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Subject: State Aid SA.43023 – Italy – New passenger terminal at Lamezia Terme airport

Sir,

1 PROCEDURE

- (1) By electronic notification dated 4 September 2015, the Italian authorities notified to the European Commission a measure concerning the construction of a new passenger terminal at Lamezia Terme airport. The measure was registered under the State aid case number SA.43023.
- (2) The Commission considered the notification incomplete and therefore requested additional information by letter of 4 November 2015. The Italian authorities provided the requested information by letter of 2 December 2015.
- (3) The Commission requested additional information by letter of 2 February 2016. The Italian authorities replied to this request by letter of 1 March 2016. The Commission asked for additional information by letter of 29 April 2016.
- (4) By letter of 25 May 2016, the Italian authorities requested an extension of the deadline for the submission of the additional information requested. By letter of 2 June 2016, the Commission agreed to this request and extended the deadline for the submission of the additional information until 15 June 2016.
- (5) By letter of 15 June 2016, the Italian authorities submitted the requested information.

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2 DESCRIPTION OF THE MEASURE

2.1 Lamezia Terme airport

- (6) Lamezia Terme airport is the main airport in Calabria and one of the most important airports in southern Italy. In 2014, Lamezia Terme airport was classified as the 16th largest national airport in Italy in terms of passenger traffic¹.
- (7) Lamezia Terme Airport is situated on the plain of the same name in the centre of Calabria. It serves mainly passengers from the Calabrian region and to the lesser extent passengers from Basilicata and Salerno provinces. Lamezia Terme airport is connected with scheduled flights to the main Italian airports: Rome, Milan Linate and Malpensa, Bologna, Bergamo, Pisa, Turin and Venice. There are also many international routes, for example: Paris, Barcelona, Brussels, London, Zurich, Monaco, Luxembourg, Stockholm, Cologne, Toronto and Dusseldorf.
- (8) By car, the airport can be reached in less than one hour by approximately 1 million inhabitants of the surrounding areas. Furthermore, around 700 000 inhabitants can reach the airport in between 60 and 90 minutes².
- (9) Lamezia Terme airport is operated by SACAL (Società Aeroportuale Calabrese) SpA, (hereinafter "SACAL"). SACAL is a mixed-capital limited company, with the majority of its shares (68.27 %) held by public organisations, which have a dominant influence, and the remaining shares (31.73 %) owned by private investors.
- (10) In 2008, SACAL was given a 40-year concession for the total management of Lamezia Terme airport³. According to the concession, SECAL pays ENAC - the Italian Civil Aviation Authority -, a concession fee for management of the airport complex that varies according to traffic recorded.
- (11) In 2014, commercial aviation traffic at Lamezia Terme airport reached 2 404 287 passengers in total, which amounts to 10.5 % increase on the previous year. By comparison, national air traffic rose by 4.5 % over the same period. In the period 2009 – 2013, there was an average growth at Lamezia Terme airport of 3.87 % in terms of flight numbers and 7.36 % in terms of passenger numbers. The forecasts of traffic demand provided by Italy (see table below) can be summarize as follows:
 - average annual growth: 1.3 % per year to 2020;
 - average annual growth: 1.4 % from 2021 to 2027;
 - average annual growth: 1.5 % from 2028 onwards.
- (12) Annual passenger traffic registered at the airport and expected development up to 2030 are as follows:

¹ Source: Eurostat.

² Source: The Study on the Future Development of the National Airport Network, commissioned by ENAC - the Italian Civil Aviation Authority, September 2010.

³ The duration of the concession is 40 years from 10 July 2008.

Table 1: Passenger development at Lamezia Terme airport 2009 – 2041

Actual passengers:						
Year	2009	2010	2011	2012	2013	2014
Passengers (in million)	1.64	1.91	2.23	2.20	2.17	2.40
Expected passenger development:						
Year	2016	2021	2026	2031	2036	2041
Passengers (in million)	2.38	2.62	2.83	3.00	3.32	3.51

Source: Information provided by the Italian authorities

- (13) The two closest airports to Lamezia Terme airport are: Reggio Calabria airport (in the distance of around 130 km and 1h 20 minutes by car, with a traffic of between 400 000 and 600 000 passengers/year in the last 10 years⁴) and Crotona airport (in the distance of around 90 km and 1h 15 minutes by car with a traffic of between 25 000 and 276 000 passengers/year in the last 10 years⁵).

2.2 The investment project and its financing

- (14) The notified project concerns the construction of the new passenger terminal at Lamezia Terme airport.
- (15) As presented in recital (12) above, the number of passengers served at Lamezia Terme airport increased sharply in the recent years. In 2014, the airport handled more than 2.4 million passengers, but, according to the Italian authorities, with completely insufficient standards of comfort for passengers. The airport could not serve passenger with adequate comfort due to limited capacity of the current terminal. This is demonstrated by the table below which compares the currently available surface areas at Lamezia Terme airport with those required for adequate comfort according to IATA standards.

Table 2: Available surface areas at Lamezia Terme airport and IATA standards

Subsystems	Service level offered	IATA service level
Departures hall	0.80 m ² /person	Level C: 1.8 – 2.3
Check-in waiting areas	1.81 m ² /person	Level C: 1.5
Schengen departures waiting areas	0.92 m ² /person	Level C: 1.5
Non-Schengen departures waiting areas	2.33 m ² /person	Level C: 1.5
Non-Schengen arrivals - Passport control/Security	0.89 m ² /person	Level C: 1

⁴ 490 000 passengers in 2015.

⁵ 276 000 passengers in 2015.

checks		
Schengen baggage claim	1.96 m ² /person	Level C: 1.8
Non-Schengen baggage claim	1.61 m ² /person	Level C: 1.8
Non-Schengen arrivals - Customs checks	1.60 m ² /person	Level C: 1.5
Baggage claim carousels	WB 42 x 2 lm NB 45 + 42 lm	WB 70 ÷ 90 lm each NB 40 ÷ 70 lm each
Arrivals hall	0.70 m ² /person	Level C: 1.7

Source: Information provided by the Italian authorities, 2014 data.

- (16) Moreover, the traffic forecasts show that passenger demand in the region will systematically continue to increase in the coming years⁶. Meeting this new demand would not be possible with the current infrastructure.
- (17) Therefore, the main objective of the project is to enlarge the capacity of the airport. By creating a new terminal, the project will increase the capacity of Lamezia Terme airport to approximately 1 700 peak-hour passengers, which corresponds to traffic of approximately 3.5 million passengers per year.
- (18) The relevant construction works will be conducted in two phases with the existing terminal being kept in operation during both phases. In the first phase, the new terminal will be constructed and a part of the exiting terminal will be demolished. In the second phase, the new terminal will be merged with the remaining part of the old terminal.
- (19) The total investment amounts, in real terms, to approx. EUR 41.2 million. The investments can be divided in the following general categories:

Table 3: Total investment costs by category

Category	Investment costs – million EUR*
Aviation: mainly the construction of departure and arrivals halls with equipment.	33.9
Non-economic activities within the public remit: the infrastructure in the terminal for police, customs, security checks and surveillance.	3.8

⁶ Forecasts prepared for the business plan for the project, summarized in recital (12) above, show that the airport with the investment in question will exceed 3 million passengers served per annum in 2030 and 3.5 million in 2041. Moreover, the National Airports Plan, developed by ENAC - the Italian Civil Aviation Authority in 2012 assumes that depending on the scenarios for traffic growth (minimum, medium and maximum), Lamezia Terme airport will serve from 3.5 million, through 4.5 million, up to 5.5 million passengers per annum, already in 2030.

Non-aviation: mainly the infrastructure in the terminal's area foreseen for shops, cafes etc.	3.5
Total:	41.2

*In real terms, source: information provided by the Italian authorities

- (20) The Italian authorities provided a business plan covering the period until 2048, i.e. until the end of the concession agreement for the operation of Lamezia Terme airport signed between the Italian authorities and SECAL.
- (21) In order to calculate the funding gap, the business plan took into account all aviation and non-aviation revenues as well as revenues of the airport operators related to non-economic activities within the public remit, investment costs and operating costs to be generated by the investment project until 2048, using an appropriate discount rate, namely SECAL's WACC⁷. Calculated in this way the discounted financing gap amount to EUR 16.84 million (see calculations below).

		EUR/thousands
a1	Eligible investment costs - aviation (discounted)	33 924.31
a2	Eligible investment costs - public remit (discounted)	3 801.54
b=a1+a2	Eligible investment costs - total (discounted)	37 725.85
c = 50 %*b	Maximum aid that could be granted according to point 97 of the Aviation Guidelines	18 862.92
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d	NPV ⁸ aviation	- 24 204.00
e1	NPV non-aviation	7 280.00
e2	NPV public remit	84.00
f = d+e1+e2	NPV total	- 16 840.00
g=f*-1	Funding gap	16 840.00
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i = g	Amount of aid to be granted	16 840.00

- (22) The foreseen public aid to the project is equal to the project's funding gap and it accounts to approx. 45% of the total investment costs related to aviation activities and non-economic activities within the public policy remit.

2.3 Legal basis

- (23) The legal basis for the aid is Regional Executive Decision (DGR) No 139 of 21 May 2015. By means of that Decision, the Regional Authorities of Calabria have identified the construction of the new Lamezia Terme airport's terminal as a strategic action to be undertaken as part of the Cohesion Action Plan Programme. The public

⁷ Weighted cost of capital (WACC) is equal, in nominal terms, to 9.8%. The value of the WACC is pre-tax. The WACC was calculated taking into account the current macroeconomic conditions and the resulting status of financial markets, the risk-free rate equal to the yield of the 10-year multiannual treasury bond, the cost of debt, the applicable level of taxation and a sector beta of 0.7.

⁸ Net Present Value (NPV) indicates whether the return on a given project exceeds the (opportunity) costs of investment, taking into account the (opportunity) costs of capital. A project is considered an economically viable investment if it generates a positive NPV. Investments producing a return lower than the (opportunity) costs of capital are not economically viable. The (opportunity) costs of capital are reflected in the discount rate.

resources referred to in the Cohesion Action Plan Programme (PAC) are national and regional resources.

2.4 Cumulation

- (24) The public financing for the investment in question will not be cumulated with other public resources from other local, national or EU sources intended to cover the same eligible costs.

3 ASSESSMENT OF THE MEASURE

3.1 Existence of aid

- (25) By virtue of Article 107(1) of the TFEU "*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.*"

- (26) The criteria laid down in Article 107(1) of the TFEU are cumulative. Therefore, in order to determine whether the notified measures constitute State aid within the meaning of Article 107(1) of the TFEU all of the following conditions need to be fulfilled. Namely, the financial support:

- is granted by the State or through State resources,
- favours certain undertakings or the production of certain goods,
- distorts or threatens to distort competition, and
- affects trade between Member States.

3.1.1 Economic activity and notion of undertaking

- (27) According to settled case law, the Commission must first establish whether SACAL (i.e. the airport's operator) is an undertaking within the meaning of Article 107 (1) of the TFEU. The concept of an undertaking covers any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed⁹ and that any activity consisting in offering goods and services on a given market is an economic activity.¹⁰
- (28) In its "*Leipzig-Halle airport*" judgement the Court of Justice confirmed that the operation of an airport for commercial purpose and the construction of airport infrastructure constitute an economic activity¹¹. Once an airport operator engages in

⁹ Case C-35/96 *Commission v Italy* [1998] ECR I-3851, para 36; C-41/90 *Höfner and Elser* [1991] ECR I-1979, para 21; Case C-244/94 *Fédération Française des Sociétés d'Assurances v Ministère de l'Agriculture et de la Pêche* [1995] ECR I-4013, para 14; Case C-55/96 *Job Centre* [1997] ECR I-7119, para 21.

¹⁰ Case 118/85 *Commission v Italy* [1987] ECR 2599, para 7; Case 35/96 *Commission v Italy* [1998] ECR I-3851, para 36.

¹¹ Joint Cases T-455/08 *Flughafen Leipzig-Halle GmbH and Mitteldeutsche Flughafen AG c/ Commission* and T-443/08 *Freistaat Sachsen and Land Sachsen-Anhalt c/ Commission*, (hereafter: "*Leipzig-Halle airport case*"), [2011] ECR II-01311, confirmed by the ECJ, Case C-288/11 P *Mitteldeutsche Flughafen and Flughafen Leipzig-Halle v Commission*, [2012], not yet published in the ECR; see also Case T-

economic activities, regardless of its legal status or the way in which it is financed, it constitutes an undertaking within the meaning of Article 107 (1) of the TFEU, and the Treaty rules on State aid are capable of applying to advantages granted by the State or through State resources to that airport operator¹².

- (29) In this regard the Commission notes that the infrastructure (i.e. the new airport terminal), which is the subject of the present decision, will be operated on a commercial basis by the airport manager SACAL. Since the airport operator will charge users for the use of this infrastructure, the latter is commercially exploitable. It follows that the entity exploiting this infrastructure constitutes an undertaking for the purposes of Article 107 (1) of the TFEU.
- (30) The Court of Justice¹³ has held that activities that normally fall under a State's responsibility in the exercise of its official powers as a public authority are not of an economic nature and do not fall within the scope of the rules on State aid. Such activities may include, for example, security, air traffic control, police, customs, etc. The financing of these activities has to be strictly limited to compensation of the costs to which they give rise and may not be used instead to fund other economic activities.¹⁴
- (31) However, public financing of non-economic activities necessarily linked to the carrying out of an economic activity must not lead to undue discrimination between airport managers. Indeed, it is established case law that there is an advantage when public authorities relieve undertakings of the costs inherent to their economic activities.¹⁵ Therefore, when it is normal under a given legal order that civil airports have to bear certain costs inherent to their operation, whereas other civil airports do not, the latter might be granted an advantage, regardless of whether or not those costs relate to an activity which in general is considered to be of a non-economic nature.
- (32) The Italian authorities provided a list of investments for activities relating to the exercise of official powers that includes only the stations for police services and customs services and the investments necessary for the performance of activities associated with protecting civil aviation from acts of illegal interference (equipment and systems for detecting dangerous objects or substances, access control and video surveillance systems, anti-intrusion systems). These investments amount to EUR 3.8 million in real terms (4.8 million in nominal terms).
- (33) The Commission considers that the listed investment, indeed, relate to the activities that can be considered as non-economic. However, as required by the Commission guidelines on State aid to airports and airlines (hereinafter: "the Aviation Guideline")¹⁶, "Public financing of non-economic activities must not lead to undue

128/98 *Aéroports de Paris v Commission* [2000] ECR II-3929, confirmed by the ECJ, Case C-82/01P, ECR 2002 Page I-9297, and Case T-196/04 *Ryanair v Commission* [2008], ECR II-3643.

¹² Cases C-159/91 and C-160/91, *Poucet v AGV and Pistre v Cancave* [1993] ECR I-637.

¹³ Case C-118/85 *Commission v Italy* [1987] ECR 2599, paragraphs 7 and 8, and Case C-30/87 *Bodson/Pompes funèbres des régions libérées* [1988] ECR 2479, paragraph 18.

¹⁴ Case C-343/95 *Cali & Figli v Servizi ecologici porto di Genova* [1997] ECR I-1547; Commission Decision N309/2002 of 19 March 2003; Commission Decision N438/2002 of 16 October 2002, Aid in support of the public authority functions in the Belgian port sector, OJ C 284, 21.11.2002.

¹⁵ See, amongst others, Case C-172/03 *Wolfgang Heiser v Finanzamt Innsbruck* [2005] ECR I-1627, paragraph 36, and case-law cited.

¹⁶ OJ C 99, 4.4.2014, p. 3

discrimination between airports. Indeed, it is established case law that there is an advantage when public authorities relieve undertakings of the costs inherent to their economic activities. Therefore, when it is normal under a given legal order that civil airports have to bear certain costs inherent to their operation, whereas other civil airports do not, the latter might be granted an advantage, regardless of whether or not those costs relate to an activity which in general is considered to be of a non-economic nature."¹⁷ In spite of the questions raised by the Commission on this point, the information provided by the Italian authorities did not show that the public financing of investments falling within those public policy remit activities does not lead to any discrimination between airport operators in Italy. In fact, the available information rather indicates that Italian airport operators normally have to bear the costs of the equipment and premises mentioned above and that the public investment support in question relieves Lamezia Terme airport from a part of these costs.

- (34) Therefore, the Commission considers that the costs of the entirety of the investments funded by the notified public are part of SACAL's normal costs.

3.1.2 State resources and imputability to the State

- (35) The public support to the construction of a new passenger terminal at Lamezia Terme airport was decided by the Regional Authorities with the Regional Executive Decision No 139 of 21 May 2015.
- (36) The grant of approx. EUR 16,8 million in favour of SACAL will be granted from the public resources referred to in the Cohesion Action Plan Programme (PAC) that are public national and regional resources.
- (37) Therefore the financial support to Lamezia Terme airport involves State resources, and is imputable to the State.

3.1.3 Economic advantage

- (38) The above-mentioned public funding reduces the investment costs that the airport operator would normally have to bear if it wanted to expand or improve its efficiency. Italy has not argued that the notified support would generate a return on investment for the granting authorities that would be considered sufficient by a profit-driven market economy operator in the same circumstances to justify the investment. Therefore, the notified support does not comply with the market economy operator principle and therefore it confers an economic advantage on the airport operator.

3.1.4 Selectivity

- (39) Article 107 (1) TFEU requires that a measure, in order to be defined as State aid, favours "*certain undertakings or the production of certain goods*". The Commission notes that the aid in question would be granted to SACAL only. Thus it is a selective measure within the meaning of Article 107 (1) of the TFEU.

¹⁷ Aviation Guidelines, point 37.

3.1.5 *Distortion of competition and effect on trade*

- (40) When aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in the internal market, the latter must be regarded as affected by that aid. In accordance with settled case law¹⁸, for a measure to distort competition it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.
- (41) Competition takes place between airports and between airport operators, which may compete between themselves to be entrusted with the management of a given airport. Lamezia Terme airport is to some extent competing with other airports in Italy and the EU (e.g. encouraging the airlines to use the airport). Public financing for the modernisation of Lamezia Terme airport will enable that airport to expand its activities and will strengthen the airport's position vis-à-vis other airports. Hence, the notified measure is liable to distort competition and have an effect on trade.

3.1.6 *Conclusion on the existence of State aid*

- (42) For the reasons set out above the Commission concludes that the entirety of the public funding for the construction of the new passenger terminal at Lamezia Terme airport constitutes State aid within the meaning of Article 107(1) of the TFEU. The Commission notes that Italy has respected the standstill obligation laid down in Article 108(3) of the TFEU and has not granted the aid prior to the Commission's approval.

3.2 **Compatibility of the aid**

- (43) The Commission has assessed if the aid is compatible with the internal market.

3.2.1 *Compliance with the Aviation Guidelines*

- (44) The measure at Lamezia Terme airport should be assessed on the basis of Article 107 (3) (c) TFEU, which stipulates that: "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*", may be considered to be compatible with the internal market. In this regard, the Aviation Guidelines provide a framework for assessing whether aid for the financing of airport infrastructures may be declared compatible pursuant to Article 107 (3) (c) TFEU. They set out a number of criteria which the Commission takes into account when assessing the measure at stake.
- (45) According to point 79 of the Aviation Guidelines the Commission has to examine whether the following cumulative conditions are met:
- (a) contribution to a well-defined objective of common interest: a State aid measure must have an objective of common interest in accordance with Article 107(3) TFEU;
 - (b) need for State intervention: a State aid measure must be targeted towards a situation where aid can bring about a material improvement that the market

¹⁸ Case T-214/95, *Vlaams Gewest*, [1998] ECR II-717.

cannot deliver itself, for example by remedying a market failure or addressing an equity or cohesion concern;

- (c) appropriateness of the aid measure: the aid measure must be an appropriate policy instrument to address the objective of common interest;
- (d) incentive effect: the aid must change the behaviour of the undertakings concerned in such a way that they engage in additional activity which they would not carry out without the aid or they would carry out in a restricted or different manner or location;
- (e) proportionality of the aid (aid limited to the minimum): the aid amount must be limited to the minimum needed to induce the additional investment or activity in the area concerned;
- (f) avoidance of undue negative effects on competition and trade between Member States: the negative effects of the aid must be sufficiently limited, so that the overall balance of the measure is positive;
- (g) transparency of aid: Member States, the Commission, economic operators, and the public, must have easy access to all relevant acts and to pertinent information about the aid awarded thereunder as outlined in section 8.2.

(46) Pursuant to point 80 of the Guidelines, the Commission considers that the above cited common principles are respected when State aid granted to airports meets all the conditions outlined in section 5.1 of the Guidelines. Point 5.1.1 of section 5.1 of the Guidelines outlines specific conditions applicable to investment aid to airports. Transparency conditions are set out in section 8.2 of the Guidelines.

(a) *Contribution to a well-defined objective of common interest: a State aid measure must have an objective of common interest in accordance with Article 107(3) TFEU*

(47) Under point 84 of the Guidelines, investment aid to airports will be considered to contribute to the achievement of an objective of common interest if it increases the mobility of Union citizens and the connectivity of the regions by establishing access points for intra-Union flights; or combats air traffic congestion at major Union hub airports; or facilitates regional development.

(48) The project is intended to increase the mobility of Union citizens and the connectivity of the regions by establishing and upgrading access points, in the specific case of Lamezia Terme, for intra-Union flights. In particular:

- The construction of the new passenger terminal will contribute to developing accessibility within and outside Calabria, guaranteeing greater flows of visitors and tourists and improving the quality of transport infrastructures and services within the Region, strengthening connections among the Region's principal production areas and national and international logistics hubs.
- The infrastructure will also make it possible to further develop connecting routes between Calabria and other regions and will support and implement, strategies for the opening of regular international links to hub airports within the Mediterranean and the development of the airport as an international hub for Calabria.

- The project also contributes to continuity of the European Network and optimisation of its capacity. Lamezia Terme Airport forms part of the TEN-T (Trans-European Network – Transport), of common European interest, as part of Rail Route I Berlin – Palermo, following the RFI Tyrrhenian route ‘Praia – Paola – Lamezia Terme – Reggio Calabria’.
- (49) Furthermore, the construction of the new terminal at Lamezia Terme Airport will contribute to regional development by increasing flows of visitors and tourists and improving the quality of transport infrastructures and services within Calabria, strengthening connections among the Region’s principal production areas and national and international logistics hubs.
- (50) In particular, considering the current traffic at the airport and the trend towards growth of that traffic, a failure to take the initiative in terms of addressing this situation within the short term would result in a drop in the quality of the services, with flight delays and a series of service problems that would have adverse impacts for the public interest, the airport and Calabria as a whole, both in terms of image and in economic terms, given the probable scenario where it would be necessary to eliminate numerous flights, causing considerable inconvenience to users, and thus causing a service interruption, with consequent costly financial consequences for the entire tourist sector and the economy of the Region.
- (51) Hence, the aid in principle contributes to objectives of common interest, in line with point 84 (a) and (c) of the Guidelines. In line with point 85 of the Guidelines, the Commission however has to assess whether the aid would contribute to the duplication of unprofitable airports or the creation of additional unused capacity, as in such cases the aid would not contribute to an objective of common interest.
- (52) First, the Commission notes that with the investment project in question, the capacity of Lamezia Terme airport will be increased to 3.5 million passengers per year. As explained in recitals (15) - (16) the foreseen capacity enlargement addresses the following: (i) lack of sufficient capacity to serve the current passenger traffic with adequate comfort, and (ii) a need to meet the expected, according to sound traffic forecasts, further increase of passenger demand in the region.
- (53) Second, the Commission notes that while the first reason, i.e. lack of sufficient capacity to serve the current traffic with adequate comfort has been clearly demonstrated by the Italian authorities (see recital (15) above) it should be also verified if the expected increase in passenger demand can be satisfied by an unused capacity in other close airports.
- (54) In this respect, the Commission notes that only one airport i.e. Crotona airport is located in the catchment area (as defined by the Aviation Guidelines) of Lamezia Terme airport.
- (55) Crotona Airport is a regional airport characterised by severe limitations, which make it necessary to invest considerable amounts in order to make the airport more easily usable and to increase its capacity. These limitations relate to:
- the infrastructure characteristics, for example:

- the runway of only 2000 metres (compared to 3000 at Lamezia Terme airport), which limits the range (i.e. the distance to the destination airport) of flights that can be operated from Crotona Airport
 - aircraft parking areas that can accommodate only aircraft up to category C (at Lamezia Terme airport up to category E)¹⁹
 - operational restrictions in the event of heavy winds or poor visibility (numerous flights are diverted to Lamezia Terme airport in those conditions)
- its geographical location and limited land transport infrastructure, for example:
 - absence of a motorway in the catchment area,
 - the closest railway line is not electrified and with very limited service frequency,
 - absence of a railway station close to the airport.
 - Difficult legal and economic situation:
 - Crotona airport is currently operated by the bankruptcy trustees.
- (56) Moreover, Crotona airport has a nominal capacity of only 250 000 passengers per year. This capacity is completely taken up by the existing traffic at the airport.
- (57) The Commission considers that due to the above limitations, Crotona airport is not able to accommodate even a part of the current traffic at Lamezia Terme airport. Moreover, Lamezia Terme airport is much better placed to accommodate expected future passenger demand in the region.
- (58) The second closest airport, i.e. Reggio Calabria airport is located in the distance of around 130 km and 1h 20 minutes by car, i.e. clearly outside the catchment area of Lamezia Terme airport, as defined by the Aviation Guidelines.
- (59) The Commission can therefore conclude that the construction of the new passenger terminal in question meets a clearly defined objective of common interest.
- (b) Need for State intervention: a State aid measure must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself, for example by remedying a market failure or addressing an equity or cohesion concern
- (60) Point 87, first sentence, of the Guidelines stipulates that in order to assess whether State aid is effective in achieving an objective of common interest, it is necessary to identify the problem to be addressed.
- (61) The Commission considers that the existence and scale of the funding gap in relation to the investment (presented in recital (21) above) sufficiently demonstrates that the investment in question, that clearly contributes to a well-defined objective of common

¹⁹ Category C covers airline jets, for example: Boeing 737, Airbus A320, category D: large jets, category E: special military aircrafts.

interest, could not be completed using only resources provided by the concession holder.

- (62) Point 87, second sentence, of the Guidelines stipulates that State aid should be targeted towards situations where such aid can bring about a material improvement that the market itself cannot deliver.
- (63) The Commission notes that without a public contribution, the project would not be financially sustainable and, therefore, would not satisfy the principle of ‘profitability normally expected’ from the investment by a private investor (including a loan institution).
- (64) The Commission further notes that Lamezia Terme airport is a middle size airport. Pursuant to point 89 (c) of the Guidelines, airports such as Lamezia Terme airport, with annual passenger traffic of 1 - 3 million should, on average, be able to cover their capital costs to a greater extent. As already presented in recital (21), the business plan provided by the Italian authorities shows why the investment could not be realised without state aid. Therefore, state intervention is necessary. Moreover, the concession holder (the airport operator) is however able to and will, in line with point 89 of the Aviation guidelines, finance the larger part of the investment costs.

(c) Appropriateness of the aid measure: the aid measure must be an appropriate policy instrument to address the objective of common interest

- (65) Pursuant to point 90 of the Guidelines, Member States must demonstrate that the aid measure is an appropriate policy instrument to achieve the intended objective or resolve the problems intended to be addressed by the aid. An aid measure will not be considered compatible with the internal market if other less distortive policy instruments or aid instruments allow the same objective to be reached.
- (66) The Italian authorities have demonstrated that the above described funding is an appropriate instrument to achieve the intended objective. In particular, in view of the existing funding gap calculated for the period of validity of the concession contract, a loan at reduced interest rates, as a less distortive form of aid, could not be borne by SECAL.
- (67) The Commission concludes that the aid measure at stake is an appropriate policy instrument.

(d) Incentive effect: the aid must change the behaviour of the undertakings concerned in such a way that they engage in additional activity which they would not carry out without the aid or they would carry out in a restricted or different manner or location

- (68) Aid has an incentive effect if it changes the behaviour of the undertakings concerned in such a way that they engage in additional activity which they would not carry out without the aid or they would carry out in a restricted or different manner or location.
- (69) Point 93 of the Guidelines specifies a formal incentive-effect condition, namely that works on an individual investment must not have started before an application has been submitted to the granting authority.

- (70) The Italian authorities informed the Commission that SECAL, by means of a letter of 12 November 2014, formally submitted the request for granting of aid to the granting authority. At least until this information was submitted by the Italian authorities (4 September 2015), the works relating to the investment had not yet been commenced. Hence, the formal criterion is fulfilled.
- (71) Point 94 of the Guidelines specifies a material incentive-effect criterion, namely that the investment would not have been undertaken or would not have been undertaken to the same extent without any State aid.
- (72) The Commission considers that an airport operator which operates under a concession limited in time would not undertake any project that is not expected to generate acceptable return on investment during the concession period.
- (73) In this respect, the Italian authorities provided an *ex ante* business plan for the project that showed a funding gap over the lifetime of the investment (equal to the period until the end of the concession agreement) in terms of a difference between the positive and negative cash flows in net present value terms, to the amount of EUR 16.84 million.
- (74) As already presented in recital (21), the business plan took into account all aeronautical and non-aeronautical revenues, investment costs and operating costs expected to be generated by the investment project until 2048, the end of the concession. The cash flows were discounted by SECAL's Weighted Average Capital Cost (WACC), which measures its cost of capital.
- (75) Moreover, the plan took into account also additional profits generated by public policy remit activities conducted by the airport on behalf of the state. That approach is correct taking into account that the Italian authorities did not demonstrate that public funding of investments related to public policy remit activities is to be done on a non-discriminatory basis, which is a condition for that public funding not to qualify as State aid and consequently to be excluded from the calculations.
- (76) The Commission considers that applied methodology for the calculation of the funding gap is correct and the result as reliable.
- (77) In conclusion, the aid has an incentive effect on airport operator SECAL, as it would not undertake the investment in the new passenger terminal at Lamezia Terme airport in the absence of the aid in question.

(e) Proportionality of the aid (aid limited to the minimum): the aid amount must be limited to the minimum needed to induce the additional investment or activity in the area concerned

- (78) Aid is proportional if its amount is limited to the minimum needed to induce the additional investment or activity in the area concerned. State aid to airports, as any other State aid measure, should be proportional in relation to the aimed legitimate objective in order to be cleared as compatible aid²⁰. The aid is considered to be proportionate, only if the same result could not be reached with less aid. This means

²⁰ It is constant case law that the Commission can declare an aid compatible only if it is necessary for achieving a legitimate objective (cf. case 730/79, *Philipp Morris*, paragraph 17; case C-390/06, *Nuova Agricast*, paragraph 68; case T-162/06, *Kronoply*, paragraph 65).

that the amount and intensity of the aid must be limited to the minimum needed for the aided activity to take place.

- (79) Point 97 of the Guidelines stipulates, firstly, that the maximum permissible amount of State aid must be expressed as a percentage of eligible costs (the maximum aid intensity) and secondly that the eligible cost are the costs relating to the investments in airport infrastructure, including planning costs, ground handling infrastructure (such as baggage belt, etc.) and airport equipment.
- (80) As was described in recital (20) above, the total amount of public support will be EUR 16.84 million. The aid will be allocated to investments in the terminal's aviation infrastructure (departure/arrivals halls, incl. airport equipment), including investments in non-economic activities.
- (81) Eligible investment costs amount in real terms to EUR 37.73 million (recital (19) above). The Commission notes that the notified aid intensity is equal to 45% of those costs.
- (82) Point 99 of the Guidelines stipulates that in cases where no specific counterfactual is known, in order to be proportionate, the amount of the aid should not exceed the capital cost funding gap of the investment project. That gap is determined on the basis of an *ex ante* business plan as the net present value of the difference between the positive and negative cash flows (including investment costs) over the lifetime of the investment. For investment aid the business plan should cover the period of the economic utilisation of the asset.
- (83) The Commission considers that that the Italian authorities fulfilled the above requirements by providing a business plan covering the period until 2048, i.e. until the end of the concession agreement for the operation of Lamezia Terme airport signed between the Italian authorities and SECAL that contains the calculation of the funding gap.
- (84) The Commission considers that the business plan is reliable. In particular, the period covered by the business plan is correct and the funding gap was calculated on the basis of a correct set of costs and revenues linked to the project in question (including costs and revenues related to non-aviation activities and to activities within public policy remit).
- (85) Point 101 of the Guidelines specifies the maximum permissible aid intensities for airport investment aid, depending on the size of the airport as measured by the number of passengers per annum.
- (86) According to available information (recital (12) above), the actual average annual passenger traffic during the two financial years preceding that in which the aid is notified is between 2 and 2.5 million passengers. The airport thus falls in the category of airports with more than 1 million and less than three million passengers per annum and is thus eligible for an aid intensity of up to 50% of eligible costs. The notified aid intensity, being 45%, is lower than the permissible aid intensity.

(87) As the aid amount is not higher than the general funding gap over the lifetime of the project, and as the aid intensity below the permissible aid intensity, the notified investment aid can be deemed proportional.

(f) Avoidance of undue negative effects on competition and trade between Member States: the negative effects of the aid must be sufficiently limited, so that the overall balance of the measure is positive;

(88) The negative effects of the aid must be sufficiently limited, so that the overall balance of the measure is positive.

(89) Point 106 of the Guidelines specifies that in particular the duplication of unprofitable airports or the creation of additional unused capacity in the catchment area of existing infrastructure might have distortive effects.

(90) As was described above in recitals (16) and (52) - (58), the investment that leads to creation of additional capacity has satisfactory medium-term prospects for use in view of the passenger forecasts submitted by Italy. Moreover, Crotona airport, the only airport located within less than 100 km or 60 minute travelling time from Lamezia Terme airport, is fully used now and which thus could not cope with the extra traffic that Lamezia Terme airport itself could not accommodate properly without its new terminal. Besides, it is characterised by severe limitations which make Lamezia Terme airport much better placed to accommodate the expected further increase of the passenger demand in the region.

(91) Point 108 of the Guidelines specifies that in order to further limit any distortions, the airport, including any investment for which aid is granted, must be open to all potential users and must not be dedicated to one specific user. In the case of physical limitation of capacity, the allocation should be done on the basis of pertinent, objective, transparent and non-discriminatory criteria.

(92) The Italian authorities confirmed that the airport is and will be open to all potential users, and is not dedicated to one specific user; in the event of physical limitation of capacity, the allocation is done on equal, non-discriminatory basis.

(93) On the basis of the above, the Commission concludes that investment aid in question has no undue negative effects on competition and trade between Member States.

Cumulation of aid

(94) Pursuant to point 159 of the Guidelines, aid authorised under these guidelines may not be combined with other State aid, *de minimis* aid or other forms of Union financing, if such a combination results in a higher aid intensity than the one laid down in these guidelines.

(95) As was explained above in recital (24), the investment aid in question cannot be cumulated with any other aid.

Transparency of aid; monitoring

- (96) Section 8.2 of the Guidelines specifies transparency requirements which ensure that Member States, the Commission, economic operators and the public have easy access to all relevant acts and to pertinent information about the aid awarded thereunder. Specific criteria for the publication of relevant information are set out in points 162 and 163 of the Guidelines.
- (97) The Commission notes that the Italian authorities committed that the documents and information relating to the measure in question will be made easily accessible to everyone, in accordance with the requirements expressly laid down in paragraph 8.2 of the Guidelines. Therefore, the Commission considers that the aid is transparent in the sense of the Guidelines.
- (98) The Italian authorities are reminded of the monitoring provisions outlined in section 8.3 (point 164) of the Aviation Guidelines.

3.2.2 *Conclusion*

- (99) In view of the above assessment, the Commission considers that the notified investment aid for the construction of the new passenger terminal at Lamezia Terme airport is in accordance with the compatibility conditions set out in the Guidelines.
- (100) Hence, the aid measure is compatible with the internal market on the basis of Article 107 (3) (c) of the TFEU.

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) (c) of the Treaty on the Functioning of the European Union

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

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Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission

