that were not in force since the 1st of January 2013.

69 CJEU, 3 March 2020, C-75/18 and C-323/18, *Vodafone Magyarország*, ECLI:EU:C:2020:139.

70 Commission Decision (EU) 2017/2112 of 6 March 2017 on the measure/aid scheme/State aid SA.38454.

in the framework of an intergovernmental agreement on cooperation for the use of nuclear energy for peaceful purposes. In accordance with this agreement, the task of constructing the new reactors was entrusted, by means of a direct award, to the company Nizhny Novgorod Engineering Company Atomenergoproekt (hereinafter referred to as JSC NIAEP). In the contested decision, the Commission declared the aid compatible with the internal market, subject to conditions, in accordance with Art. 107 para. (3) point (c) of the TFEU.

The General Court found that the decision to award the contract for the construction of the two new reactors, which preceded the aid measure at issue, did not constitute an aspect that is inextricably linked to the object of that aid. The carrying out of a public procurement procedure and the possible use of another undertaking for the construction of the reactors would alter neither the object of the aid, namely, the provision of two new reactors, free of charge, nor the beneficiary of the aid, which is Paks II. Furthermore, assuming that a tender procedure may have had an influence on the amount of the aid, which Austria has not proven, such a factor would not by itself have had any effect on the advantage that the aid constituted for its recipient, namely, the provision of two new reactors free of charge. This judgement does not show that the Court intended to broaden the scope of the review falling to the Commission in the context of a procedure to determine whether the state aid is compatible with the internal market by abandoning its case law under which a distinction should be drawn between aspects that are inextricably linked to the object of the aid and those that are not.[71] Austria appealed against this judgement, but the Court of Justice has not yet delivered its decision.[72]

4. Conclusions and recommendations

One needs to look at the big picture first. State aid in Hungary has been determined by political and economic factors since the transition in 1989/90. It is enough to recall that the Hungarian economy competes with that of the EU Member States (and does this worldwide). Hungary has been holding its place on the development lists since it joined the EU. No significant change in the 'pecking order' has been observed with respect to Hungary, despite the fierce competition. This could not have been achieved without an adequate and efficient state aid policy, as state aid is required to correct market failures and to channel political motives that keep society stable and the economy in balance with national interests. Beyond this, the reality is that the Hungary government's budget is very tight to score well in a free competition among Member States if state aid was not forbidden by the EU law,

71 CJEU, 30 November 2022, T-101/18, *Austria v Commission, Paks2,* ECLI:EU:T:2022:728.
72 Case number is C-59/23 P.

according to the main rule. Hence, the argument made here is that Hungary has a strong interest in maintaining effective prohibition of state aid and making the most successful use of exceptions to the main rule. A sovereign state aid policy cannot be run as a Member State because EU law clearly defines the legal framework of this sphere. The lord of the state aid is the Commission owing to its competences over the competition law of the EU.

How can success be measured? From a statistical point of view, this chapter contains strong points of reference to conclude that Hungary is at the forefront of approving large investments. Hungary has made good use of the State Aid Temporary Framework and the Temporary Crisis Framework. Nevertheless, these frameworks originated during times of crisis. Their future success will certainly be a different scenario determined by the usage of the RRF.

From a legal point of view, the changes in state aid law related to Hungary and, further, the results of the notifications procedures in front of the Commission and of the litigation in front of the CJEU are decisive. The regional state aid map for Hungary is better in the current period than it was during the previous period. County Pest can be now the venue of the projects financed through state aid. Between 12 March 2020 and 31 December 2022, the Commission approved all notifications from Hungary. This is undoubtedly a good sign, but it does raise a policy question that is discussed below. The CJEU declared in a few cases that Hungary has sovereignty to apply progressive tax rates even if the respective tax base is not the income of the taxpayer, but is the revenue or the turnover. The mere fact that taxpayers with parent companies in other Member States suffer as a result of progressive tax rates does not infringe on the prohibition of state aid. These judgements surprised some researchers who thought tax sovereignty would bow to the EU state aid law. In essence, thanks to the decisions of the CJEU, the Hungarian government has preserved some room for manoeuvre in its tax policy even if multinational companies bear the larger brunt of the taxes when compared to their domestic competitors. Paks II is of paramount importance from the point of view of future Hungarian energy security. Austria and all Member States running an anti-nuclear energy policy have to accept that state aid law by itself is not an adequate measure to prevent the installation of new nuclear power plants.

From a policy perspective, it must be stressed that the limited power of the Hungarian budget to grant state aid ought to be used as efficiently as possible. Even though diversified allocation of budgetary resources can have benefits, state aid policy may be more successful in choosing few sectors of the economy for governmental support. Hungary has a targeted state aid policy. Automotive industry and, most recently, battery factories are backed by state aid. Examining the sustainability of this policy is beyond the scope of this chapter. Nevertheless, it should be noted that strict prohibition of state aid appears to erode in times of crisis as was seen during the recent COVID-19 situation and the Russia-Ukraine war. Crises management prevails over the prohibition of state aid. Of course, it is the Commission's prerogative to enforce state aid law, but Hungary is happy to follow this path as it is justified. Implementing RRF will be key for Hungary's future development. To restore a level playing field among undertakings in the EU, which is in Hungary's best interest, once the crises are over, the policy should return to the general rules: state aid is prohibited with rare exceptions.

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