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**Subject: State aid No. SA.36027 (2013/N) – Italy**  
**Aid scheme for the compensation of damage caused by future natural disasters in Valle d'Aosta (all sectors except agriculture, fisheries and aquaculture)**

Sir,

**1. PROCEDURE**

- (1) On 4 January 2013 the Italian authorities notified a disaster aid scheme for elimination of consequences of future natural disasters in the Region Valle d'Aosta. The notification was registered under SA.36027 (2013/N).
- (2) By letter dated 25 February 2013 the Commission services requested further information, which was submitted by the Italian authorities on 25 March 2013.

**2. DESCRIPTION OF THE AID**

**2.1. Objective and geographic scope**

- (3) The notified aid measure aims to make good the damage caused by future natural disasters in the whole territory of the Region Valle d'Aosta, Italy.

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- (4) The scheme shall cover only the following categories of future natural disasters: earthquakes, landslides, floods and avalanches. For all other categories of future natural disasters or exceptional occurrences in the Region Valle d'Aosta, the Italian authorities commit to proceed with an individual notification of the compensation measures to the Commission.

## **2.2. Legal basis**

- (5) The notified scheme is based on the same general framework law on the intervention of the public authorities in case of natural disasters in the Region Valle d'Aosta which was also the basis for the previous State aid scheme N 433/2000<sup>1</sup>, as amended by scheme N 394/2005<sup>2</sup>, which expired on 31 December 2011:

- *Legge regionale 18 gennaio 2001, n. 5 "Organizzazione delle attività regionali di protezione civile"*

- (6) The specific State aid provisions (aid to make good the damage caused by natural disasters) are contained in Chapter V of this Regional Law:

- Article 19 covering interventions for public buildings.
- Article 20 covering compensation to productive activities.
- Article 21 covering compensation for the agricultural sector.
- Article 22 stipulating that compensation can be awarded in the form of grants for damage suffered to buildings and other material assets. The precise application of the rules is delegated to specific administrative acts.
- Article 23 excluding cumulation of aid under this scheme with other aid for the same eligible amounts, and excluding compensation for economic disadvantages suffered by undertakings.
- Article 24 defining procedures to be adopted in case of insured assets.
- Article 25 specifying that the regional administration has to adopt the implementing acts for Articles 20, 21 and 22.

- (7) The measure will be implemented on the basis of the following administrative acts of the regional authority:

- *Delibera di Giunta regionale n. 2377 del 12 luglio 2004*, defining the procedure to apply for a contribution for damage suffered as a consequence of a natural disaster.
- *Delibera di Giunta regionale n. 2378 del 12 luglio 2004*, defining criteria and modalities to estimate the damage.

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<sup>1</sup> Aid scheme for the emergency planning for natural disasters in Valle d'Aosta, approved with Commission decision of 29.11.2000 (OJ C 71, 3.3.2001, p. 20).

<sup>2</sup> Prolongation of aid scheme for the emergency planning for natural disasters in Valle d'Aosta, approved with Commission decision of 18.11.2005 (OJ C 79, 1.4.2006, p. 26).

- *Delibera di Giunta regionale n. 3509 del 11 ottobre 2004*, defining criteria and modalities to estimate the damage to property suffered by undertakings (pursuant to Articles 20, 21 and 22 of Regional Law n. 5 of 18 January 2001).
- *Delibera di Giunta regionale n. 2705 del 2 ottobre 2009*, limiting to "*de minimis*" the granting of aid under the scheme for all events or natural disasters not notified to the Commission, in accordance with the requirements of Commission Regulation (EC) No. 1998/2006<sup>3</sup>.

### **2.3.Duration**

- (8) Compensation for damage can be awarded as from the approval of the measure by the Commission. The scheme will expire on 31 December 2018.

### **2.4.Beneficiaries**

- (9) Aid under the present scheme aims at all enterprises in all sectors, with the exception of undertakings active in the fisheries and aquaculture sector covered by the Guidelines for the examination of State aid to fisheries and aquaculture<sup>4</sup>, and of undertakings active in the production, processing and marketing of agricultural products listed in Annex I of the TFEU and the part of the forestry sector covered by the Community Guidelines for State aid in the agriculture and forestry sector 2007 to 2013<sup>5</sup>.
- (10) The legal framework on which the notified scheme is based also covers financial assistance to public entities, in particular local authorities, and private persons who are not commercially active. This assistance is excluded from the scope of the notification.
- (11) Based on the experience from previous years, the number of potential beneficiaries of the scheme is estimated by the Italian authorities to be within the range of 51 up to 100 entities, but this number may increase depending on the number of enterprises affected by natural disaster.

### **2.5.Budget and financing**

- (12) Financing is only made available in the event of actual damage. On the basis of previous experience, the Italian authorities consider that the budget of the scheme is EUR 1.5 million. This amount could be increased depending on the seriousness of the actual occurrence, in which case the budget will be proportional to the size of the damage and the impact of the disaster on the local economy and social fabric. The Italian authorities foresee the creation of

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<sup>3</sup> Commission Regulation (EC) No. 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (OJ L 379, 28.12.2006, p. 5).

<sup>4</sup> Guidelines for the examination of State aid to fisheries and aquaculture (OJ C 84, 3.4.2008, p. 10).

<sup>5</sup> Community guidelines for State aid in the agriculture and forestry sector 2007-2013 (OJ C 319, 27.12.2006, p. 1).

an annual reserve of EUR 50 000, with a total amount set aside of EUR 300 000 over six years (to be used for all types of compensations, without distinction), to be financed from resources of the budget of the Autonomous Region Valle d'Aosta.

## **2.6. Eligible costs**

- (13) The measure treats as eligible costs only costs for material damage to property caused by natural disasters. Aid may be provided for damage to buildings, machinery, equipment and stocks. The assessment of damage to property is carried out by licensed professionals, in accordance with a predefined pricing methodology determined in Administrative Acts of the concerned Region (so-called *Elenco Prezzi Regionali*), and taking into account the assets' depreciation. The depreciation criteria are pre-defined in one of the legal bases (DGR 3509/2004).
- (14) Aid to compensate economic disadvantage, such as incurred losses and foregone revenues, is excluded from the scope of the present aid scheme.

## **2.7. Form of aid and aid intensity**

- (15) Aid under the present scheme is awarded in the form of direct grants.
- (16) The total aid per beneficiary cannot exceed the material damage incurred. The aid intensity is expressed as a percentage of the eligible costs and the scheme foresees that the maximum aid intensity for compensation of damage will not exceed 70 % of the eligible costs. This intensity is reduced to 40 % in case the damaged asset is not restored and the activity is not resumed. The maximum amount of aid that can be granted to a single beneficiary under this scheme is EUR 500 000. In case damage is wholly or partly compensated by insurance companies, the aid to be disbursed from the notified scheme shall be accordingly reduced in order to avoid that the compensation exceeds 100 % of the assessed damage.

## **2.8. Cumulation**

- (17) The level of damage is determined for each individual case. The Italian authorities declare that cumulation with other aid is excluded under this scheme and that, in any case, the amount of the compensation received cannot exceed the total damage suffered from the natural disaster, and the overall amount of compensation received by an individual beneficiary from any public funds combined with insurance payments will not exceed 100 % of the assessed damage in any circumstances.

## **2.9. Determination of a natural disaster**

- (18) In the event of a natural disaster as covered by the current scheme (earthquake, landslide, flood or avalanche), Article 12 of Regional Law n. 5 of 18 January 2001 specifies that, on the basis of a proposal of the regional service

competent for civil protection<sup>6</sup>, the President of the Regional Administration can declare by decree the existence of the exceptional natural disaster, and determine the area affected by the event. This decree is communicated to the national structure responsible for civil protection ("Protezione Civile"), and to municipalities affected by the natural disaster. The assessment for each event takes into account criteria such as the territorial extension, the affected areas, the number of subjects concerned and the amount of damage. If a particular event is declared a natural disaster at the national level by the Presidency of the Council of Ministries, a national scheme will apply. In this case, the regional scheme may also apply, provided the President of the Regional Administration declares the existence of the exceptional natural disaster, and provided that cumulation of aid under the schemes is excluded in order to avoid that compensation exceeds 100 % of the assessed damage.

#### **2.10. Administration of the scheme and mechanism of aid provision**

- (19) The aid is to be granted and paid out by the Autonomous Region Valle d'Aosta. The scheme is managed by the civil protection office of the same administration. In case of a particularly serious event, an *ad hoc* structure for the management of the scheme could be created.
- (20) Aid can only be granted upon application of the potential beneficiary to the responsible administration. Within 90 days from the decree of the President of the Regional Administration declaring the existence of the natural disaster (see recital (18) above), eligible beneficiaries can present their request for compensation. The procedure for paying out the aid is to be completed within two years from the deadline for applying for the compensation. The applicants must enclose to the request for support under the scheme the certified statement indicating the damaged assets and the amount of damage suffered as a consequence of the natural disaster. In order to receive the payment, the beneficiary also has to present fiscal proof of all payments for the restoration works.

#### **2.11. Outstanding recovery orders**

- (21) The Italian authorities have confirmed that they will suspend the payment of any aid under the notified aid scheme to any undertaking that has benefited from earlier unlawful aid declared incompatible by a Commission Decision, until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

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<sup>6</sup> The regional office competent for civil protection is part of the Presidency of the Region Valle d'Aosta as from 1983. When a natural disaster occurs, this office gathers information from local administrations for a preliminary assessment of the event. At the same time, this office requests a technical report on the exceptional nature of the event to a regional functional agency (*Centro funzionale regionale*), which has a detection network for the collection of meteorological data and water levels. The regional functional agency is part of a network of regional centres created by Law n. 267/1998, which provides for the creation of a system of monitoring centres in order to rationalise the collection, monitoring and diffusion of data.

## **2.12. Information and reporting obligations**

- (22) The Italian authorities committed to abide by the following reporting obligations, providing all required information:
- Within a delay of fifteen days from the natural disaster, the Italian authorities will send to the Commission a report about the concrete case of application. In this context, information has to be submitted on the basis of which the presence of a natural disaster within the meaning of Article 107(2)(b) of the TFEU can be proven.
  - Within 15 months from the event, the Italian authorities will send a report on the areas and the number of subjects affected by the natural disaster.
  - Within 30 months from the event, the Italian authorities will send a report on the aid paid out.

## **2.13. Confidentiality**

- (23) The Italian authorities have indicated that the notification does not contain any confidential information which should not be disclosed to third parties.

## **3. ASSESSMENT OF THE MEASURE**

### **3.1.Existence of aid**

- (24) The compensation is provided through State resources within the meaning of Article 107(1) of the TFEU. Since the compensation will be granted to a limited number of undertakings, the measure is considered to be selective and to confer an advantage which may distort or threaten to distort competition. As the scheme covers sectors and undertakings involved in trade between Member States, there is a risk that the aid could affect such trade. The proposed aid measure therefore constitutes State aid within the meaning of Article 107(1) of the TFEU and Article 61(1) of the EEA Agreement.

### **3.2.Legality of aid**

- (25) The Italian authorities have fulfilled their obligation according to Article 108(3) TFEU by notifying the aid measure before putting it into effect. The Commission takes note of the fact that the scheme will enter into force only after approval by the Commission.

### **3.3.Compatibility of aid**

- (26) The Commission has examined the notified scheme pursuant to Article 107(2)(b) TFEU. This assessment has led to the following conclusions:

#### ***3.3.1. Damage caused by natural disasters***

- (27) Article 107(2)(b) TFEU states that aid to make good the damage caused by natural disasters shall be compatible with the internal market.

- (28) For the time being no common definition of a “natural disaster” exists. However, the Community guidelines for State aid in the agriculture and forestry sector 2007-2013 provide in paragraph 121 that earthquakes, avalanches, landslides and floods may constitute natural disasters. The categories of natural disasters covered by the scope of application of the notified scheme are in line with this.
- (29) Furthermore, the Commission has already confirmed in several decisions that earthquakes<sup>7</sup>, landslides<sup>8</sup>, floods<sup>9</sup> and avalanches<sup>10</sup> constitute natural disasters in the meaning of Article 107(2)(b) of the TFEU.
- (30) The Italian authorities are reminded that the scheme can only be applied to natural disasters covered by Article 107(2)(b) TFEU, which has to be interpreted restrictively and in accordance with the standards established by the practice of the Commission and the jurisprudence of the European Court of Justice.
- (31) The risk that on the basis of the notified scheme aid will be paid out in situations not constituting natural disasters in the meaning of Article 107(2)(b) of the TFEU can be excluded. In this respect, the determination of the occurrence of a natural disaster is based on data and information collected by a predefined structure in charge of collecting, monitoring and transmitting data as part of a national detection network. Moreover, several institutions are involved in the determination of the existence of a natural disaster.
- (32) Finally, the Italian authorities committed to inform the Commission services about every concrete case of application of the notified scheme within a delay of fifteen days from the event. In particular, the Italian authorities have to submit information on the basis of which the presence of a natural disaster in the meaning of Article 107(2)(b) of the TFEU can be proven. Should the

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<sup>7</sup> State aid N 174/A/2004 – Italy – Aid scheme for compensation for damage caused by natural disasters in Molise; State aid N 459a/2009 – Italy – Aid scheme for compensation for damage caused by the earthquake in Abruzzo of 6 April 2009 (OJ C 278, 18.11.2009, p.3), State aid SA.35413 (2012/NN) - Italy - Aid to compensate for damage caused by the earthquakes of May 2012 in Emilia-Romagna, Lombardy and Veneto.

<sup>8</sup> State aid N 364/2010 – Poland – Aid scheme for compensation of damage caused by the floods in Poland – amendment to State aid N 235a/2010 (OJ C 283, 20.10.2010, p. 4); State aid N 235a/2010 – Poland – Aid scheme for compensation for damage caused by the floods in Poland in May and June 2010 (OJ C 283, 20.10.2010, p. 2).

<sup>9</sup> State aid SA.33180 – Poland – Aid scheme for compensation for damage caused by floods in Poland (OJ C 23, 28.1.2012, p. 6); State aid N 359/2010 – Germany – Disaster Aid Scheme "Regelung Hochwasserhilfe 2010 Sachsen" (OJ C 283, 20.10.2010, p. 3); State aid N 386a/2009 – Germany – Scheme on granting of State aid to compensate for damage caused by natural disasters in Rheinland-Pfalz (OJ C 25, 2.2.2010, p. 11); State aid SA.32162 – Slovenia – Aid to compensate damages from floods in September 2010 (OJ C 170, 10.6.2011, p. 3); State aid SA.32683 – Italy – Aid to compensate damages caused by 2010 floods in Veneto region (OJ C 236, 12.8.2011, p. 2).

<sup>10</sup> State aid N 394/2005 – Italy – Prolongation of the emergency planning for natural disasters (N 433/2000) (OJ C 79, 1.4.2006, p. 26.); State aid N 564b/2004 – Austria – Guidelines of the Land Niederösterreich for damages caused by natural disasters (OJ C 270, 29.10.2005, p. 42).

situation arise that the given event does not constitute a natural disaster, this information mechanism would still provide the opportunity for the Commission to take appropriate actions.

### **3.3.2. Mechanism to rule out overcompensation**

- (33) In order to be compatible with Article 107(2)(b) TFEU the aid must be proportional to the damage caused by the natural disaster and the compensation for damage to assets claimed for by the beneficiaries must be a proven direct consequence of the former. Aid must not result in overcompensation of damage; it should only make good the damage caused by the natural disaster.
- (34) The objective of the present scheme is to restore the situation of the affected entities to the situation as from before the disaster. The compensation is based on the renovation or replacement cost of the affected property and not on the up-graded value. Furthermore, the beneficiaries can only claim compensation for damage which is a proven direct consequence of the natural disaster and the aid per beneficiary is limited to the material damage incurred.
- (35) To determine the damage and the clear link to the natural disaster, the Italian authorities require that the beneficiaries produce, together with the request for aid, a certified statement containing the material value of the damage resulting from the natural disaster, as assessed after the damage has been incurred. On the basis of the certified statement, the authority granting the aid will ascertain the material damage suffered from the natural disaster.
- (36) Aid under the present scheme and compensation from other sources, including insurance payments, may not exceed the value of the damage to the individual beneficiary. Overcompensation is therefore ruled out.
- (37) On the basis of the above, the Commission finds that the scheme compensates damage caused by the natural disaster only and that it introduces an appropriate mechanism to ensure that there will be no overcompensation.

### **3.3.3. Conclusions**

- (38) On the basis of all these considerations, the Commission takes the view that the notified scheme can be applied to damages caused by the above mentioned categories of future natural disasters, i.e. earthquakes, landslides, floods and avalanches.
- (39) In line with the foregoing assessment, the Commission concludes that the aid measure is compatible with the internal market pursuant to Article 107(2)(b) of the TFEU.



**4. DECISION**

- (40) The Commission has accordingly decided that the notified scheme on the granting of State aid for the elimination of consequences of future natural disasters in Valle d'Aosta is compatible with the internal market pursuant to Article 107(2)(b) of the TFEU.
- (41) The Commission reminds the Italian authorities that, in accordance with Article 108(3) of the TFEU, all plans to alter or change this scheme have to be notified to the Commission.
- (42) The Commission notes that the Italian authorities have confirmed that the notification does not contain confidential information.

Yours faithfully,

For the Commission

*Joaquín ALMUNIA*  
Vice-President