



Brussels, 11.02.2021
C(2021)1043 final

PUBLIC VERSION

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**Subject: State Aid SA.61599 (2021/N) – Italy
COVID-19: Measures to support micro, small and medium-sized
enterprises owning the service of distributing fuel on motorways for
the COVID-19 emergency period**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 28 January 2021, Italy notified an aid scheme granting limited amounts of aid, “Measures to support micro, small and medium-sized enterprises owning the service of distributing fuel on motorways for the COVID-19 emergency period” (the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹ Italy provided further information on 8 and 9 February 2021.
- (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 1/1958² 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 continues to affect the real economy. The measure 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) The objective of the scheme is to support the liquidity of micro, small and medium-sized enterprises (“SMEs”) providing fuel distribution services on motorways even during the COVID-19 health emergency period, when a drastic reduction in road traffic has led to a considerable drop in fuel demand.
- (5) 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.
- (6) 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

- (7) The measure provides aid in the form of direct grants.

2.2. Legal basis

- (8) The legal basis for the measure is Article 40 of the Decree-Law No 34 of 19 May 2020 (the so-called "Relaunch decree"), published in Official Gazette of the Italian Republic No 128 of 19 May 2020 – Ordinary Supplement No 25, containing: “Urgent measures in the field of health, support for work and the economy, as well as social policies related to the epidemiological emergency from COVID-19”, converted, with amendments, by Law No 77 of 17 July 2020.

2.3. Administration of the measure

- (9) The Ministry of Economic Development is responsible for administering the measure.

2.4. Budget and duration of the measure

- (10) The estimated budget of the measure is EUR 4 million.
- (11) The Italian authorities indicated that the measures will be financed by state resources. No resources coming from European funds are used to finance the scheme.
- (12) Aid may be granted under the measure as from the notification of its approval until no later than 31 December 2021.

2.5. Beneficiaries

- (13) The final beneficiaries of the measure are SMEs³, being in compliance with the payment of social security and welfare contributions as of 1st March 2020 and that:
- (a) are duly constituted, registered and active⁴ in the Italian Business Register (Registro delle Imprese)⁵;
 - (b) carry out a motorway fuel distribution service, having a petrol station registered in the registry referred to in Article 1, paragraph 100, of Law no. 124 of 2017.
- (14) Motorway petrol stations under the direct management of integrated oil companies and unitary management of oil and catering activities are excluded as eligible beneficiaries.
- (15) Financial institutions are excluded as eligible final beneficiaries.
- (16) Aid may not be granted under the measure to medium enterprises 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 already in difficulty within the meaning of the GBER on 31 December 2019, provided those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and have not received rescue aid⁷ or restructuring aid.⁸

2.6. Sectoral and regional scope of the measure

- (17) The measure is open to SMEs carrying out a motorway fuel distribution service⁹ complying with the conditions set out in recital (13). It applies to the whole territory of Italy.

2.7. Basic elements of the measure

- (18) The objective of the scheme is to counter the liquidity shortage faced by undertakings active in the distribution of fuel on the national motorway network in the period when severe travel restrictions imposed by the Italian authorities to combat the COVID-19 health emergency caused to these undertakings serious difficulties.

³ 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.

⁴ The beneficiary has started its activities.

⁵ <https://italianbusinessregister.it/italian-business-register>

⁶ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014.

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.

⁹ Nace code G47.3.0 - Retail sale of automotive fuel in specialised stores
https://ec.europa.eu/competition/mergers/cases/index/nace_all.html

- (19) The grant amounts to the employers' social security contributions (outside those referred to insurance for accident at work) on the salaries of their employees with regard to the months of March, April and May 2020. Thus, the amount of aid is limited to the value of those contributions¹⁰.
- (20) 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 1 800 000 per undertaking (all figures used being expressed in gross, that is before any deduction of tax or other charges).
- (21) Applications can be submitted within the period that will be defined with the implementing decree that will be issued by the Ministry and, in any case, no later than 31 December 2021.

2.8. Cumulation

- (22) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations¹¹ or the GBER¹² provided the provisions and cumulation rules of those Regulations are respected.
- (23) 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.
- (24) 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

- (25) 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 granting¹³).

¹⁰ In view of the distribution of the available sums among all the beneficiaries, that amount of aid may be reduced proportionately if the total aid requested exceeds the total budget allocated to the measure, namely EUR 4 million.

¹¹ 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) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

¹² Commission Regulation (EU) No 651/2014 of 17 June 2014.

¹³ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (26) 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

- (27) 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.
- (28) The measure is imputable to the State, since it is administered by Ministry of Economic Development (see recital (9)) and it is based on Article 40 of the Decree-Law of 19 May 2020, no. 34 (see recital (8)). It is financed through State resources, since it is financed by public funds (see recital (11)).
- (29) The measure confers an advantage on its beneficiaries in the form of direct grants (see recital (7)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (30) The advantage granted by the measure is selective, since it is awarded only to certain undertakings (see recitals (13) to (16)), namely only to SMEs active in the fuel distribution sector (see recital (17)).
- (31) 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 (see recital (17)).
- (32) 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

- (33) 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.
- (34) 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*”.
- (35) 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”.

- (36) The measure aims at countering the liquidity shortage faced by undertakings active in the distribution of fuel on the national motorway network (see recital (4)) 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.
- (37) 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 is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects to the specific sector to which the measure is addressed (see recital (17)). 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.
- (38) 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 (7)).
The overall nominal value of direct grants shall not exceed EUR 1 800 000 per undertaking (see recital (20)); 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 (10). The measure therefore complies with point 22(b) of the Temporary Framework.
 - Aid may not be granted under the measure to medium¹⁴ and large enterprises that were already in difficulty on 31 December 2019 (recital (16)). 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 aid¹⁵ or restructuring aid¹⁶ (recital (16)). 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 (see recital (21)). The measure therefore complies with point 22(d) of the Temporary Framework.

¹⁴ As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014.

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.

- (39) 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 (5)).
- (40) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (25)). 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 (22) to (24)).
- (41) 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.

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