EUROPEAN COMMISSION

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PUBLIC VERSION

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Subject: State Aid SA.64342 (2021/N) – Italy
COVID-19: Aid to undertakings engaged in road passenger transport by bus

Excellency,

1. PROCEDURE

(1) By electronic notification of 20 September 2021, Italy notified aid in the form of limited amounts of aid for undertakings active in road passenger transport by bus for medium and long-haul scheduled services, and for occasional services (*Risorse per sopperire alla carenza di liquidità delle imprese di trasporto persone su strada, dovuta alla crisi della pandemia di COVID-19*, 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

[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).

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Article 3 of Regulation 1/1958[2] and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

(3) The measure consists of the following sub-measures:

(a) Sub-measure (a): direct grants for the repayment of loan instalments to undertakings providing scheduled bus services not subject to a public service obligation ("PSO") compensation;

(b) Sub-measure (b): direct grants for the repayment of loan instalments to undertakings providing occasional bus services not subject to a PSO compensation;

(c) Sub-measure (c): direct grants for the purchase of new buses to undertakings providing occasional and/or scheduled bus services not subject to a PSO compensation.

(4) Undertakings providing services subject to a PSO compensation can also be eligible for support under any of the sub-measures, as long as the support they receive relates only to their purely commercial operations not subject to a PSO compensation. These undertakings, pursuant to point 5 of the annex of Regulation (EC) 1370/2007[3], are required to carry out separate accounts in relation to the transport services they perform. The aid covered by the measure will refer exclusively to what is shown in the separate account referring to services not subject to a PSO compensation. Therefore, Italy has ensured that there will be no overlaps between PSO and non-PSO compensations.

(5) 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.

(6) Italy was the very first Member State of the European Union to be affected by the COVID-19 epidemic and to declare, with a resolution of the Council of Ministers of 31 January 2020, a state of emergency.

(7) Since the declaration of the state of emergency, various decrees have been enacted, which have entailed, among other things, restrictions on people mobility, gatherings, transport passengers, opening of museums and cultural sites, and carrying out of events.

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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] Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70, OJ L 315, 3.12.2007, p. 1.

(8) According to the Italian authorities, the containment measures taken against the COVID-19 pandemic have had a negative impact on different economic sectors and have prohibited or restricted the movement of people on the territory of Italy, which has led to a significantly lower demand for passenger transport.

(9) In particular, the transport of passengers by road during the period of greatest impact of the pandemic recorded a sharp decline in the domestic and international services. From March to May 2020, there was an almost total suspension in the provision of those services. For scheduled services, the decrease consisted not only in a reduction in frequencies but also, in many cases, in the suspension of the entire service. In some cases the suspension was imposed by the public authority, while in others it was decided autonomously by the carriers.

(10) Furthermore, the Italian authorities add that for both scheduled and occasional services, even when the bans had been lifted, there were severe restrictions on the amount of passengers allowed in a single bus due to mandatory minimum distance rules. Moreover, the demand for bus transport remained very low due to the lack of tourist activity.

(11) According to a study of October 2020 of "Politecnico di Milano" and ANAV (the largest association of companies in the sector), a turnover reduction of EUR 1.9 billion in 2020 compared to 2019 (over 75% of total turnover) was registered in the bus transport sector.

(12) Therefore, the aim of sub-measures (a) and (b) is to compensate undertakings engaged in road passenger transport by bus for medium and long-haul scheduled services, and for occasional services, for the loss of turnover due to the containment measures imposed by the government in its efforts to combat the COVID-19 pandemic.

(13) The objective of sub-measure (c) is to provide aid to undertakings engaged in road passenger transport by bus, whose liquidity was affected by the Covid-19 pandemic and the subsequent containment measures, for the purchase of new M_2 and M_3 buses[4].

(14) 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.

(15) 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

(16) The measure, through the different sub-measures, provides aid in the form of direct grants (recital (3)).

[4] As defined in Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC, OJ L 151, 14.6.2018, p. 1

2.2. Legal basis

(17) The legal basis of the measure is a draft Interministerial Decree, "Application procedure and methods for allocating resources to provide to shortage of liquidity, due to crisis of the COVID-19 pandemic, of road passenger transport undertakings"[5], which was shared with the Commission.

2.3. Administration of the measure

(18) The Ministry of Sustainable Infrastructure and Mobility of Italy is responsible for administering the measure.

2.4. Budget and duration of the measure

(19) The overall estimated budget of the measure is EUR 73 million, of which EUR 20 million will be used for sub-measure (a), EUR 50 million will be used for sub-measure (b), and EUR 3 million will be used for sub-measure (c).

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

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

2.5. Beneficiaries

(22) The beneficiaries of the measure are undertakings engaged in road passenger transport by bus for medium and long-haul scheduled services, and for occasional services, which are active in Italy. Financial institutions are excluded as eligible beneficiaries.

(23) Aid may not be granted under the measure to medium[6] and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[7] on 31 December 2019. 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[8] or restructuring aid.[9]

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5 Article 7 of the Interministerial Decree provides that the aid measure cannot be put into effect before the Commission has taken, or is deemed to have taken, a decision authorising the aid.

6 As defined in Annex I to 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 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.

8 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.

9 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.

2.6. Sectoral and regional scope of the measure

(24) Under the measure, aid will be granted to undertakings active in road passenger transport by bus for medium and long-haul scheduled services, and for occasional services.

(25) The measure is not open to undertakings active in the financial sector, in the primary production or the processing and marketing of agricultural products, or in the fisheries or aquaculture sectors.

(26) The measure applies to the whole territory of Italy.

2.7. Basic elements of the measure

(27) Under sub-measure (a), aid in the form of direct grants will be granted to operators performing scheduled services not subject to a PSO compensation, for the repayment of loan instalments or leasing fees due between 23 February and 31 December 2020 for loans taken for the purchase of M_2 and M_3 buses between 1 January 2018 and 31 December 2020.

(28) Under sub-measure (b), aid in the form of direct grants will be granted to operators performing occasional services, for the repayment of loan instalments or leasing fees due between 23 February and 31 December 2020 for loans taken for the purchase of M_2 and M_3 buses between 1 January 2018 and 31 December 2020.

(29) The amount payable to each beneficiary under sub-measures (a) and (b) will be equal to the instalments due between 23 February and 31 December 2020, up to the resources available, and in any case cannot exceed EUR 1.8 million[10].

(30) Under sub-measure (c), aid will be granted in the form of direct grants to operators performing occasional and/or scheduled services not subject to a PSO compensation for the purchase of M_2 and M_3 buses during the period between 1 January 2020 and 31 December 2021, provided that they can demonstrate that they have scrapped their old buses.

(31) Under sub-measure (c), operators will receive the amount that they have paid for each bus, with a maximum aid of EUR 20 000 for each M_2 bus and EUR 40 000 for each M_3 bus. In any case, the total amount of aid per beneficiary cannot exceed EUR 1.8 million[11].

2.8. Cumulation

(32) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulation[12] or the GBER provided the provisions and cumulation rules of those Regulations are respected.

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[10] All figures used must be gross, that is, before any deduction of tax or other charge.

[11] All figures used must be gross, that is, before any deduction of tax or other charge.

[12] 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.

(33) 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.

(34) 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(s) 22(a) of that framework, will be respected.

2.9. Monitoring and reporting

(35) 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[13]).

3. ASSESSMENT

3.1. Lawfulness of the measure

(36) 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

(37) 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.

(38) The measure is imputable to the State, since it is administered by the Ministry of Sustainable Infrastructure and Mobility of Italy (recital (18)) and is based on the an Interministerial Decree (recital (17)). All three sub-measures are financed through State resources, since they are financed by public funds originating from the State budget (recital (19)).

(39) The measure confers an advantage on its beneficiaries in the form of direct grants, an advantage which they would not have had under normal market conditions (recital (16)).

(40) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. undertakings active in road passenger transport by bus for medium and long-haul scheduled services, and for occasional services, excluding the financial sector (recital (22)).

[13] Referring to information required in Annex III to the GBER.

(41) 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.

(42) 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

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

(44) 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*".

(45) 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*".

(46) The measure aims at providing liquidity support 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.

(47) The measure is part 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 and to overcome liquidity issues in the transport sector is widely accepted by economic commentators and the measure is of a scale, which can be reasonably anticipated to produce effects across the entire Italian 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.

(48) 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 meet all the conditions of the Temporary Framework. In particular:

- The aid takes the form of direct grants for each of the three sub-measures (recital (16)).

  The overall nominal value of direct grants shall not exceed EUR 1.8 million per undertaking (recitals (29), (31) and (34)). 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.

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (19). The measure therefore complies with point 22(b) of the Temporary Framework.

- Aid may not be granted under the measure to medium[14] and large enterprises that were already in difficulty on 31 December 2019 (recital (23)). 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[15] or restructuring aid[16] (recital (23)). 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 (20)). The measure therefore complies with point 22(d) of the Temporary Framework.

(49) 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 (14)).

(50) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (35)). The Italian authorities further confirm that 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 (32) to (34)).

(51) 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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[14] As defined in Annex I to the GBER.

[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.

[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.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION