



EUROPEAN COMMISSION

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***Embargo VISTA illimité(\*)***

**Subject: State Aid / Italy (Trento)  
SA.42520 (2015/N)  
Criteria and procedures for the implementation of art. 24 (support for mountain grazing), paragraphs 2 bis, 2 ter, 2 quater and 2 quinquies, of Provincial Law n. 4 of 28 march 2003 (Provincial law on agriculture)**

Sir,

The European Commission ("the Commission") wishes to inform Italy that, having examined the information supplied by your authorities on the State aid scheme referred to above, it has decided not to raise any objections to the relevant scheme as it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission has based its decision on the following considerations:

**1. PROCEDURE**

- (1) By letter of 10 July 2015, registered by the Commission on the same day, Italy notified, according to Article 108(3) TFEU, the above mentioned aid scheme. The Commission sent requests for additional information to the Italian authorities on 2 September and 21 December 2015 which the Italian authorities provided by letters of, respectively, 11 November 2015 and 18 January 2016.

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*(\*) Ce timbre porte sur l'ensemble des documents qui composent le dossier.*

## **2. DESCRIPTION**

### **2.1. Title**

- (2) Criteria and procedures for the implementation of art. 24 (support for mountain grazing), paragraphs 2 bis, 2 ter, 2 quater and 2 quinquies, of Provincial Law n. 4 of 28 march 2003 (Provincial law on agriculture).

### **2.2. Objective**

- (3) The aim of the notified State aid scheme is to improve the welfare of young bovine animals and thus to contribute to improving animal health.

### **2.3. Legal basis**

- (4) The legal basis of the scheme consists of:

- Provincial law n. 4 of 28 march 2003 "Sostegno all'economia agricola, disciplina dell'agricoltura biologica e della contrassegnazione di prodotti geneticamente non modificati", as amended and integrated, and in particular article 24 "Interventi di sostegno dell'attività di alpeggio", paragraphs 2 bis, 2 ter, 2 quater and 2 quinquies;
- Deliberazione della Giunta Provinciale sui "Criteri e modalità per l'attuazione dell'art. 24 (Interventi di sostegno dell'attività di alpeggio), commi 2 bis, 2 ter, 2 quater e 2 quinquies, della legge provinciale 28 marzo 2003, n. 4 (Legge provinciale sull'agricoltura) a partire dall'anno 2016" and its annex A.

### **2.4. Duration**

- (5) From the date of adoption of the present decision of the Commission until 31 December 2020. For the year 2015 the aid is granted in accordance with Regulation (EU) No. 1408/2013<sup>1</sup>.

### **2.5. Budget**

- (6) Overall budget is EUR 10 000 000.

### **2.6. Beneficiaries**

- (7) The beneficiaries are undertakings active in the primary agricultural production, which are the owners of the grazed animals and voluntarily undertake to carry out the animal welfare commitment. They shall have their seat or a subsidiary in the Trento province territory and be listed in the register of the Provincial authority for health services of Trento at the latest at the moment of the payment of the aid.
- (8) Beneficiaries are small and medium enterprises in conformity with the definition of annex I of Regulation (UE) No 702/2014<sup>2</sup> and active farmers within the meaning of

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<sup>1</sup> 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).

<sup>2</sup> 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 on the Functioning of the European Union (OJ L 193, 1.7.2014, p. 1).

article 9 of Regulation (EU) No 1307/2013<sup>3</sup> and of article 3, paragraph 2, of the implementing Ministerial Decree n. 6513 of 18 November 2014. The estimated number of beneficiaries is between 501 and 1000.

- (9) The scheme will not apply to undertakings in difficulty within the meaning of point 35(15) of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020<sup>4</sup> (in the following the "Guidelines"). Moreover, the payment of the notified aid will be suspended if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission decision (either concerning an individual aid or an aid scheme), until that beneficiary has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid including the corresponding recovery interest.

## **2.7. Description of the aid scheme**

- (10) The aid scheme will partially compensate the additional costs resulting from the animal welfare commitment undertaken on a voluntarily basis in the bovine sector providing upgraded standards in the areas of outdoor access and of water and feed in accordance of the natural needs of animal husbandry.
- (11) The Italian authorities indicated that the measure provided for in the notified scheme is not included in the approved rural development program of the Autonomous Province of Trento for the period 2014-2020 (in the following "Trento's RDP"). Nonetheless the notified scheme is designed in a consistent manner with Regulation (EU) No 1305/2013<sup>5</sup> and fits into and is consistent with the rural development policy because it contributes to priority 3 "Promoting food chain organisation, including processing and marketing of agricultural products, animal welfare and risk management in agriculture" and, since one condition provided for in the scheme is to bring the animals to alpine grazing whose managers are committed to respect the agro-environmental commitments undertaken under measure 10.1.2 of Trento's RDP, also to priority 4 "Restoring, preserving and enhancing ecosystems related to agriculture and forestry", and in particular to focus area 4C "Improve soil management and prevent soil erosion" through the rational use of pastures.
- (12) The measure has similarities with measure 10.1.2 (Management of grazing area-grazing premium) of the Trento's RDP, especially in terms of the conditions of the commitments, with the main differences being the beneficiaries of the aid (animal owners instead of the managers of pastures, which in the greater majority of the cases are different entities) and the structure of the remunerated additional costs taken into consideration. At any rate there is no overlapping of the two types of aid since the grazing premium paid under measure 10.1.2 is calculated per hectare and it compensates the additional costs originating from the agro-environmental commitments undertaken in relation to the management of the grazing area, while

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<sup>3</sup> Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

<sup>4</sup> OJ C 204, 1.7.2014, p. 1.

<sup>5</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

the aid provided for in the present scheme is based on the number of animals taken to pastures and it compensates additional costs relating to animal welfare commitments and not to pastures management.

(13) In the Trento province there are 878 farms operating in the livestock sector. The animals covered by the scheme are bred and kept for farming purposes. Bovine animals are breeds specialized in milk production or dual purpose breeds (apt for the production of milk and meat). Because of the configuration of the land (the whole provincial territory is designated as mountain area) and because the flat areas are kept for forage crops, in most cases bovine animals are kept indoor and only very few stables have small external areas accessible for animals, but they do not qualify as grazing areas. The ordinary practice is thus keeping animals in the stable. The young animals taken to pastures are approximately 12 000, that represents 70% of the young cattle bred in the Trento province.

(14) The animal welfare commitment that animal owners will voluntarily undertake for a renewable period of one year consists in practising summer grazing for minimum 70 days/year for at least 70% of the young heifers of the eligible age (the calculation basis of this percentage does not take into account male animals). During the grazing period animals must be supervised regularly and kept in conditions respecting the standards regarding hygiene and animal protection.

(15) The aid beneficiaries have also to guarantee that the grazing activity of their animals takes place only on pastures located on the territory of Trento's province or on the territory of Bolzano's province in case they are owned by municipalities or ASUC ("Amministrazioni separate di uso civico") of the Trento province whose managers respect the agro-environmental commitments undertaken under measure 10.1.2 of the Trento's RDP, more precisely:

- adopt appropriate grazing techniques (e.g. guided grazing);
- ensure that the grazing animals are continuously accompanied by dedicated staff to perform the guided grazing;
- keep weeds under control with mechanical means;
- respect the prohibition of using herbicides and desiccants;
- graze animals for at least 70 days on the alpine grazing;
- comply with stocking density of minimum 0,4 LU/ha and maximum 1,6 LU/ha of grazing area;
- respect the prohibition of use of chemical fertilizers and use only the livestock manure produced on the pasture as fertilizer;
- keep a loading/unloading register for the grazing animals to have proper information on the number of grazing animals and on the duration of the grazing.

(16) The relevant statutory management requirement of Annex II to Regulation (EU) No 1306/2013<sup>6</sup> applicable to the notified scheme is Council Directive 98/58/EC of 20

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<sup>6</sup> Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

July 1998 concerning the protection of animals kept for farming purposes<sup>7</sup> (SMR 13). The annex of Directive 98/58/EC establishes mandatory minimal conditions under which animals are bred or kept concerning, among others, freedom of movement (where an animal is continuously or regularly tethered or confined, it must be given the space appropriate to its physiological and ethological needs in accordance with established experience and scientific knowledge) and feed and water provision (all animals must have access to feed at intervals appropriate to their physiological needs and access to a suitable water supply). There is just one relevant mandatory standard specific for keeping animals on pasture according to which animals not kept in buildings shall, where necessary and possible, be given protection from adverse weather conditions, predators and risks to their health.

- (17) The commitment, covered by the notified aid, to adopt the grazing practice guarantees better animals' conditions than those provided for in the relevant provisions of the annex of Directive 98/58/EC and described in the previous recital, as it ensures freedom of movement in the natural environment, free access to water and food and diet based on fresh fodder without any feed adding. Concerning the protection of animals kept outside, the Italian authorities have confirmed that the pastures are provided with shelters for the grazing animals.
- (18) To keep animals on pasture is generally good for the welfare of the animals. Taking the young animals to the mountain pastures and allowing them free movement for an extended period will reduce the stress caused by the permanent stabling during the winter and the possibilities of joint inflammation and will contribute to a better development of the motor apparatus of the animals. Moreover it enables animals to acquire a bigger resistance to certain diseases thanks to the exposition to UV rays and to the intake of fresh fodder with high presence of medicinal and aromatic herbs. Finally, this activity also favours social intra- and interspecies contacts. Data provided from the provincial association of breeders show that in average grazed animals live longer than animals not brought to the pastures (up to 2-3 years more).
- (19) The Italian authorities confirmed that the aid will be granted for animals that come from undertakings keeping the animals indoor, in loose or fix barn, or that have the possibility to move just outside the stable but not on grazing areas, thus not benefitting from the greater advantages of the grazing activity. Therefore, the aim of the measure is to encourage those undertakings that do not apply the grazing activity yet to introduce such animal welfare practice<sup>8</sup>.
- (20) The Italian authorities affirmed that the growth of a young animal regularly put out to summer grazing is slower owing to the harsher climatic conditions and the adjustments needed to go from the stable to the mountain pasture. On average, this means an estimated delay of six months (180 days) in entry into production as shown from the data (see table 1) concerning the age of heifers at first calving, in areas of the province in which animals are grazed in the summer period and in areas where animals are kept in the stable.

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<sup>7</sup> OJ L 221, 8.8.1998, p. 23.

<sup>8</sup> The Italian authorities have informed that the implementation of this kind of aid since 1990's gave a substantial boost to the grazing practice that was in decline since decades and it allowed an increase of the number of animals taken to pasture over the period 1990-2010, on the total declining number of bovine animals bred in the Trento province over the same period.

Table 1: Average age of cattle at first calving

	days	months	years
Val Primiero	1021	34	2,8
Val Rendena	1027	34	2,8
No grazing activity	818	27	2,2

Source: Provincial breeders' association (that is in charge of keeping the herd books, keeping of calving registers, functional and morphological checks on animals)

- (21) During this period of delay in entry into production of the grazed animals, the farmer forgoes the income generated by the milk sale but incurs also a lower cost of breeding the heifers compared to the lactating cattle. Considering a daily average milk production of 22,8 kg (data provided by the Provincial breeders' association), the following table 2 summarises the costs savings and the income foregone per head of stock during the 180 days of gap in entry into production:

Table 2

	Entry in production at 1000 days of age (grazed animals)	Entry in production at 820 days of age (stables animals)
Cost of breeding (animal feed, hay, straw)	3 EUR/day * 180 days= -540 EUR	7 EUR/day * 180 days= -1260 EUR
Milking cost	0	14 EUR/h cost of worker (from collective contract of agricultural workers) * 0,15 h/day (average milking time) * 180 days = - 378 EUR
Revenue from milk sale	0	+0,5 EUR/kg * 22,8 kg/day*180 days= +2052 EUR
Total	-540 EUR	+414 EUR
Total costs of the delayed entry into production / 3 summer grazing seasons of the animal in the rearing phase	954 EUR/3=318 EUR	

- (22) The aid will cover partial compensation to beneficiaries for the additional costs resulting from the grazing activity. Transaction costs are not covered. The Italian authorities confirmed that the aid amount is fixed on the basis of standard assumptions of additional costs and that the calculations contain only elements that are verifiable, are based on figures established by appropriate expertise, indicate clearly the source of the figures used and do not contain elements linked to investment costs.
- (23) The following tables indicate the comparison in terms of additional costs and costs savings between the “baseline” related to animals kept constantly in the stable and the commitment related to the improvement of animal welfare by bringing the cattle to mountain pastures for at least 70 days per year. More in details, table 3 summarises the additional costs incurred by the breeder sending the young cattle

regularly to mountain pastures. In table 4 are indicated the costs savings related to the management of the stable, due to the absence from the stable of the young cattle during the grazing period.

Table 3 – Additional costs entailed by the grazing commitment compared to the baseline scenario

ADDITIONAL COSTS	Description	Additional costs for the agricultural holdings undertaking the commitment	Cost per head of stock	Source of data
Late entry into production	The growth of a young animal regularly put out to summer grazing is slower owing to the harsher climatic conditions and the adjustments needed to go from the stable to the mountain pasture. On average, this means an estimated delay of six months in its first calving and entry into production (see table 1).	As shown in table 2 the late entry into production implies costs savings and income foregone, with a negative difference of 954 EUR	The cost as calculated is evenly split over the three summer grazing seasons of the animal in the rearing phase 954 €/3=318€	Provincial breeders' association
Transport costs	In the Province of Trento the pastures are very distant from the place where the agricultural holdings are located and are at a much higher altitude (pasture above 1500mt, agricultural holdings at an average altitude of 732mt). They are reachable through narrow and steep forest roads and several trips are needed to transport all the cattle from the holdings to the pastures. The transportation of animals with camions or tractor-trailers is necessary for the distance and in order to avoid running a great risk with the transfer of animals on public roads.	40 € one way, 80 € return  Transport to and back from the pastures with tractor-trailers for 10 heads of stock. Cost= 67,07 €/h x 12 hours / 10 transported heads of stock	70,00 €	Provincial price book rate
Additional costs of insurance	The pastures in the mountain area entail a considerable increase of accidents of animals, particularly because of lightning and fall of animals	The average cost of additional insurance is 20 € per head	20,00 €	Consortium for protection of agricultural producers ("Consorti o difesa produttori agricoli"- CODIPRA)
<b>TOTAL ANNUAL COSTS PER HEAD OF STOCK</b>			<b>408 €</b>	

Table 4 – Costs savings entailed by the grazing commitment compared to the baseline scenario

Comparison of average costs of the holdings in the baseline scenario (keeping animals in the stable for 365 days) and of the holdings benefitting from the aid and keeping animals in the stable for 295 days				
		Without grazing: costs in €/head/365 days	With grazing commitment costs, in €/head/295 days	Difference per animal
Electricity for works in the stable	for milking, ventilation, elimination of animal excrements, light, etc.	40 €	32 €	8 €
Animal feed	195 kg/head per year x 0,27 €/kg	53 €	43 €	10 €
Veterinary costs	for vitamin cure, anti-diarrhoea treatment, hoof care, etc.	65 €	52 €	13€
Animal management in the stable	3 mins of work are calculated per animal per day. If this is multiplied by 365, it results in approx. 20 working hours (with 14€ salary per hour)	280 €	224 €	56 €
Other costs	costs of water, straw or wood chips for litter, costs of maintenance, etc.	40 €	32 €	8 €
Social contribution*	according to statistical data of the Province of Trento, the agricultural enterprises are paying an average 3 589,63€ of social contributions	151 €	151 €	0€
Amortisation*	of machines and farm buildings	474 €	474 €	0 €
Indirect costs*	contributions to associations, banking costs, taxes, telephone costs, other materials, etc.	101 €	101 €	0 €
<b>TOTAL</b>		<b>1 204 €</b>	<b>1 109 €</b>	<b>95 €</b>

\*These costs stay constant even if the animals are sent to the pasture.

(24) The Italian authorities claimed that the impact that the animal welfare measure would have on the sales price of the animal is irrelevant, since normally the sales price of grazing animals is inferior to the price obtained on the sale of animals kept in stable due to the lower weight of grazing animals.

(25) When the 95 EUR of costs savings (see table 4) is subtracted from the 408 EUR additional costs borne by the holdings participating in the measure (see table 3), 313 EUR is obtained as the total extra cost per head of animal, as indicated in table 5 below.

Table 5 - Budgetary comparison between the “baseline” and the commitment connected to the improvement of the animals' welfare

	Holdings in the baseline scenario	Holdings undertaking the animal welfare commitment
Cost of mountain grazing per head stock per season	0	408 EUR
Cost of the animal kept in the stable per year	1 204 EUR	1 109 EUR
Total	1 204 EUR	1 517 EUR



<b>Cost difference</b>		<b>+ 313 EUR</b>
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- (26) Against the 313 EUR of total extra cost per animal originating from the commitment, the notified scheme will provide an annual payment in the form of a direct grant of 150 EUR per grazed eligible animal that will compensate partially the additional costs. The eligible animals, that must be bred in the beneficiary's farm and held at least since the 1<sup>st</sup> of January of the year of reference, are female bovine animals from 7 months to 3 years old or until the first calving. The date of reference for determining the age of the animals is the 30<sup>th</sup> of June of the year of the request. The Italian authorities affirmed that 90% of animals brought to the pasture are older than 7 months.
- (27) The conversion rates of bovine to livestock units (LU) used in the calculations correspond to the rates set out in Annex II of the Commission Implementing Regulation (EU) No 808/2014<sup>9</sup>.
- (28) For none of the animals will the support exceed the maximum of 500 EUR per livestock unit. There will not be any cumulation with the grazing premium (measure 10.1.2 of Trento's RDP) since this measure will compensate different additional costs concerning agro-environmental commitments, related in particular with the pasture management. Since the national scheme does not finance animals under six months, the maximum amount of aid per livestock unit will be as following:

Payments	Bovine animals from 7 months to 2 years (0,6 LU)	Bovine animals over 2 years (1,0 LU)
Animal welfare payment of 150 €/animal/year	250 €/LU	150 €/LU

- (29) The animal's owner may submit an aid application each year for maximum 30 animals of the eligible age-group. In order to receive the support, the applicants will have to introduce an annual request before the commitment period has commenced, in particular between the 1<sup>st</sup> April and the 25 May of the year for which the contribution is requested. The applicants shall submit the filled form available on the website of the Trento Province bearing the following indications: applicant's identification details and size, ASL code (registration number in the register of the Provincial authority for health services), the estimated number of grazed animals and the number of eligible animals, identification and location of the pasture on which the animals will be transferred, start and end date of the commitment and the amount of aid requested. The request can be submitted directly by the single farm or through the provincial breeders' association that shall be expressly delegated to present the request and receive the aid on behalf of its members to which the entire contribution granted will be transferred.
- (30) The aid cannot be cumulated with any other aid received to cover the same eligible costs.

<sup>9</sup> Commission Implementing Regulation (EU) No 808/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 227, 31.7.2014, p. 18).

- (31) As regards the control activities, the Italian authorities explained that the submitted applications are first subject to an administrative check on the declared data to check if the prerequisites concerning the applicants and the location of pastures are met. Following the successful administrative check, the requests are accepted and approved for financing. Subsequently, during the grazing period, yearly controls on the pursuing of the undertaken commitments are carried out on a sample of 6% of applications approved for financing, including on the loading/unloading register for the grazing animals kept by each alpine grazing manager. After the conclusion of the grazing period, for all the accepted requests, the declared data concerning the livestock holdings and the pastures are checked against those included in the national livestock database and also with those obtained from the database of the Provincial authority for health services to verify the commitments undertaken and the respect of the prerequisite of the aid. Finally the payment of the aid is done for all accepted requests that successfully passed the checks.
- (32) The Italian authorities affirmed that the present State aid would undoubtedly have a positive impact on the environment because, during the period of absence of the grazing animal from the stable, the accumulation of livestock manure in the agricultural holdings and, consequently, the productions of nitrates would be reduced, allowing at the same time an extensive use of pastures and an optimal distribution of nitrates. The grazing activity contributes moreover to keep grassland areas and avoiding their afforestation, thus assuring the conservation of biodiversity.

## **2.8. Other commitments**

- (33) The Italian authorities made a commitment to publish the information required under point 128 of the Guidelines by the deadline set out in point 131 of the Guidelines.
- (34) The Italian authorities undertook to adjust the animal welfare commitment subject to the present State aid in case of amendment of the relevant mandatory requirements beyond which the current commitment goes.

## **3. ASSESSMENT**

### **3.1. Existence of aid - Application of Article 107(1) TFEU**

- (35) For Article 107(1) TFEU to apply, the scheme must provide an economic benefit to an undertaking which it would not have received in its normal course of business, the aid must be granted to certain undertakings, the benefit must be granted by a Member State and through State resources and the scheme must be capable of affecting trade between Member States and to distort, or threaten to distort, competition.
- (36) The scheme in question confers an advantage on its recipients. This advantage is granted through State resources and it favours undertakings active in the primary agricultural production in the Trento Province by strengthening their position. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition<sup>10</sup>. In the present case, the Commission considers that the advantage

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<sup>10</sup> Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

granted to the beneficiary strengthens its competitive position, and thus the scheme is liable to distort competition.

(37) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade<sup>11</sup>. The beneficiaries of aid operate on the market of bovine animals, where intra-EU trade takes place. In 2014, the number of bovine animals has exceeded 88 million heads in the EU-28, while intra-EU import has exceeded EUR 2,1 billion for live bovine animals, EUR 9,3 billion for fresh and frozen bovine meat and EUR 15,5 billion for milk and dairy products<sup>12</sup>. The sector concerned is open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the present scheme is liable to distort competition and to affect trade between Member States.

(38) In light of the above, the conditions of Article 107(1) TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article. The aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

### **3.2. Lawfulness of the aid – Application of Article 108(3) TFEU**

(39) The aid scheme was notified to the Commission on 10 July 2015. It has not been implemented yet. Therefore, Italy has complied with its obligation under Article 108(3) TFEU. For the year 2015 the aid is granted in accordance with Regulation (EU) No. 1408/2013 (de minimis) (see recital (5)).

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

#### *3.3.1. Application of Article 107(3)(c) TFEU*

(40) Under Article 107(3)(c) TFEU, an aid may be considered compatible with the internal market, if it is found 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.

(41) For this derogation to be applicable, the aid must fulfil the requirements of the relevant Union State aid legislation. In the agricultural sector, this derogation applies to aid which complies with the Guidelines.

(42) It follows from point 231 of the Guidelines that the Commission will consider aid for animal welfare commitments compatible with the internal market under Article 107(3)(c) TFEU if it complies with the common assessment principles of the Guidelines and with the conditions set out in Section 1.1.5.2 of Part II of the Guidelines.

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<sup>11</sup> See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities*, ECLI:EU:C:1988:391.

<sup>12</sup> Source: Eurostat.

3.3.2. *Application of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020*

(43) As regards the notified aid scheme, Part I, Part II, Chapter 1, Section 1.1.5.2, and Part III of the Guidelines are applicable.

3.3.2.1. Specific assessment according to the category of aid

(44) Based on the information provided in recitals (7) and (8), aid is to be granted to undertakings active in the primary agricultural production who are active farmers and who undertake animal welfare commitments on a voluntarily basis. Therefore, the conditions set out in points 206 and 232 of the Guidelines are met.

(45) The Italian authorities identified the applicable mandatory requirements (recital (16)) and specified the voluntary commitment (recital (17)) which is going beyond mandatory ones confirming that the present notified aid scheme covers only those voluntary commitments. The conditions of point 233 of the Guidelines are therefore complied with.

(46) Pursuant to recitals (10), (17) and (18), the animal welfare commitment included in the notified scheme provides animals with feed and water in accordance with the natural needs of animal husbandry, increased space allowances and freedom of movement, enrichment materials, natural light and outdoor access. In consequence, the requirements of point 234 of the Guidelines are complied with.

(47) The commitment is undertaken by the beneficiaries for a renewable period of 1 year (recital (14)) and thus respect the minimum duration set in point 235 of the Guidelines. Furthermore, since the aid scheme is valid until 31 January 2020 (recital (5)), the maximum duration set in point 235 of the Guidelines is also complied with.

(48) Point 236 of the Guidelines is not relevant for the present aid scheme and therefore not applicable.

(49) The aid will cover compensation to beneficiaries for part of the additional costs resulting from the animal welfare commitment and it will be granted annually (recital (26)). The requirements laid down in point 237 of the Guidelines are therefore complied with.

(50) Since the scheme does not include transaction costs (recital (22)), points 238 and 239 of the Guidelines are not applicable.

(51) In accordance with point 240 of the Guidelines, the aid amount does not exceed the EUR 500/LU maximum aid amount, as illustrated in recital (28).

(52) The Commission notes that, in line with point 724 of the Guidelines, the Italian authorities undertook to adjust the animal welfare commitment subject to the present State aid in case of amendments of the relevant mandatory requirements beyond which the current commitment goes (recital (34)).

(53) Pursuant to point 719 of the Guidelines, the Commission only authorizes schemes of limited duration. Aid schemes other than those benefiting from co-financing under Regulation (EU) No 1305/2013 and its implementing regulation should not apply for more than seven years. It follows from recital (5) that this requirement is met.

(54) On the basis of the above, the Commission considers that the specific requirements regarding the compatibility of aid for animal welfare commitments are fulfilled.

#### 3.3.2.2. Common Assessment Principles

(55) According to points 38, 42 and 231 of the Guidelines, the common assessment principles apply to aid granted in accordance with Article 107(3)(c) TFEU.

(56) As described in recital (3), the objective of the present notified scheme is to improve the health and welfare of young bovine animals. The notified aid scheme thus contributes to a common objective in line with points 43 and 44 of the Guidelines.

(57) As explained in recital (11), the measure provided for in the scheme is not part of Trento's RDP but is designed largely in accordance with the animal welfare measure provided for in the rural development policy and it contributes to two RD priorities. The Commission thus considers that the conditions of point 47 of the Guidelines are met.

(58) As explained by the Italian authorities (recital (32)) the aid will have a positive impact on the environment. Therefore, no negative impact on the environment within the meaning of point 52 of the Guidelines has been identified.

(59) Since the present scheme fulfils the specific conditions laid down in the Guidelines, as analysed above in Section 3.3.2.1, the Commission considers, in line with points 55 and 57 of the Guidelines that the aid is necessary and that it is granted by means of an appropriate instrument to address the objective of common interest.

(60) It follows from recital (29) that work on the relevant activity will only start after the beneficiary has submitted an aid application to the competent authorities and that the aid application includes the elements required under point 71 of the Guidelines. The aid scheme therefore fulfils the requirements of incentive effect in line with points 70 and 71 of the Guidelines.

(61) As described in recital (28) the aid amount allowed is below the maximum aid amount allowed per livestock unit under the applicable point 240, and this is in line with point 84 of the Guidelines. The conversion of bovine animals into LU respects the conversion rates referred to in point 92 of the Guidelines (recital (27)). The aid amount is fixed on the basis of verifiable standard assumptions of additional costs (recitals (22) and (23)) which respect the relevant requirements of point 93 of the Guidelines. Furthermore, the Commission notes that the aid granted under the notified scheme will not be cumulated with any other aid (recital (30)). On this basis, the criterion of proportionality is deemed to be fulfilled.

(62) Since the present scheme fulfils the specific conditions laid down in the Guidelines, as analysed above in Section 3.3.2.1, and does not exceed the relevant maximum aid amount (recitals (28) and (61)), the Commission considers, in line with point 113 of the Guidelines, that the negative effect on competition and trade is limited to the minimum.

(63) The Italian authorities have committed to comply with the transparency requirements set out in point 128 of the Guidelines by the deadline set out in point 131 of the Guidelines (recital (33)).

(64) The Commission notes that the Italian authorities committed to exclude undertakings in difficulty from any support and to suspend the payment of the notified aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission decision (recital (9)) in line with points 26 and 27 of the Guidelines.

(65) In the light of the above considerations, all the relevant provisions of the Guidelines are complied with.

#### **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the notified aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline Italy will be deemed to agree to the publication of the full text of this letter. If Italy wishes certain information to be covered by the obligation of professional secrecy please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

Your request should be sent electronically via the secured e-mail system Public Key Infrastructure (PKI) in accordance with Article 3(4) of Commission Regulation (EC) No 794/2004<sup>13</sup>, to the following address: [agri-state-aids-notifications@ec.europa.eu](mailto:agri-state-aids-notifications@ec.europa.eu).

For the Commission

Phil HOGAN  
Member of the Commission

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<sup>13</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1).