



## Commission finds assets transfers within Ferrovie dello Stato Group and part of Trenitalia compensation for certain public rail freight transport services in line with State aid rules

Brussels, 24 November 2023

The European Commission has concluded that the transfers of certain railway assets between companies of the Italian rail incumbent **Ferrovie dello Stato Group** ('FS Group') do not constitute State aid within the meaning of EU rules. The Commission has also found Italy's compensation to **Trenitalia** for the provision of rail freight transport services in line with EU State aid rules, except for compensation for certain routes, which constitutes incompatible aid. Italy must now recover the incompatible aid, including interest.

The Commission launched in [March 2014](#) an in-depth investigation into the following measures:

- i. the **transfers of certain railway infrastructure assets** free of charge from the infrastructure manager Rete Ferroviaria Italiana to the then railway freight operator Trenitalia and to the logistics company FS Logistica between 2007 and 2011; and
- ii. the **compensations** paid by Italy to Trenitalia for the provision of public rail freight transport services between 2000 and 2014.

### The Commission's assessment

The Commission has assessed the Italian measures under EU State aid rules, in particular under [Articles 93](#) and [Article 107\(1\)](#) of the Treaty on the Functioning of the European Union ('TFEU') and, for the part of the compensation paid until 3 December 2012, under the old Regulation governing public service compensation for the provision of rail transport services ([Regulation \(EEC\) No 1191/69](#)).

The Commission found that:

- The **transfers of assets** between 2007 and 2011 to Trenitalia and FS Logistica do not constitute State aid within the meaning of Article 107(1) TFEU, as the transfers do not confer an economic advantage on Trenitalia and FS Logistica given that they were carried out in line with market conditions.
- The **compensation** paid to Trenitalia for the **provision of certain public rail freight services between 1 January 2000 and 31 December 2014** is in line with State aid rules. In particular, the Commission found that: (i) part of the support does not constitute State aid within the meaning of Article 107(1) TFEU, as it was not liable to affect trade or distort competition in the Single Market; (ii) part of the support became aid due to the evolution of the internal market and, as it was in place only until the end of 2003, there was no need, under State aid rules, for the Commission to assess its possible compatibility; and (iii) part of the support constitutes compatible aid because it is appropriate, necessary and proportionate to cover the costs of providing public services and has no undue negative effects on competition and trade in the EU.
- The **compensation** for the provision of the following services is **incompatible with EU State aid rules**, namely the provision of: (i) **international rail freight transport services through the port of Trieste Marittima** between 15 March 2003 and 31 December 2008, because the nature of the public service obligations was not sufficiently defined by Italy, and (ii) **national rail freight transport services** on certain connections between Northern and

Southern Italy between 4 December 2012 and 31 December 2014. The latter does not qualify as genuine service of general economic interest because Italy did not establish the existence of a market failure on those connections prior to entrusting the public service mission to Trenitalia.

As a matter of principle, EU State aid rules require that incompatible State aid is recovered without delay in order to remove the distortion of competition created by the aid. There are no fines under EU State aid rules and recovery does not penalise the companies in question. It simply restores equal treatment with other companies.

Italy now has to recover the incompatible aid from Trenitalia and to determine the amount to be recovered, in line with the Commission decision adopted today.

## Background

According to Article 107(1) TFEU, a measure shall constitute State aid if the following four cumulative conditions are met: (i) the measure has to be granted by Member States through State resources; (ii) the measure has to confer a selective economic advantage to certain companies, (iii) the advantage has to distort or threaten to distort competition, and (iv) the measure has to affect trade between EU Member States.

In 2000-2001, Italy reorganised Ferrovie dello Stato SpA and created separate entities responsible for infrastructure management (Rete Ferroviaria Italiana) and train operations (including Trenitalia and FS Logistica, both wholly owned subsidiaries of the FS Group).

Trenitalia is the largest rail operator in Italy, and until 31 December 2016 was active in both passenger and freight transport. As of 1 January 2017, Mercitalia Rail became the new owner of the Trenitalia's freight activities. FS Logistica provides logistics services in the freight sector. In 2017 it was renamed Mercitalia Logistics and since then it fully controls Mercitalia Rail.

The non-confidential version of the two decisions will be made available in the [State Aid Register](#) under the case numbers [SA.32179](#) and [SA.32953](#) on the Commission's [competition website](#) once any confidentiality issues have been resolved. New publications of State aid decisions on the internet and in the Official Journal are listed in the [Competition Weekly e-News](#).

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## Quotes:

Today, we close our State aid in-depth investigation into the Italian rail transport market. Our decision confirms that the transfers of railway assets within the Ferrovie dello Stato Group did not entail State aid. Furthermore, we have concluded that Trenitalia was not given incompatible State aid from the State for most of the compensation received for the provision of public services. However, part of the compensation was found to be incompatible with the internal market and will now have to be recovered by Italy.  
Commissioner Didier Reynders - 24/11/2023

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