



EUROPEAN COMMISSION

Brussels, 26.07.2016  
C(2016) 4977 final

Subject:       **State aid – Italy (Veneto)**  
                  **SA.45037 (2016/N)**  
                  **Infrastructures and information for the development of sustainable**  
                  **tourism in rural areas**  
                  **SA.45038 (2016/N)**  
                  **Renovation and restoration of the architectural heritage of villages and**  
                  **rural landscapes**

Sir,

The European Commission ("the Commission") wishes to inform Italy that, having examined the information supplied by your authorities on the State aid schemes referred to above, it has decided not to raise any objections to these schemes as they are 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 letters of 2 April 2016, registered by the Commission on 5 April 2016, Italy notified the above mentioned aid schemes, in accordance with Article 108(3) TFEU.
- (2) The Commission requested additional information by letter of 2 June 2016, which the Italian authorities provided by letter of 30 June 2016.

S.E. Onorevole Paolo Gentiloni  
Ministro degli Affari esteri e della Cooperazione Internazionale  
P.le della Farnesina 1  
I - 00194 Roma

## **2. DESCRIPTION**

### **2.1. Title**

- (3) Infrastructures and information for the development of sustainable tourism in rural areas (SA.45037 (2016/N)).

Renovation and restoration of the architectural heritage of villages and rural landscapes (SA.45038 (2016/N)).

### **2.2. Objective**

- (4) With the notified aid schemes the Italian authorities wish to support the underlying rural development actions 7.5.1 and 7.6.1 of the rural development programme of the Veneto Region for 2014-2020 ("RDP")<sup>1</sup> concerning, respectively:

- infrastructures and information for the development of sustainable tourism in rural areas, and
- maintenance, restoration and upgrading of the cultural heritage of villages and rural landscapes.

### **2.3. Legal basis**

- (5) The notified aid schemes have the following legal bases:
- DGR n. 947 of 28.07.2015 and its Annex "Approval of the rural development programme 2014-2020 for Veneto (...)" as amended by DGR n. 214 of 3.03.2016.
  - DGR n. 1937 of 23.12.2015 and its Annexes.

### **2.4. Duration**

- (6) From the date of the approval by the Commission until 31 December 2023.

### **2.5. Budget**

- (7) The overall budget amounts to EUR 20 000 000 for aid scheme SA.45037 (2016/N) and EUR 30 000 000 for aid scheme SA.45038 (2016/N).
- (8) The aid will be co-financed at 43.12% by the EAFRD and at 56.88% by national resources.

### **2.6. Beneficiaries**

- (9) Support can be granted to the following types of beneficiaries:

SA.45037 (2016/N):

- local authorities;

---

<sup>1</sup> Approved by the Commission on 26 June 2015.

- park management authorities;
- non-profit bodies of private law;
- partnerships between public and private sector bodies.

SA.45038 (2016/N):

- farmers;
- farmers' associations;
- public entities<sup>2</sup>.

- (10) The number of beneficiaries is estimated to be between 501 and 1000 for SA.45037 (2016/N), and between 101 and 500 for SA.45038 (2016/N).
- (11) Large enterprises within the meaning of point (35.14) of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 ("the Guidelines")<sup>3</sup> are excluded from any support.
- (12) Undertakings in difficulty within the meaning of point (35.15) of the Guidelines are excluded as beneficiaries.
- (13) Aid will not be granted to undertakings still having at their disposal an earlier unlawful aid that was declared incompatible by a Commission decision (either concerning an individual aid or an aid scheme).

## **2.7. Aid instrument**

- (14) Direct grant for aid scheme SA.45037 (2016/N) and direct grant and interest rate subsidies for aid scheme SA.45038 (2016/N).

## **2.8. Description of the aid schemes**

- (15) The notified aid schemes cover two measures in rural areas which are identical to the underlying RDP actions.

*2.8.1. SA.45037 (2016/N) - Infrastructures and information for the development of sustainable tourism in rural areas (RDP action 7.5.1)*

- (16) The measure covers investments geared towards improving the quality of tourist services and the accessibility of rural areas, with regard to economic, social and environmental sustainability.
- (17) The following is funded under this measure:

---

<sup>2</sup> The RDP action includes among the beneficiaries also mixed associations of farmers and other land holders, but, according to the information provided by the Italian authorities, this category will be deleted when the RDP will be next amended. Until then possible support would be given under conditions of Regulation (EU) N°1407/2013. This category is therefore excluded from the scope of the present decision.

<sup>3</sup> OJ C 204, 1.7.2014, p. 1, as amended by the Commission Notice amending the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 (OJ C 390, 24.11.2015, p. 4).

- (a) investments in tangible assets relating to land use, transformation and construction regarding:
    - the creation, modernisation and upgrading of small-scale infrastructure in public areas,
    - the enhancement, upgrading and safeguarding of existing routes and itineraries that may be appropriately promoted and marketed, including the creation and upgrading of adjacent infrastructure and of high-altitude hiking trails, with reference solely to infrastructure located in public areas;
  - (b) costs for the purchase of the necessary gear and equipment, eligible when directly linked to the investments referred to in point (a) above exceeding 80 % of the total eligible expenditure;
  - (c) costs for the participation in information initiatives, to be implemented through specific actions such as participation in events, including trade fairs, meetings with tourists and operators, development of tourism projects, including using innovative formulas and methods;
  - (d) costs for the establishment of promotion and upstream services for tourism marketing, including via the internet, in rural areas;
  - (e) general costs linked to the expenditure referred to in points (a) and (b) above not exceeding 5% of the overall eligible expenditure.
- (18) The minimum eligible expenditure is EUR 25 000.
- (19) The interventions shall be:
- (a) provided for on the basis of a plan or project, in accordance with the RDP's implementing provisions;
  - (b) included in the plans for urban and land-use planning in rural areas and the plans for basic municipal services, where such plans exist;
  - (c) as regards the costs referred to in recital (17)(a) above, in line with the characteristics of "small-scale infrastructure"<sup>4</sup> and shall only involve public assets and areas;
  - (d) where applicable, carried out on the basis of an appropriate assessment under Article 6, paragraph 3, of the Habitats Directive or an environmental impact assessment.
- (20) The aid intensity is 100% of the eligible costs referred to in recital (17)(a); 40% of the eligible costs referred to in recital (17)(b) rising to 100% for public entities; 80% of the eligible costs referred to in recital (17)(c) and (d) rising to 100% for public entities.

---

<sup>4</sup> According to the definition provided in the RDP, a small-scale infrastructure consists of works, installations and permanent installations, whose eligible expenditure in the aid application in terms of investments in tangible assets is limited to EUR 200 000.

- (21) According to the information provided by the Italian authorities, no revenues will derive from the supported investment projects as the relevant activities will be provided to the public free of charge.

2.8.2. *SA.45038 (2016/N) - Renovation and restoration of the architectural heritage of villages and rural landscapes (RDP action 7.6.1)*

- (22) The measure covers investments relating to the restoration of rural architectural heritage of historical interest that bears witness to the past, and typical rural landscape elements, also with the aim to contribute to the revitalisation of rural areas and the overall strategy for improvement of the living conditions of people in rural areas.
- (23) The following is funded under this measure:
- (a) investments in tangible assets for construction relating to the restoration of structures and infrastructure consisting of buildings and typical rural landscape elements;
  - (b) general costs linked to the expenditure referred to in point (a) above not exceeding 5% of the overall eligible expenditure.
- (24) The investments:
- (a) shall relate to buildings and infrastructure that form part of the architectural and cultural heritage of villages and rural landscapes, that are proven to be of historical interest and bear witness to the past, of characteristic types and/or with characteristic construction and/or architectural features;
  - (b) shall be identified on the basis of studies and surveys supported under measure 323/a-action 1 of Veneto's RDP for 2007-2013<sup>5</sup>, where present and relevant, and/or the guidance provided in the instruments governing land use;
  - (c) shall comply with the ceilings set for "small-scale infrastructure";
  - (d) shall not compromise the buildings' architectural and historical image and their structure, and be carried out in compliance with their construction, architectural, historical and landscape characteristics, as guaranteed by the designer;
  - (e) where applicable, shall be carried out on the basis of an appropriate assessment under Article 6, paragraph 3, of the Habitats Directive or an environmental impact assessment.
- (25) The aid intensity is 50% of the eligible costs. For public entities the aid intensity is 100%.
- (26) The investments under this measure are implemented in accordance with plans for the development of municipalities and villages in rural areas and their basic services, in particular with the General Regulatory Plan or the Regional Land Use Plan and the Plan of Interventions. According to the information provided by the Italian authorities, when granting permits for the implementation of building

---

<sup>5</sup> On conservation and upgrading of the rural heritage.

works, the municipalities always verify their compliance with the urban planning tools and building regulations.

- (27) No revenues will derive from the supported projects as the relevant activities will be provided to the public free of charge.

#### 2.8.3. *Common features to both aid schemes*

- (28) The aid application has to be submitted to the competent authority before the start of the relevant project or activity and must contain the applicant's name, the size of the undertaking, a description of the project or activity including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs. The aid application may also include the general costs referred to in recitals (17)(e) and (23)(b) incurred within 12 months prior to the submission.
- (29) Value added tax (VAT) is not eligible for support except where it is not recoverable by the beneficiary.
- (30) The aid under the notified schemes cannot be cumulated with aid received from other local, regional, national or Union schemes or with *de minimis* aid to cover the same eligible costs.

### 2.9. **Other commitments**

- (31) The Italian authorities confirmed that the information required under point (128) of the Guidelines will be published on the regional website<sup>6</sup>.
- (32) The investments covered by the notified aid schemes will not be geared towards energy saving and/or renewable energy. They will improve the quality of tourist services and the accessibility of rural areas and maintain and protect cultural heritage and landscape, thus fostering the local development in rural areas.
- (33) The Italian authorities committed to notify an individual investment aid granted under the notified schemes, if the aid from all sources exceeds the notification threshold specified in point (37)(c) of the Guidelines.
- (34) The Italian authorities have committed to adapt the notified aid schemes to bring them in line with the State aid rules applicable after the expiry of the Guidelines.

## 3. **ASSESSMENT**

### 3.1. **Scope of the decision**

- (35) Possible *de minimis* aid granted by the Member State (recital (9) and footnote (2)) is excluded from the scope of this decision.

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

- (36) For Article 107(1) TFEU to apply, the measures 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

---

<sup>6</sup> <http://www.regione.veneto.it/web/guest/aiuti-di-stato-pubblicazione-e-informazione>.

granted by a Member State or through State resources and the schemes must be capable of affecting trade between Member States.

- (37) The schemes in question, within the scope of the present decision, confer an advantage on their recipients, as described in recital (14). This advantage is granted through State resources, and it favours only certain undertakings in rural areas (recitals (4) and (9)), thus strengthening their position on the market. 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>7</sup>.
- (38) 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>8</sup>. The beneficiaries of aid operate in a market of services offering recreational, nature protection and similar services in rural areas where intra-EU trade takes place<sup>9</sup>. The sector concerned is thus 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 schemes are liable to distort competition and to affect trade between Member States.
- (39) In light of the above, the conditions of Article 107(1) TFEU are fulfilled. It can therefore be concluded that the proposed schemes constitute State aid within the meaning of that Article.

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

- (40) The aid schemes were notified to the Commission on 2 April 2016. They have not been implemented yet. Therefore, Italy has complied with its obligation under Article 108(3) TFEU.

### **3.4. Compatibility of the aid**

- (41) State aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

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

- (42) 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.

---

<sup>7</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.

<sup>8</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>9</sup> In 2011 the service sector accounted for 64.6% of GVA in the predominantly rural regions (GVA is defined as the value of output less the value of intermediate consumption. Output is valued at basic prices, GVA is valued at basic prices and intermediate consumption is valued at purchasers' prices), Source: "CAP context indicators 2014-2020: Structure of the economy", European Commission, Published on the web link: [http://ec.europa.eu/agriculture/cap-indicators/context/2014/c10\\_en.pdf](http://ec.europa.eu/agriculture/cap-indicators/context/2014/c10_en.pdf).

- (43) For this derogation to be applicable, the aid must fulfil the requirements of the relevant Union State aid legislation.

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

- (44) The measures covered by the notified aid schemes are identical to the underlying RDP actions (recital (15)) within the meaning of point (23)(c)(i) of the Guidelines. Part I and Part II, Section 3.2 "Aid for basic services and village renewal in rural areas" of the Guidelines are applicable.

3.4.2.1. Common Assessment Principles

*Contribution to a common objective*

- (45) Pursuant to point (46) the Commission considers that measures, implemented pursuant to and in conformity with Regulation (EU) No 1305/2013 and its implementing and delegated acts or as an additional national financing in the framework of a rural development programme, are per se consistent with and contribute to the objectives of rural development. The notified aid schemes are part of Veneto's RDP for 2014-2020 (recital (4)) and therefore the requirement for contribution to a common objective is complied with.

*Need for State intervention*

- (46) Since the present schemes fulfil the specific conditions laid down in the relevant sections of Part II of the Guidelines, as analysed below under sections 3.4.2.2 and 3.4.2.3, the Commission considers, in line with point (55) of the Guidelines, that the aid is necessary to address the objective of common interest.

*Appropriateness of aid*

- (47) Pursuant to point (56) of the Guidelines, an aid is appropriate if no other less distortive policy instrument or other less distortive type of aid make it possible to achieve the same contribution to the objectives of CAP.
- (48) Since the present schemes fulfil the specific conditions laid down in the relevant sections of Part II of the Guidelines, as analysed below under sections 3.4.2.2 and 3.4.2.3, in line with point (57) of the Guidelines the Commission considers the policy instrument appropriate.
- (49) According to point (61) of the Guidelines, the Commission further considers as regards rural development measures, co-financed by EAFRD or granted as an additional financing for such co-financed rural development measures, that aid granted in the form provided for in the respective rural development measure is an appropriate aid instrument. As specified in recital (15), the aid under the notified aid schemes is granted in the same form of support provided under the relevant rural development programme.
- (50) Therefore the Commission considers the aid to be appropriate.



### *Incentive effect and need for aid*

- (51) According to point (35.25) of the Guidelines, preparatory works such as obtaining permits and conducting feasibility studies are not considered start or works or activity. It follows therefore from recital (28) above that work on the relevant activity will only start after the beneficiary has submitted an aid application to the national authorities and that the aid application will include the elements required under point (71) of the Guidelines.
- (52) According to point (75)(o) of the Guidelines, aid for the maintenance, restoration and upgrading of the cultural and natural heritage of villages, rural landscapes and high nature value sites in accordance with point (644)(e) is not subject to the requirements on the incentive effect, except in case of investment aid associated with the cultural and natural heritage of villages, rural landscapes and high nature value sites exceeding the notification thresholds set out in point (37)(c). As the measure covered by SA. 45038 (2016/N) (recitals (22) to (27) above) falls within the scope of point (644)(e) of the Guidelines and the relevant overall budget (recital (7)) is below the individual notification threshold set out in point (37)(c) of the Guidelines, the derogation from the incentive effect applies with regard to that scheme.
- (53) In the light of the above, the Commission considers that the conditions regarding the incentive effect according to points (70) to (75) of the Guidelines are met.

### *Proportionality of the aid*

- (54) Pursuant to point (84) of the Guidelines, proportionality is fulfilled if the eligible costs are in line with the specific conditions set out in Part II of the Guidelines and the maximum aid intensities for each type of aid are respected. As shown in sections 3.4.2.2 and 3.3.4.3 below, the aid intensities and the eligible costs of the notified aid schemes comply with the specific conditions set out in Part II of the Guidelines.
- (55) As described in recital (29), VAT is not eligible except where it is not recoverable, in line with point (86) of the Guidelines.
- (56) Point (90) of the Guidelines provides rules for large investment projects in rural areas. As the overall budgets under the notified schemes are below the threshold laid down in point (35.30) of the Guidelines, that point is not applicable.
- (57) According to point (100) of the Guidelines, aid with identifiable eligible costs may be cumulated with any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity applicable to that type of aid under the Guidelines. As specified in recital (30) above, this condition is met.
- (58) On the basis of the foregoing, the Commission considers that the requirement of proportionality is complied with.

### *Avoidance of undue negative effects on competition and trade*

- (59) According to point (113) of the Guidelines, the Commission considers that where an aid fulfils the conditions and does not exceed the relevant maximum aid intensities, laid down in the applicable Sections of Part II of those Guidelines, the

negative effect on competition and trade is limited to the minimum. The notified aid schemes fulfil the conditions laid down in Section 3.2 of Part II of the Guidelines, as shown under sections 3.4.2.2 and 3.4.2.3 below.

- (60) In accordance with point (116) of the Guidelines the Italian authorities have furthermore provided sufficient information that any negative effects on competition and trade will be limited to the minimum as the supported investments will aim at fostering the local development in rural areas (recital (32)). The social and economic effects of the aid will therefore overcome possible effects on competition and trade.

#### *Transparency*

- (61) The Italian authorities confirmed that the information required under point (128) of the Guidelines will be published on the regional website indicated in the notification (recital (31)).

#### 3.4.2.2. Common provisions applicable to Chapter 3 of Part II of the Guidelines

- (62) According to point (631) of the Guidelines, the aid must be granted in the framework of a rural development programme either as aid co-financed by the EAFRD or as additional national financing to such aid. The measures at hand form part of Veneto's RDP (recital (4)) and are co-financed by the EAFRD (recital (8)). Therefore point (631) of the Guidelines is complied with.
- (63) The investments under the notified aid schemes are not geared towards energy saving and/or renewable energies (recital (32)), in line with point (634) of the Guidelines.
- (64) Point (635) of the Guidelines specifies the eligible investment costs for tangible and intangible assets. As described in recitals (17) and (23) above, the eligible costs of the notified aid schemes fall within the scope of point (635)(a), (b) (c) and (d).
- (65) Since point (649) of the Guidelines lays down a specific provision on the maximum aid intensity applicable to the notified measures (recital (73) below), point (638) of the Guidelines is not applicable.
- (66) As described in recital (33), the Italian authorities committed to notify an individual investment aid granted under the notified scheme, if the aid from all sources exceeds the notification threshold specified in point (37)(c) of the Guidelines, in line with point (639) thereof.
- (67) The Commission therefore considers that the common provisions applicable to Chapter 3 of Part II of the Guidelines are complied with.

#### 3.4.2.3. Specific assessment according to the category of aid

- (68) Point (643) of the Guidelines states that the Commission will consider aid for basic services and village renewal in rural areas compatible with the internal market if it complies with the common assessment principles of the Guidelines, with the common provisions applicable to Chapter 3 of Part II of the Guidelines and with the specific conditions of Section 3.2 of Part II thereof.

- (69) With regard to the specific conditions set out in Section 3.2 of Part II of the Guidelines, as described in recital (4) aid scheme SA.45037 (2016/N) covers activities falling within the scope of point (644)(d) (investments for public use in recreational infrastructure, tourist information and small-scale tourism infrastructure) and aid scheme SA.45038 (2016/N) covers activities falling within the scope of point (644)(e) of the Guidelines (studies and investments associated with the maintenance, restoration and upgrading of the cultural and natural heritage of villages, rural landscapes and high nature value sites, including related socio-economic aspects, as well as environmental awareness actions).
- (70) According to point (645) of the Guidelines, investments under this measure are eligible for aid where the relevant operations are implemented in accordance with plans for the development of municipalities and villages in rural areas and their basic services, where such plans exist and must be consistent with any relevant local development strategy. As described in recitals (19)(b) and (26) above, the conditions of point (645) of the Guidelines are fulfilled.
- (71) Pursuant to point (646) of the Guidelines, aid referred to in point (644)(e) should be granted for heritage which is formally recognised as cultural or natural heritage by the competent public authorities of a Member State. As described in recital (24)(a) and (b) above, this condition is met.
- (72) The eligible costs under the notified aid schemes cover investment costs for tangible and intangible assets (recitals (17) and (23)). Point (647) of the Guidelines is therefore complied with.
- (73) Pursuant to point (649) of the Guidelines the aid intensity for activities under points (644) (d) and (e) must not exceed 100% of the eligible costs and the net revenues must be deducted from the eligible costs ex ante or through a clawback mechanism. As described in recitals (20) and (25), the aid intensities foreseen in the notified schemes are in line with the aid intensity laid down in point (649) of the Guidelines. The Italian authorities furthermore informed that for activities under point (644) (d) and (e) no revenues will derive from the supported investment projects (recitals (21) and (27)).
- (74) On the basis of the above, the Commission concludes that the specific conditions set out in Section 3.2 of Part II of the Guidelines are complied with.

### **3.5. Other conditions**

- (75) In accordance with point (719) of the Guidelines the Commission only authorises schemes of limited duration. Aid schemes that can benefit from co-financing under Regulation (EU) No 1305/2013 should be limited to the duration of the programming period 2014-2020. Other aid schemes should not apply for a period of more than seven years. It follows from recital (6) above that this requirement is met.
- (76) The Commission takes note that undertakings in difficulty (recital (12)) and undertakings still having at their disposal an earlier unlawful aid that was declared incompatible by a Commission decision (recital (13)) are excluded from any support in line, respectively, with point (26) and point (27) of the Guidelines.

- (77) The Guidelines are applicable until 31 December 2020 according to point (737) thereof. In that regard, the Commission takes note of the commitment made by the Italian authorities to adapt the notified aid schemes to bring them in line with the State aid rules applicable after the expiry of the Guidelines (recital (34)).
- (78) The Commission therefore concludes that the notified aid schemes comply with the relevant provisions of the Guidelines.

#### 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) TFEU.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions<sup>10</sup> 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(3) of Commission Regulation (EC) No 794/2004<sup>11</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

---

<sup>10</sup> Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions (OJ C 297, 9.12.2003, p. 6).

<sup>11</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).