EUROPEAN COMMISSION

Brussels, 6.5.2022
C(2022) 3099 final

PUBLIC VERSION

This document is made available for information purposes only.

Subject: **State Aid SA.102105 (2022/N) – Italy**
COVID-19: Tax credit in favour of tourism undertakings for rental payments

Excellency,

1. PROCEDURE

(1) Following pre-notification contacts, by electronic notification of 25 February 2022, Italy notified aid in the form of limited amounts of aid and support for uncovered fixed costs ("*Credito d'imposta in favore di imprese turistiche per canoni di locazione di immobili*", the "measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the "Temporary Framework").[1] On 4 and 30 March 2022, the Commission services requested further clarifications to the Italian authorities, which they provided on 24, 28 March and 4 April 2022.

(2) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in

[1] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

Onorevole Luigi Di Maio
Ministro degli Affari esteri e della Cooperazione Internazionale
Piazzale della Farnesina, 1
00135 Roma
ITALIA

conjunction with Article 3 of Regulation 1/1958[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) Italy considers that the COVID-19 pandemic affects the real economy. In particular, the COVID-19 pandemic has had a negative impact on the activity of undertakings active in the tourism sector and related sectors. The Italian authorities explain that, according to data from the Italian Tourism Satellite Accounts (*Conto Satellite del Turismo*), while the overall revenues from tourism amounted to approximately EUR 100 billion in 2019, representing around 6.2% of Italian GDP, the overall revenues of the Italian touristic sector decreased by approximately EUR 31 billion (-31.5%) in 2020. As a result, the tourism sector's contribution to the Italian GDP in 2020 amounted to just 4.1%.

(4) The Italian authorities submit that following the outbreak of the COVID-19 pandemic, the number of overnight stays booked in 2020 by foreign tourists decreased by 54.6% compared to 2019, while the number of overnight stays booked by Italian residents decreased by 32.2%[3]. The Italian authorities report that the accommodation sector has been the most affected: the number of foreign tourists decreased by 70% in 2020 compared to the previous year. Finally, the Italian authorities estimate that the impact of the COVID-19 pandemic on the tourism sector has been more severe than the 2010 financial crisis.

(5) Italy submits that, according to the Bank of Italy's Central Credit Register (*Centrale dei Rischi*), as undertakings operating in the tourism sector face liquidity shortages, the credit market for the tourism sector has increased by around 13.5%, much more than in other sectors (4.2%).

(6) The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.

(7) Italy confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

(8) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2, 3.1 and 3.12 of the Temporary Framework.

---

2 Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

3 Official data from the Italian institute of statistic (ISTAT).

2.1. The nature and form of aid

(9) The measure provides (i) limited amounts of aid in the form of a tax credit[4], and (ii) aid in the form of support for uncovered fixed costs. Aid is calculated as a fixed percentage of the rental or lease payments or concession fees incurred by the undertakings in relation to non-residential property with reference to each of the months of January, February and March 2022.

2.2. Legal basis

(10) The legal basis for the measure is Article 5 of Decree Law of 27 January 2022, n. 4 on "*Urgent measures to support businesses and economic operators, work, health and local services, connected to the COVID-19 emergency, as well as to contain the effects of price increases in the electricity sector*"[5].

2.3. Administration of the measure

(11) The Ministry of Economy and Finance and the Italian Revenue Agency are, respectively, responsible for granting and administering the measure.

2.4. Budget and duration of the measure

(12) The estimated budget of the measure is EUR 129.1 million.

(13) The scheme covers the period between 1 January 2022 and 31 March 2022.

(14) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 30 June 2022. Italy confirms that the tax liability in relation to which the aid is granted must have arisen no later than 30 June 2022, in line with footnote 24 of the Temporary Framework.

2.5. Beneficiaries

(15) The beneficiaries of the measure are undertakings active in the tourism sector in Italy, regardless of their size, and to operators involved in the operation of swimming pools identified by ATECO[6] code 93.11.20. Financial institutions are excluded as eligible final beneficiaries. The Italian authorities estimate that around 24 500 undertakings are eligible for aid under the measure.

---

4 For the taxes concerned, see recital 21.

5 *Misure urgenti in materia di sostegno alle imprese e agli operatori economici, di lavoro, salute e servizi territoriali, connesse all'emergenza da COVID-19, nonché' per il contenimento degli effetti degli aumenti dei prezzi nel settore elettrico.*

6 Italian national equivalent of NACE coding.

(16) Aid may not be granted under the measure to medium[7] and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[8] on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid[9] or restructuring aid.[10]

2.6. Sectoral and regional scope of the measure

(17) The measure is open to undertakings operating in the tourism sector in Italy and to operators identified by ATECO code 93.11.20 and applies to the whole territory of Italy.

2.7. Basic elements of the measure

(18) The measure concerns the issuance of tax credits, calculated as a fixed percentage of the rental or lease payments or concession fees incurred by undertakings in relation to non-residential property with reference to each of the months of January, February and March 2022.

(19) The granting of the tax credit is subject to the condition that the beneficiary has suffered a decline in turnover or fees in the reference month of the year 2022 of at least 50% compared to the same month(s) in 2019.

(20) The applicable tax credit rate under the measure represents 60% of the monthly rental or lease payment or concession fees for non-residential properties used to carry out the relevant activities. In the case of complex service contracts or business leases concerning at least one non-residential property used to carry out the relevant activity the tax credit rate is equal to 30% of the relevant lease payments. For tourist accommodation facilities, the tax credit relating to the business lease is set at 50%. These amounts are subject to the relevant cap on aid intensity (see recital (26) d)).

---

7 As defined in Annex I to 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, p. 1.

8 As defined in Article 2(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, p. 1; Article 2(14) of Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193, 1.7.2014, p. 1; and Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.

9 Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

10 Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

(21) The tax credit can be claimed in the income tax return relating to the tax period in which the expenses are incurred. The tax credit can also be offset against other tax liabilities (tax credit compensation) due to the central tax authorities, to the regions, to local authorities, or to social security and welfare entities[11]. Accordingly, the tax credit can be offset against existing tax liabilities, arising from other taxes due, such as VAT, and must not be related to the income tax return. The tax credit compensation allows the undertaking to benefit from the tax credit immediately after the actual payment of the rents, which means that the aid takes effect when the rent payments are due and is certain in all cases in which tax liabilities come into existence.

(22) Eligible beneficiaries shall submit a self-declaration to the Italian Revenue Agency, prior to the granting of aid under the measure, indicating the form and amount of the aid applied for as well as declare their turnover decline and net losses.

(23) The self-declaration serves to identify the entire amount of aid applied for. The beneficiary shall recognise that several separate legal entities may be considered to form one economic unit for the purposes of the application of State aid rules, which is then considered to be the relevant undertaking for calculating the aid amount. The beneficiary further states that the amount of aid applied for under the measure, together with other aid received under previously approved measures, does not exceed the ceilings provided for in sections 3.1 and 3.12 of the Temporary Framework. That information allows the tax authorities to identify the amount of aid applied for, which can be granted in accordance with sections 3.1 and 3.12 of the Temporary Framework.

(24) In their self-declaration, beneficiaries will have to certify that they meet the requirements and comply with the conditions, limits, and ceilings provided for in Sections 3.1 and/or 3.12 of the Temporary Framework.

(25) In case of aid granted under section 3.1 of the Temporary Framework, the Italian authorities confirm that the aid will not exceed the ceiling under section 3.1 at the time when the aid is granted.

(26) In case of aid granted under section 3.12 of the Temporary Framework, the Italian authorities confirm that eligible undertakings must respect the conditions set out in point 87 of the Temporary Framework. In particular:

a) The aid will be granted on the basis of a scheme to undertakings that suffer a decline in turnover during the period from 1 January to 31 March 2022 of at least 50 % compared to the same period in 2019. In case the beneficiary's turnover decline relates only to parts of the eligible period, the undertaking must identify that period in the self-declaration;

---

11 The tax credit compensation relies on the mechanism set out in Article 17 of Legislative Decree No 241 of 9 July 1997, which allows undertakings to benefit from the tax credit immediately after the actual payment of the eligible expenses. The compensation is made using the so-called "F24 payment model" (unified payment form).

b) Uncovered fixed costs are defined under the measure in accordance with point 87(c) of the Temporary Framework, i.e. the fixed costs of an undertaking incurred during the eligible period which are not covered by the profit contribution (revenues minus variable costs) during the same period and which are not covered by other sources, such as insurance, temporary support measures covered by the Temporary Framework or support from other sources.[12] Moreover, the Italian authorities confirm that the losses of undertakings from their profit and loss statements during the eligible period[13] are considered to constitute uncovered fixed costs.

c) The losses may be forecasted by the beneficiaries, while the final amount of aid is determined after realisation of the losses on the basis of audited accounts, and if not available[14] or on the basis of tax accounts[15]. The beneficiary must confirm that the forecasted uncovered fixed costs exceed the amount of aid applied for. The Italian authorities commit to recover any payment exceeding the final amount of the aid.

d) The aid intensity shall not exceed 70% of the uncovered fixed costs, except for micro and small companies (within the meaning of Annex I of the General Block Exemption Regulation), where the aid intensity shall not exceed 90% of the uncovered fixed costs.

(27) The Italian authorities also explain that they will further ensure verification of the amount of turnover decline immediately on the basis of tax accounts. In addition, the tax authorities will assess the relevant data on the basis of the existing data exchange with the tax payers on a regular basis.[16]

(28) The Italian authorities confirm that the overall nominal value of the aid granted under section 3.1 of the Temporary Framework shall not exceed EUR 2.3 million per undertaking, while the overall nominal value of the aid granted under section 3.12 of the Temporary Framework shall not exceed

[12] For the purpose of this point, costs refer to fixed and variable costs: the former are incurred independently of the level of output, while the latter are incurred depending on the level of output.

[13] One-off impairment losses are not included in the calculation of the losses under this provision.

[14] Two conditions are cumulatively fulfilled to be able to conclude that there is no such availability: the undertakings are not legally obliged to establish audited accounts and they do not establish such accounts.

[15] In order to be able to double-check the information self-declared by the beneficiaries, the Italian Revenue Agency has the power to access internal databases (previous tax returns, periodic VAT liquidations, e-invoicing that includes information on issued and received invoices for any period, public register of contracts) and databases held by other public administrations (for instance, INPS - the national institute for social security contributions - and Chambers of Commerce databases). This will allow verification of the costs incurred by the beneficiary in a relevant eligible period indicated in the self-declaration. These costs are compared with the revenues of the same period (information taken from the e-invoicing database).

[16] Italy explained that electronic invoicing and electronic transmission of receipts (for transactions not subject to invoicing), the periodic VAT returns, together with the data provided by the National Institute for Social Security (INPS) allow the tax administration to verify the decrease in turnover in the eligible period compared to that achieved in the reference period.

EUR 12 million per undertaking[17]. All figures used must be gross, that is, before any deduction of tax or other charges.

(29) The Italian authorities commit that if aid granted under the measure exceeds the total amount eligible under sections 3.1 and 3.12 cumulatively, it will be recovered, with recovery interest, if there is no voluntary recovery.

(30) The Italian authorities confirm that aid to undertakings active in the primary production of agricultural products[18] is not fixed on the basis of the price or quantity of products put on the market. The Italian authorities confirm that aid to undertakings active in the fishery and aquaculture sector[19] does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014[20].

(31) The Italian authorities confirm that where the beneficiaries are undertakings active in the processing and marketing of agricultural products, the aid is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.

(32) The Italian authorities confirm that where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, it will be ensured, by means of separation of accounts, that for each of these activities the relevant ceiling is respected and that the overall maximum amount of EUR 2.3 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23(a) of the Temporary Framework, the overall maximum amount of EUR 345 000 or EUR 290 000 will not be exceeded per undertaking.

[17] Aid granted on the basis of schemes approved under this section that has been reimbursed before granting new aid under this section shall not be taken into account in determining whether the relevant ceiling is exceeded.

[18] As defined in Article 2(5) of Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1.

[19] Commission Regulation (EC) No (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector, OJ L 90, 28.6.2014, p. 45.

[20] Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector, OJ L 90, 28.6.2014, p. 45.

2.8. Cumulation

(33) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[21] or the GBER[22] provided the provisions and cumulation rules of those Regulations are respected.

(34) The Italian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

(35) The Italian authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.

(36) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, will be respected. Aid granted under the measure and/or other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded.

(37) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.12 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 87(d) of that framework, will be respected.

---

[21] Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8)

[22] 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 of 26.6.2014, p. 1; Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1; and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 369, 24.12.2014, p. 37.

(38) The Italian authorities confirm that aid granted under section 3.12 of the Temporary Framework shall not be cumulated with other aid for the same eligible costs.

2.9. Monitoring and reporting

(39) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 and EUR 10 000 in the primary agriculture and in the fisheries sectors granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[23]).

3. ASSESSMENT

3.1. Lawfulness of the measure

(40) By notifying the measure before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU. In this respect, the legal basis includes a clause subordinating the entry into force of the measure to a prior approval by the Commission pursuant to Article 108(3) TFEU.

3.2. Existence of State aid

(41) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(42) The measure is imputable to the State, since it is granted by the Ministry of Economy and Finance and administered by the Italian Revenue Agency (recital (11)) and it is based on Article 5 of Decree Law of 27 January 2022, n. 4 (recital (10)). It is financed through State resources, since it is financed by public funds.

(43) The measure confers an advantage on its beneficiaries in the form of tax advantages (recital (9)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(44) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the tourism sector and operators involved in the operation of swimming pools identified by ATECO code 93.11.20, excluding the financial sector (recital (15)).

[23] Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014. For tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.

(45) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(46) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

(47) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(48) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".

(49) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that "*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*". The Commission concluded that "*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*".

(50) The measure aims at facilitating the access of undertakings to finance at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(51) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. Furthermore, the measure has been designed to meet the requirements of specific categories of aid ("*Aid in the form of limited amount of aid*" and "*Aid in the form of support for uncovered fixed costs*") described in sections 3.1 and 3.12 of the Temporary Framework.

3.3.1. Compatibility of the measure under Section 3.1 of the Temporary Framework

(52) The Commission considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework. In particular:

- The aid takes the form of tax advantages (recital (9)).

  The overall nominal value of the tax advantages shall not exceed EUR 2.3 million per undertaking (see recital (28)); all figures used must be gross, that is, before any deduction of tax or other charges. If the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point 22(a) of that framework, will be respected (recital (36)) The measure therefore complies with point 22(a) of the Temporary Framework.

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (12). The measure therefore complies with point 22(b) of the Temporary Framework.

- Aid may not be granted under the measure to medium[24] and large enterprises that were already in difficulty on 31 December 2019 (recital (16)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid[25] or restructuring aid[26] (recital (16)). The measure therefore complies with point 22(c)bis of the Temporary Framework.

- Aid will be granted under the measure no later than 30 June 2022 (see recital (14)). The tax liability in relation to which that advantage is granted must have arisen no later than 30 June 2022. The measure therefore complies with point 22(d) of the Temporary Framework.

- Aid granted to undertakings active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned (see recital (31)). The measure therefore complies with point 22(e) of the Temporary Framework.

- The overall nominal value of the aid does not exceed EUR 345 000 per undertaking active in the fishery and aquaculture sector or EUR 290 000 per undertaking active in the primary production of agricultural products (recital (32)). The measure therefore complies with point 23(a) of the Temporary Framework.

---

[24] As defined in Annex I to 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, p. 1.

[25] Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

[26] Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

- Aid granted to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market (recital (30)). The measure therefore complies with point 23(b) of the Temporary Framework.

- Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (30)). The measure therefore complies with point 23(c) of the Temporary Framework.

- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, the Italian authorities will ensure, by means of separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 2.3 million is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23(a) of the Temporary Framework, the overall maximum amount of EUR 345 000 is not exceeded per undertaking (recital (32)). The measure therefore complies with point 23bis of the Temporary Framework.

3.3.2. Compatibility of the measure under Section 3.12 of the Temporary Framework

(53) The Commission considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meet all the conditions of the Temporary Framework. In particular:

- Aid is granted under the measure no later than 30 June 2022 and covers uncovered fixed costs incurred during the period between 1 January 2022 and 31 March 2022, or parts of that period (recital (18)). The measure therefore complies with point 87(a) of the Temporary Framework.

- Aid is granted under the measure on the basis of a scheme to undertakings that suffer a decline in turnover during the eligible period of at least 50% compared to the same period in 2019 (recital (19)). The measure therefore complies with point 87(b) of the Temporary Framework.

- Uncovered fixed costs are defined under the measure in accordance with point 87(c) of the Temporary Framework and the aid intensity will not exceed 70% of the uncovered fixed costs, except for micro and small companies, where the aid intensity will not exceed 90% of the uncovered fixed costs (recital (20)). The losses of undertakings from their profit and loss statements during the eligible period[27] are considered to constitute uncovered fixed costs. The aid under this measure may be granted based on forecasted losses, while the final amount of aid will be determined after realisation of the losses on the basis of audited accounts or, in certain

[27] One-off impairment losses are not included in the calculation of the losses.

cases identified in recital (26), on the basis of tax accounts. The Italian authorities have provided a justification explaining that the tax accounts are in specific cases sufficient to check the existence of losses in due time (recital (26)). Any payment exceeding the final amount of the aid will be recovered (recital (26)). The measure therefore complies with point 87(c) of the Temporary Framework.

- The aid takes the form of tax advantages (recital (9)). The overall nominal value of the tax advantages will not exceed EUR 12 million per undertaking; all figures used are gross, that is, before any deduction of tax or other charges (recital (28)). The measure therefore complies with point 87(d) of the Temporary Framework.

- The aid under the measure is not cumulated with other aid for the same eligible costs (recital (38)). The measure therefore complies with point 87(e) of the Temporary Framework.

- Aid is not granted under the measure to medium[28] and large enterprises that were already in difficulty on 31 December 2019 (recital (16)). Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid[29] or restructuring aid[30] (recital (16)). The measure therefore complies with point 87(f) of the Temporary Framework.

(54) The Italian authorities confirm that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (7)).

(55) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (39)). The Italian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (33) to (38)).

(56) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it

[28] As defined in Annex I to 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, p. 1.

[29] Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

[30] Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

meets all the relevant conditions of sections 2, 3.1 and 3.12 of the Temporary Framework.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION