EUROPEAN COMMISSION

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PUBLIC VERSION

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**Subject: State Aid SA.62718 (2021/N) – Italy**
**COVID-19: Support to road passenger transport**

Excellency,

## 1. PROCEDURE

(1) By electronic notification of 12 May 2021, Italy notified aid in the form of limited amounts of aid to companies providing road passenger transport services (the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).[1]

(2) 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[2] and to have this Decision adopted and notified in English.

1 Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

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

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## 2. DESCRIPTION OF THE MEASURE

(3) Italy considers that the COVID-19 outbreak affects 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 and thereby to preserve the continuity of economic activity during and after the outbreak.

(4) Italy was the first country within the European Union to declare, by Resolution of the Council of Ministers of 31 January 2020, a state of emergency until 31 July 2020. The state of emergency was then extended until 15 October 2020, then until 31 January 2021 and finally until 30 April 2021.

(5) Since the first declaration of the state of emergency, various measures have been enacted by Italy as a result of the emergency caused by the COVID-19 outbreak. Those measures entailed, among various things, restrictions on mobility and transport of passengers in Italy, affecting the economic operators in the sector.

(6) In particular, the Italian authorities explained that during the peak of the COVID-19 outbreak, passenger transport by road recorded a sharp decline. In fact, from March to May 2020 the decrease consisted not only in a reduction of frequencies but also, in many cases, in the suspension of the entire service imposed by public authorities or decided autonomously by the companies concerned. In addition, even after the bans imposed by the public authorities had been lifted, the demand for road passenger transport remained very low on medium and long haul routes.

(7) According to a study of October 2020 conducted by the Politecnico di Milano[3] on behalf of ANAV[4] there has been a reduction of passengers in the non-PSO regular services[5] sector of 69.6% (with peaks of 90% in the April-June quarter) in 2020 compared to 2019. The loss of turnover for 2020 is estimated at around EUR 287 million, compared to a turnover of around EUR 400 million per year prior to the COVID-19 outbreak.

(8) The objective of the measure is therefore to provide some support for the losses suffered as a result of the measures to contain and combat the COVID-19 outbreak by the carriers operating medium and long-haul bus transport services that are not subject to public service obligations ("PSO").

(9) Italy confirms 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.

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[3] Italian academic institution. Information available at: https://www.polimi.it/

[4] This is one of the largest trade associations in the road transport sector in Italy. Information available at: https://www.anav.it/

[5] Transport services not subject to public service obligations.

(10) 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. The nature and form of aid

(11) The measure constitutes an aid scheme providing aid in the form of direct grants.

### 2.2. Legal basis

(12) The legal basis for the measure is laid down in Article 85 of Law Decree No. 104 of 14 August 2020 and the Draft Ministerial Decree from the Minister of Sustainable Infrastructure and Mobility and the Minister of Economy and Finance which, subject to the Commission's prior authorization of the measure under assessment, includes all the conditions for benefitting from the measure.

### 2.3. Administration of the measure

(13) The Directorate General for road transport of people and goods, for logistics and inter-modality of the Ministry of Sustainable Infrastructure and Mobility is responsible for granting and administering the measure.

### 2.4. Budget and duration of the measure

(14) Aid is granted under the measure on the basis of a scheme with an estimated budget of EUR 20 million. The measure will be financed from the general State budget. Financial institutions are excluded as eligible beneficiaries.

(15) Aid may be granted under the measure as from the notification of the Commission's approval until no later than 31 December 2021.

### 2.5. Beneficiaries

(16) The beneficiaries of the measure are companies operating in the road passenger transport sector by bus on medium and long-haul routes not providing PSO services. The Italian authorities estimate that there will be approximately 250 beneficiaries.

(17) Aid may not be granted under the measure to medium and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[6] on 31 December 2019.

(18) Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the 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].

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6 As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

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.

### 2.6. Sectoral and regional scope of the measure

(19) The measure is open to undertakings operating in road passenger transport services by bus in Italy (see recital (16)). The measure does not apply to undertakings operating in the financial sector.

(20) The measure applies to the whole Italian territory.

### 2.7. Basic elements of the measure

(21) The measure is envisaged to provide direct grants to eligible undertakings that have suffered damages as a result of the measures to contain the COVID-19 outbreak. According to the Draft Ministerial Decree submitted by the Italian authorities the aid amount is calculated on the basis of the difference between the EBITDA[9] recorded in the period from 23 February to 31 December 2020 and the average value of the EBITDA recorded in the same period for the previous two financial years (2018-2019).

(22) Each eligible undertaking must indicate in its application the value of the EBITDA for the relevant financial years and specify any avoided or additional costs deriving from social shock absorbers resulting from the COVID-19 outbreak. Recoverable amounts from insurance, litigation, arbitration or other source relating to COVID-19 related damages for the same period cannot be cumulated with the aid.

(23) The application shall detail all relevant amounts as indicated in the financial statements filed for the years 2018 and 2019 (for the period from 23 February to 31 December), as well as a statement concerning those same amounts for the financial year 2020. The application shall then be subject to an investigation by the competent authorities.

(24) The Directorate General for road transport of people and goods, for logistics and inter-modality, of the Ministry of Sustainable Infrastructure and Mobility delegates the investigation activities to a managing body and appoints a commission for the validation of the submitted applications. The managing body is entitled to carry out spot checks in relation to the amounts to be granted to each applicant undertaking.

(25) If a beneficiary undertaking has been granted or received aid in excess of what is certified by its legal representative in its application, that undertaking must communicate that information to the Ministry of Infrastructure and Sustainable Mobility and return to the State Treasury any aid amount received in excess. Should it fail to do so, the undertaking shall forfeit the right to any aid under the measure and any amount paid shall be recovered.

(26) The Italian authorities confirmed that the overall nominal value of the direct grants under the measure shall not exceed EUR 1.8 million per undertaking and

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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.

9 Earnings before interest, taxes, depreciation and amortization.

that all figures used must be gross, that is, before any deduction of tax or other charges.

(27) The Italian authorities also confirmed that the Draft Ministerial Decree will only enter into force following notification of the Commission's authorisation in compliance with Article 108(3) TFEU.

### 2.8. Cumulation

(28) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[10] or the GBER provided the provisions and cumulation rules of those Regulations are respected.

(29) 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.

(30) 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 point 22(a) of that framework, will be respected.

### 2.9. Monitoring and reporting

(31) 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 on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[11]).

## 3. ASSESSMENT

### 3.1. Lawfulness of the measure

(32) By notifying the measure before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU.

### 3.2. Existence of State aid

(33) 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.

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10 Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1).

11 Referring to information required in Annex III to the GBER.

(34) The measure is imputable to the State, since it is administered by Ministry of Sustainable Infrastructure and Transport (see recital (13)) and it is based on Article 85 of Decree-Law No 104 of 14 August 2020 and the Draft Ministerial Decree from the Minister of Sustainable Infrastructure and Mobility and the Minister of Economy and Finance (see recital (12)). It is financed through State resources, since it is financed by public funds.

(35) The measure confers and advantage on its beneficiaries in the form of direct grants (see recital (11)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.

(36) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the road passenger transport sector, excluding the financial sector (recital (19)).

(37) 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.

(38) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU.

### 3.3. Compatibility

(39) 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.

(40) 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*".

(41) 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*".

(42) The measure aims at providing liquidity support to the beneficiary undertakings 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.

(43) 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. 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.

(44) 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 takes the form of direct grants (recital (11)).

  The overall nominal value of the grants shall not exceed EUR 1.8 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (11)). The measure therefore complies with point 22(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 (14)). The measure therefore complies with point 22(b) of the Temporary Framework.

- Aid may not be granted under the measure to medium[12] and large enterprises that were already in difficulty on 31 December 2019 (recital (17)). 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[13] or restructuring aid[14] (recital (17)). 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 2021 (recital (15)). The measure therefore complies with point 22(d) of the Temporary Framework.

(45) The Italian authorities confirm 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 (recital (9)).

(46) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (31)). 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 and the cumulation rules of the relevant Regulations are respected (recitals (28) to (30)).

(47) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member

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[12] As defined in Annex I to Commission Regulation (EU) No 651/2014.

[13] 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.

[14] 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.

State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

## 4. CONCLUSION

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.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION