

UPDATE: RECENT EMPLOYMENT LAW MEASURES ADOPTED TO MITIGATE COVID-19'S NEGATIVE IMPACT ON THE HUNGARIAN ECONOMY

In recent weeks, the Hungarian Government adopted various support measures and state aid schemes tailored specifically to employers in an effort to assist companies in the economic turbulence caused by the COVID-19 crisis. We set out below a brief summary of the specific employment related state subsidies available from 16 April 2020.

WHAT KIND OF STATE AID IS AVAILABLE?

The government decided to protect workplaces and use wage subsidies to encourage employers to refrain from mass layoffs. Two types of wage cash supplements were introduced: (1) wage subsidy in case of reduced working time and (2) additional salary for employees engaged in R&D. Both are available for a period of 3 months from 16 April 2020.

ARE "SPECIAL" STATUS EMPLOYEES ELIGIBLE?

These wage protection subsidies are not available in case of derogation from the employment contract (such as secondment) and temporary agency work, nor for employees on unpaid leave or exempted from work with the employer's consent.

COMMON APPLICATION CRITERIA

The related applications may be filed any time after 16 April 2020. To be eligible for these subsidies, employers shall (i) have been operating for at least for 6 months when applying, (ii) confirm sound employment relations, (iii) not be under any winding-up proceeding, liquidation, bankruptcy or other insolvency proceedings based on a final decision and (iv) not qualify as business in difficulty on 31 December 2019 under EU competition law.

SOME PRACTICAL IMPLEMENTATION ISSUES

The assessment period is very long compared to similar schemes in other EU countries where companies automatically receive wage subsidies. In Hungary companies and employees jointly have to apply. Obtaining a grant takes time: the employer has to fill out a form, submit it to the district employment agency office, which has five days to assess it; then the application is sent to the Innovation and Technology Ministry for approval, so it is likely to be at least two weeks, and could be more, before an employer receives a response, while the wages are to be paid by the employer in due time, even before knowing whether it will receive the approval of the authorities.

The cap of the reduced working time subsidy is quite low, capped at HUF 75,000 (approx. €215) per month. The headcount retention obligation also significantly limits the HR flexibility.

WAGE SUBSIDY IN CASE OF REDUCED WORKING TIME - WHAT DOES IT CONSIST OF?

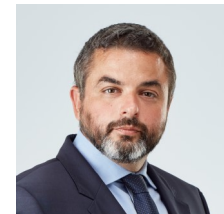
The government takes on part of the burden of paying salaries to employees by granting a wage subsidy supplementing up to 70% of the employee's salary loss resulting from reduced working time. When calculating the exact amount of the subsidy, the reference date shall be the day on which the state of emergency was proclaimed and the maximum absence pay (after tax deduction) which can be covered by the subsidy shall not exceed twice the mandatory minimum wage. Positions with higher salaries can also be part of the support scheme but only receive the capped amount. The amount of the state aid is free of taxes or social security contributions.

The employer only has to pay for the remaining 30% of the missing working time as "personal development/training time" during which the employee shall be available to the employer. It is not clear whether this time should be spent at the premises of the employer or can be satisfied by online 'presence'.

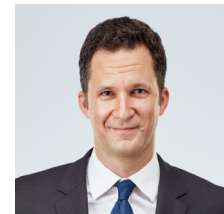
Under this subsidy scheme, for example, if an employee originally worked 8 hours, but now only works 4 hours, those 4 worked hours are paid by the employer, and the payment of the salary for the „lost" 4 hours is shared 70-30 percent between the employer and the state.



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WHAT ARE THE SPECIAL CRITERIA FOR APPLYING?

Conditions imposed on the *employee*: the eligible employee (i) is not granted any other aid related to part-time work based on the same employment relation, (ii) has been employed by the employer at least since the day of the state of emergency, (iii) is not on a notice period, and (iv) has no repayment obligation relating to state aids.

Conditions imposed on the *employer*: the eligible employer (i) employs the employee in reduced working time in order to avoid reduction of workforce, (ii) evidences that the economic circumstances triggering the reduction in working-time are in direct and close connection with the state of emergency, and presents a plan for measures already executed and to be implemented, (iii) has exhausted the working-time possibilities, and (iv) is not granted any aid supporting job-creation, preservation, or R&D state aid. The employer shows that keeping the employee is in the interest of the economy at large. No guidance is yet available as to how the satisfaction of the more subjective of these requirements will be judged.

ARE THERE ANY FURTHER REQUIREMENTS FOR EMPLOYERS?

The employer must commit itself to:

- retain the initial headcount (as at the time of filing the application) for the entire term of the subsidy and for an additional month
- refrain from ordering overtime work throughout the term of the subsidy
- report to the government office within 2 days of any relevant change of circumstances
- the salary including the amount of the aid will reach the amount of the former salary level throughout the term of the subsidy
- pay salary for the personal development time (which is 30% of the missing working time)

ADDITIONAL SALARY FOR R&D EMPLOYEES - WHAT DOES IT CONSIST OF?

This state aid is granted to employers who employ R&D personnel. Two caps apply: (i) the monthly amount of this aid shall not exceed HUF 318,920 (approx. €910) per employee and (ii) the combined amount of aids described in the recent EU communication [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)] related to COVID-19 (together with the R&D aid) shall not exceed 80% of the employee's monthly salary (together with employers' contributions). The monthly amount of this aid is HUF 318,920 if the gross monthly salary of the employee was HUF 670,000 (approx. €1,915) or more on the day when the current state of emergency was proclaimed. For employees with lower salaries, the amount of the aid shall be calculated proportionately.

WHAT ARE THE SPECIAL CRITERIA FOR APPLYING?

Conditions imposed on the *employee*: the eligible employee (i) is not granted any other state aid supporting employment based on the same employment relation, (ii) is in an employment relation as researcher & developer with the employer at least from the day of the current state of emergency, and (iii) is not on a notice period.

Conditions imposed on the *employer*: the eligible employer (i) presents its economic circumstances which justify reduced working time; such circumstances' direct and close connection to the state of emergency; and what measures have been executed and planned, (ii) submits the application naming the relevant employee (s) who shall not be granted the state aid for reduced working time (based on the same employment relation), and (iii) is not granted any aid supporting job-creation or preservation related to the named employee(s). As with the wage subsidy, no guidance is yet available as to how the satisfaction of the more subjective of these requirements will be judged.

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