EUROPEAN COMMISSION

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PUBLIC VERSION
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Subject: State Aid SA.59255 (2020/N) – Italy
COVID-19: “Esonero dal versamento dei contributi previdenziali per aziende che non richiedono trattamenti di cassa integrazione”
(exemption from social security contribution payments for private employers not applying for wage support measures)

Excellency,

1. PROCEDURE

(1) By electronic notification of 28 October 2020, Italy notified a scheme in the form of limited amounts of aid (exemption from social security contribution payments for private employers not applying for wage support measures, “the measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, as amended (“the Temporary Framework”).

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Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958 and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

Italy considers that the COVID-19 outbreak has started to affect the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings, to preserve employment levels and thereby to preserve the continuity of economic activity during and after the outbreak.

Italy confirmed that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. Objective of the measure

The measure aims to reduce the labour costs borne by private employers, which are experiencing serious socio-economic disturbances leading to liquidity concerns, with a view to ultimately preserve employment levels.

2.2. The nature and form of aid

The measure provides aid in the form of an exemption for private employers from the payment of their quota of social security contributions.

2.3. Legal basis

The legal basis for the measure is Article 3 of the Law Decree 14 August 2020, no. 104 providing for "Urgent measures aimed at supporting and relaunching the economy", converted into Law n.126 of 13 October 2020.

2.4. Administration of the measure

The Ministry of Labour and Social Policies is responsible for administering the measure. INPS - National Institute for Social Security - is the authority granting the aid under the scheme.

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2 Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

3 https://www.gazzettaufficiale.it/eli/id/2020/10/13/20A05541/sg
2.5. **Budget and duration of the measure**

(10) The estimated budget of the measure is EUR 484.1 million.

(11) The measure will be financed from the State budget.

(12) Aid may be granted under the measure as from its approval until no later than 31 December 2020. Italy confirmed that the liability in relation to which the advantage arising from the exemption from payment of social security contributions is granted must have arisen no later than 31 December 2020.

2.6. **Beneficiaries**

(13) The beneficiaries of the measure are all private employers irrespective of their size registered in the Italian Business Registry (Registro delle Imprese)\(^4\), except private employers active in the primary production of agricultural products and private employers active in the financial sector.

(14) The total number of beneficiaries is estimated to be about 500 000.

(15) Aid may not be granted under the measure to medium and large enterprises\(^5\) that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")\(^6\) on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the General Block Exemption Regulation ("GBER") on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid\(^7\) or restructuring aid\(^8\).

2.7. **Sectoral and regional scope of the measure**

(16) The measure is open to all sectors except the financial sector and the primary production of agricultural products. It applies to the whole territory of Italy.

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\(^4\) [https://italianbusinessregister.it/italian-business-register](https://italianbusinessregister.it/italian-business-register)


\(^7\) Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

\(^8\) Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.
2.8. Basic elements of the measure

(17) The measure has as its main purpose to reduce the labour costs borne by private employers facing serious economic difficulties and thereby to ultimately preserve employment levels, which are at serious risk because of the outbreak.

(18) The measure provides for an exemption from the payment of employers’ compulsory social security contributions (outside those referred to insurance for accident at work) for a maximum period of four months, until 31 December 2020.

(19) The measure is addressed to private employers which do not apply for new wage support measures as provided by Article 1 of the Law Decree no. 104/2020 converted into Law no. 126/2020\(^9\), and which already benefited from wage support measures during May and June 2020\(^10\).

(20) Applications can be submitted from the date of adoption of this Decision until no later than 31 December 2020.

(21) Italy confirmed that the aid may be granted provided its nominal value, for all measures granted in accordance with Section 3.1 of the Temporary Framework, does not exceed EUR 800 000 per undertaking. The amount of the aid will not exceed EUR 120 000 per undertaking active in fishery and aquaculture sectors (all figures used being expressed in gross, that is before any deduction of tax or other charges).

(22) Italy also confirmed that where the aid is granted to undertakings active in the processing and marketing of agricultural products, it is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.

(23) Furthermore, Italy confirmed that the aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014\(^11\).

(24) Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Italy will ensure, by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23(a), the overall maximum amount of EUR 120 000 should not be exceeded per undertaking.

\(^9\) See footnote 3.

\(^10\) Italy refers here to “cassa integrazione ordinaria e in deroga” as provided by Article 19 to 22-quinquies of Law Decree no. 18/2020, as converted, with modifications, into Law no. 27/2020.

2.9. Cumulation

(25) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations\(^{12}\) or the General Block Exemption Regulation\(^{13}\) provided the provisions and cumulation rules of those Regulations are respected.

(26) The Italian authorities confirm that aid under the notified measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.

(27) The Italian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

(28) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, will be respected.

2.10. Monitoring and reporting

(29) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure and EUR 10 000 in the fisheries sector on the comprehensive national State aid website or Commission’s IT tool within 12 months from the moment of granting\(^{14}\)).

3. Assessment

3.1. Lawfulness of the measure

(30) The law introducing the measure has already entered into force. However, according to Article 3(5) of Law Decree no. 104/2020, that measure is subject to a standstill clause which suspends the effectiveness of the notified measure until its approval by the Commission. By notifying the measure before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU.

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3.2. Existence of State aid

(31) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(32) The measure is imputable to the State, since it is administered by the authorities indicated in recital (9) and it is based on the legislative act mentioned in recital (8). It is financed through State resources, since it is financed by public funds (recital 11).

(33) The measure confers an advantage on its beneficiaries in the form of an exemption from the payment of social security contributions (see recital (7)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(34) The advantage granted by the measure is selective, since it is awarded only to certain undertakings as stated in recital (19), excluding the financial sector and the primary production of agricultural products (see recital (16)).

(35) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(36) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

(37) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(38) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “to remedy a serious disturbance in the economy of a Member State”.

(39) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in section 2) that “the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings”. The Commission concluded that “State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs”.

(40) The measure aims at reducing the labour costs borne by private employers thereby preserving employment levels (see recital (6)) at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak and that
outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(41) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve employment and economic continuity is widely accepted by economic commentators and the measure is of a scale that can be reasonably anticipated to produce effects to the economy across the entire Italian economy (see recital (18)). In particular, the measure concerns undertakings which do not apply for new wage support measures and that already benefited from wage support measures during May and June 2020 (see recital (19)). Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“Limited amounts of aid”) described in section 3.1 of the Temporary Framework.

(42) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- The aid consists in the exemption from the payment of social security contributions due by private employers (recital (7));

- The overall nominal value of the exemption from social security contributions shall not exceed EUR 800 000 per undertaking (recital (21)); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework;

- The overall nominal value of the exemption from social security contributions does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector (recital (21)). The measure therefore complies with point 23(a) of the Temporary Framework;

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (10). The measure therefore complies with point 22(b) of the Temporary Framework;

- As stated in recital (15)
  - Aid may not be granted under the measure to medium and large enterprises that were already in difficulty on 31 December 2019. The measure therefore complies with point 22(c) of the Temporary Framework;
  - Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid or

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15 Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.
The measure therefore complies with point 22(c)bis of the Temporary Framework;

- Aid will be granted under the measure no later than 31 December 2020. More specifically, the liability in relation to which the advantage arising from the exemption from payment of social security contributions will be granted must have arisen no later than 31 December 2020 (see recital (12)). The measure therefore complies with point 22(d) of the Temporary Framework;

- Aid granted to undertakings active in the processing and marketing of agricultural products are excluded when the aid is conditional on being partly or totally passed on to primary producers, fixed on the basis of the price or quantity of products purchased from primary producers, or put on the market by such producers (recital 22). The measure therefore complies with point 22(e) of the Temporary Framework;

- Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014 (recital (23)). The measure therefore complies with point 23(c) of the Temporary Framework;

- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 22(a) and 23(a) of the Temporary Framework, Italy will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 is not exceeded per undertaking (recital (24)). The measure therefore complies with point 23bis of the Temporary Framework.

(43) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (29)). The Italian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework are respected and the cumulation rules of the relevant Regulations are respected (recitals (25) to (28)).

(44) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

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16 Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.
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)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: [http://ec.europa.eu/competition/elojade/isef/index.cfm](http://ec.europa.eu/competition/elojade/isef/index.cfm).

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President