EUROPEAN COMMISSION

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Subject: State Aid SA.102966 (2022/N) – Italy
COVID-19: Incentive to employers that hire workers in extraordinary redundancy fund system

Excellency,

1. PROCEDURE

(1) By electronic notification of 12 May 2022, Italy notified aid in the form of limited amounts of aid (*Incentivo in favore dei datori di lavoro che assumono lavoratori in Cassa Integrazione Guadagni straordinaria* - Incentive to employers that hire workers in extraordinary redundancy fund system, "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 submitted additional information on 19 May 2022.

(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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

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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) Italy considers that the COVID-19 pandemic 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 pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.

(4) The objective of the measure is to support private employers, with a view to ultimately preserve employment levels and the occupational recovery of workers facing risk of redundancy.

(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 1, paragraphs 243-247, of Law No. 234 of 30 December 2021 on "State Budget for the financial year 2022 and multi-annual budget for the years 2022-2024" ('*Bilancio di previsione dello Stato per l'anno finanziario 2022 e bilancio pluriennale per il triennio 2022-2024*')[3]. According to Article 1, paragraph 247, of the above Law, aid can be granted after the approval of the measure by the Commission.

2.3. Administration of the measure

(9) The Ministry of Labour and Social Policies is responsible for administering the measure. The granting authority is the National Institute for Social Security ("INPS").

2.4. Budget and duration of the measure

(10) The estimated budget of the measure is EUR 9.5 million. It is financed through the general State budget, Regional budget or other local authorities budget.

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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] Published on Gazzetta Ufficiale, Serie Generale No. 310 of 31 December 2021.

(11) Aid may be granted under the notified measure as from the notification of the Commission's decision approving the measure until no later than 30 June 2022.

2.5. Beneficiaries

(12) The final beneficiaries of the measure are all private employers[4], irrespective of their size. Private employers are eligible under the measure if they hire with a permanent contract ('*Contratto di lavoro subordinato a tempo indeterminato')* the workers that benefit, beyond the extraordinary redundancy fund system ('*Cassa Integrazione Guadagni Straordinaria*'), from 12 additional months of extraordinary wage supplement treatment under the employment transition agreement[5]. Financial institutions and domestic workers are excluded as eligible final beneficiaries.

(13) However, private employers are excluded as eligible beneficiaries if, in the six months before hiring, they proceed with individual dismissals for justified objective reasons[6] or collective redundancies[7] of workers employed in the same production unit.

(14) Furthermore, private employers are subject to annulment and recovery of the measure if, in the six months after the hiring, they proceed:

(a) with the dismissal of the worker hired under the measure, or

(b) with the collective or individual dismissal for justified objective reason of workers employed in the same production unit and qualified at the same level of the worker hired under the measure.

(15) Aid may not be granted under the measure to medium[8] and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[9], the Agriculture Block Exemption Regulation ("ABER")[10]

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4 The Italian authorities explain that private employers are employers that do not fall under the definition of public sector employers, the latter being defined under Legislative Decree No. 165 of 30 March 2001.

5 The employment transition agreement is a newly implemented mechanism under Art. 22-ter of Legislative Decree No. 148 of 14 September 2015, as introduced by Article 1, paragraphs 200, of Law No. 234 of 30 December 2021. In light of the agreement, undertakings under corporate reorganization or company crisis employing more than 15 employees may receive, beyond the extraordinary redundancy fund system, a supplementary and extraordinary salary integration treatment for a maximum of 12 months of extraordinary wage supplement.

6 As defined under Art. 3, Law No. 604 of 15 July 1966.

7 As defined under Law No. 223 of 23 Law 1991.

8 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.

9 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.

10 As defined in Article 2(14) of Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 193, 1.7.2014, p. 1.

and the Fisheries Block Exemption Regulation ("FIBER")[11] 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[12] or restructuring aid[13].

2.6. Sectoral and regional scope of the measure

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

2.7. Basic elements of the measure

(17) The measure has as its main purpose to support private employers and thereby to ultimately preserve employment levels and the occupational recovery of workers facing risk of redundancy, both at serious risk because of the COVID-19 outbreak.

(18) The measure provides for a grant paid to private employers. The grant aims at offsetting the monthly contribution of the workers hired under the measure. It is equal, for each month of retribution paid to the worker, to 50% of the amount of the extraordinary wage supplement treatment granted under the employment transition agreement that would be paid to the worker hired under the measure[14].

(19) Aid under the notified measure may be granted until no later than 30 June 2022 (see recital (11))[15].

(20) The Italian authorities confirm that the overall maximum aid amount per undertaking (gross, i.e. before any deduction of tax or other charge), as indicated in point 22(a) and 23(a) of the Temporary Framework, will be complied with.

(21) The Italian authorities confirm that where the beneficiaries are undertakings active in the marketing of agricultural products, the aid 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 put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.

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[11] As defined in Article 3(5) of Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 369, 24.12.2014, p. 37.

[12] 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.

[13] 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.

[14] In the event of the worker's resignation, the aid is granted for the effective period of employment. If the hired workers create a cooperative pursuant to Article No. 23, paragraph 3-*quater*, of Law Decree No. 89 of 22 June 2012, the aid is granted *pro rata*.

[15] The legal basis however provides for aid granted for a maximum of 12 months applicable to the period between 1 January 2022 and 31 December 2022. The Italian authorities confirm that aid granted after 30 June 2022 will be subject to a different assessment under State aid rules.

(22) The Italian authorities confirm that aid granted to undertakings active in the primary production of agricultural products is not fixed on the basis of the price or quantity of products put on the market.

(23) Finally, the Italian authorities confirm that 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.

2.8. Cumulation

(24) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[16], the GBER, ABER and FIBER, provided the provisions and cumulation rules of those Regulations are respected.

(25) 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.

(26) 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.

(27) 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.

2.9. Monitoring and reporting

(28) 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 primary agriculture and in the fisheries sectors on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[17]).

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16 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), Commission Regulation (EU) No 1408/2013 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 in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) 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).

17 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

(29) 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

(30) 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.

(31) The measure is imputable to the State, since it is administered by the Ministry of Labour and Social Policies and granted by INPS (see recital (9)). It is based on Article 1, paragraphs 243-247, of Law No. 234 of 30 December 2021 on "State Budget for the financial year 2022 and multi-annual budget for the years 2022-2024" (see recital (8)). It is financed through State resources, since it is financed by public funds.

(32) The measure confers an advantage on its beneficiaries in the form of direct grants (see recital (7)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(33) The advantage granted by the measure is selective, since it is awarded only to certain private employers (in particular those who hire, with a permanent contract of dependant employment, workers that benefit from the additional 12 months of extraordinary wage supplement treatment as a result of employment transition agreement), excluding public sector employers, domestic workers and the financial sector (see recital (12)).

(34) 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.

(35) 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

(36) 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.

(37) 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*".

(38) 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*".

(39) The measure aims at supporting private employers hiring workers benefiting from the additional 12 months of extraordinary wage supplement treatment as a result of employment transition agreement, thereby preserving employment levels (see recital (4)), at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(40) 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 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.

(41) 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 (see recital (7)).

  The overall nominal value of each grant shall not exceed EUR 2.3 million per undertaking; 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 medium[18] and large enterprises that were already in difficulty on 31 December 2019 (see recital (15)). 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

[18] 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.

rescue aid[19] or restructuring aid[20] (see recital (15)). The measure therefore complies with point 22(c)bis of the Temporary Framework.

- Aid will be granted under the measure no later than 30 June 2022 (see recital (11)). 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 is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned. The measure therefore complies with point 22(e) of the Temporary Framework.

- The overall nominal value of each grant does not exceed EUR 345 000 per undertaking active in the fishery and aquaculture sector or EUR 290 000 per undertaking active in the primary production of agricultural products (see recital (20)). The measure therefore complies with point 23(a) of the Temporary Framework.

- Aid granted to undertakings active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market (see recital (22)). The measure therefore complies with point 23(b) 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 (see 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 2.3 million 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 345 000 is not exceeded per undertaking (see recital (27)). The measure therefore complies with point 23bis of the Temporary Framework.

(42) 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

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[19] 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.

[20] 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.

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 (see recital (5)).

(43) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (see recital (28)). 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 (see recitals (24) to (26)).

(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.

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