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Subject: State Aid SA.103064 (2022/N) – Italy
COVID-19: Support to tourist transport by covered buses (non PSO)

Excellency,

1. PROCEDURE

- (1) By electronic notification of 18 May 2022, Italy notified aid in the form of limited amounts of aid (*“Fondo unico per il turismo – Direct grant for undertakings, not subject to public service obligations, authorised to operate tourist transport of people by covered buses”*), under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the *“Temporary Framework”*).¹ The Italian authorities provided additional information on 7 June 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 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) The Italian authorities consider that the COVID-19 pandemic affects the real economy. According to the information provided, Italy was the very first Member State of the European Union to be affected by the COVID-19 pandemic and to declare, with a resolution of the Council of Ministers of 31 January 2020, a state of emergency. Since then, various decrees have been enacted, which have entailed, among other things, restrictions on people's mobility, gatherings, transport of passengers and the organization of events and have had a negative impact on the tourism sector. Even the most recent measures, which are particularly stringent (e. g. travel bans, time-limited validity of the green pass, the need for vaccination to carry out many activities), have effectively influenced the flow of tourists and tourist activities in Italy.
- (4) The Italian authorities explain that the specific sector of the undertakings, not subject to public service obligations, authorised to operate tourist transport of people by covered buses, ("the beneficiaries") has been directly affected by the COVID-19 crisis. Indeed, these undertakings are mainly engaged in the movement of tourists. They operate in close synergy with other operators in the tourist supply chain: travel agencies/tour operators, schools and religious institutes for educational/school trips, other private entities including museums, theme parks, fairs, and hotels.
- (5) As from March 2020, numerous legislative interventions limited the circulation of people throughout the Italian territory or within specific regions, allowing from time to time exclusively travel required for work, situations of necessity or for health reasons, thereby effectively prohibiting the flow of tourists. According to the Italian authorities, the tourism sector generated 13% of the country's GDP before the COVID-19 outbreak. In 2020, the contribution of tourism activities to GDP was 4.1%. The decline in tourist activity in 2020 accounted for over a quarter of the total loss of value-added recorded in Italy.
- (6) Analysis carried out by the ISTAT and Banca d'Italia show that in 2020, the health crisis and related measures caused a drastic drop in tourist flows, both in and out of the country. The attendance of foreigners in Italy (inbound tourism) decreased by 54.6% as compared to 2019, with tourist spending EUR 23.7 billion, leading to the loss of about EUR 35 billion as compared with the previous year. In domestic flows, the decrease in overnight stays amounted to 32.2% in 2019. The tourism sector continued to be impacted negatively in 2021: the general tourism flow in Italy with 131.4 million arrivals and 280.2 million overnights, shows a decrease of 43.8% in terms of arrivals and 35.8% overnights as compared to the 2019 pre-pandemic trends. As to school/educational trips – which represent some 16% of the global turnover of the sector concerned, those were completely banned as from 23 February 2020 until 31 March 2022 (with some exceptions for the regions located in the so-called "white" zone).

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

- (7) Apart from the reduction of the demand (at times fully eliminated), measures imposed by the government to prevent and contain the spread of the virus also contributed to the reduction of turnover in the sector concerned. From the beginning of the COVID-19 pandemic and up to August 2021, a one-meter spacing was required (with very limited exceptions) allowing buses to be filled up to a 50% capacity only. The filling coefficient (accompanied by constraints linked to the use of the green pass to access the vehicle) increased to 80% on 30 August 2021 and returned to 100% in December 2021.
- (8) According to the Italian authorities, the sector concerned recorded turnover losses of approximately 75% in 2020 (as from March) and 2021 compared to the pre-COVID-years, corresponding overall to over EUR 3.3 billion loss, due to a combination of a lower propensity to travel and to use collective transport with the constraints imposed on the movement of people and the filling coefficient for buses.
- (9) The Italian authorities explain that the objective of the measure is to support the beneficiary undertakings, in view of their lack of liquidity that results from the COVID-19 pandemic and the measures rendered necessary by the persistence of the pandemic. Italy adds that at present, the tourism sector is estimated to be one of the worst-performing industries in the country.
- (10) 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.
- (11) 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.
- (12) 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

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

2.2. Legal basis

- (14) The legal basis for the measure is based on the following acts:
 - (a) Decree-Law No 4 of 27 January 2022 entitled “Urgent measures to support businesses and economic operators, work, health and local services, connected to the COVID-19 emergency, as well as to contain the effects of price increases in the electricity sector” (Article 4(1), “Fondo unico nazionale per il turismo”);

- (b) the draft Decree on the implementing provisions concerning the methods of distribution and allocation of resources to support in 2022 businesses, not subject to public service obligations, authorised to carry out tourist transport of people by covered buses, pursuant to Article 4(1), of Decree-Law No 4 of 27 January 2022³.

2.3. Administration of the measure

- (15) The Ministry of Tourism is responsible for administering the measure.

2.4. Budget and duration of the measure

- (16) The estimated budget of the measure is EUR 5 million.
- (17) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 30 June 2022.

2.5. Beneficiaries

- (18) The beneficiaries of the measure are undertakings of all sizes, not subject to public service obligations, that are authorised to operate tourist transport of people by covered buses. The estimated number of beneficiaries is about 5000.
- (19) Aid may not be granted under the measure to medium-sized⁴ and large enterprises that were in difficulty within the meaning of the General Block Exemption Regulation ("GBER")⁵ 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 aid⁶ or restructuring aid.⁷

2.6. Sectoral and regional scope of the measure

- (20) The measure is open to undertakings, not subject to public service obligations, that are authorised to operate tourist transport of people by covered buses.
- (21) It applies to the whole territory of Italy.

³ Draft Decree entitled: "Disposizioni applicative concernenti le modalità di ripartizione ed assegnazione delle risorse destinate per l'anno 2022 al sostegno delle imprese, non soggette a obblighi di servizio pubblico, autorizzate all'esercizio di trasporto turistico di persone mediante autobus coperti, ai sensi dell'articolo 4, comma 1, del D.L. 27 gennaio 2022, n. 4, convertito dalla legge 28 marzo 2022, n. 25, a valere sul fondo di cui all'articolo 1, comma 366, della Legge 30 dicembre 2021, n. 234.

⁴ 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.

⁵ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014.

⁶ 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.

⁷ 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.

2.7. Basic elements of the measure

- (22) In order to be eligible for the measure, an undertaking must fulfil a number of conditions including:
- a) being registered in the Business Register under code ATECO 49.39.09;
 - b) holding an authorisation to operate bus rental services with driver pursuant to Law No 218 of 11 August 2003;
 - c) having its registered office in Italy;
 - d) the absence of disqualification sanctions pursuant to Article 9(2), of Legislative Decree No 231 of 8 June 2001;
 - e) the compliance with social security, tax and insurance obligations and, with the regulatory provisions concerning declarations of commencement or variation of the activity (Article 35 of Decree of the President of the Republic No 633 of 26 October 1972);
 - f) not being impeded from contracting with the public administrations, and,
 - g) not being, on 31 December 2019, an undertaking in difficulty pursuant to the GBER, except for micro or small enterprises, as long as they are not subject to insolvency proceedings under national law and not recipients of rescue aid or restructuring aid.
- (23) In addition, the undertaking must have registered an average reduction in turnover of at least 30% in 2021 as compared to the average turnover in 2019.
- (24) The amount of aid is set up by applying the following percentages to the difference between the turnover for the period between 1 January and 31 December 2019 and the turnover for the period from 1 January 2021 to 31 December 2021, as follows:
- a) 30% for beneficiaries whose revenues did not exceed EUR 200 000 in 2019;
 - b) 20% for beneficiaries whose revenues exceeded EUR 200 000 and remained below EUR 500 000 in 2019;
 - c) 10% for beneficiaries whose revenues exceeded EUR 500 000 and remained below EUR 25 million in 2019;
 - d) 5% for beneficiaries whose revenues exceeded EUR 25 million in 2019.

The applications for grants, the determination of the aid amounts, as well as the necessary checks will be managed via a special IT platform ensuring the granting of the aid, the publication of the list of beneficiaries and of the amounts due by 30 June 2022. Aid will be paid net of any other contributions already granted for the same period.

- (25) The Italian authorities confirm that the overall nominal value of the direct grants shall not exceed the overall maximum amount of EUR 2.3 million per undertaking⁸.

2.8. Cumulation

- (26) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under the de minimis Regulation⁹ or the GBER provided the provisions and cumulation rules of those 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 point 22(a) of that framework, will be respected.

2.9. 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 on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹⁰).

3. ASSESSMENT

3.1. Lawfulness of the measure

- (30) By notifying the measure before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU.¹¹

⁸ All figures must be gross, i.e. before any deduction of tax or other charge.

⁹ 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.

¹⁰ Referring to information required in Annex III to the GBER.

¹¹ Pursuant to Article 7 of the Draft Decree: "The contributions referred to in this Decree shall be recognised and paid in accordance with 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, or with Section 3.1 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, referred to in Commission Communication of 19 March 2020, C (2020) 1863 et seq. amendments, subject to prior authorisation by the European Commission, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union".

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 Ministry of Tourism and it is based on the Decree-Law No 4 of 27 January 2022 and the draft Decree of the Minister of Tourism (recital (14)). It is financed through State resources, since it is financed by public funds.
- (33) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (13)). The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (34) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, i.e. undertakings, not subject to public service obligations, that are authorised to operate tourist transport of people by covered buses (recitals (18) and (20)).
- (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 supporting the beneficiaries, in view of their lack of liquidity resulting from the COVID-19 pandemic and from the measures rendered necessary by the persistence of the pandemic, 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.

- (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 objective of the measure is to make up for the lack or unavailability of liquidity and resources that has affected the undertakings, not subject to public service obligations, that are authorized to operate tourist transport of people by covered buses, resulting from the COVID-19 pandemic and the measures which were rendered necessary by the persistence of the pandemic. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Aid in the form of direct grants*”) 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 takes the form of limited amounts of aid in the form of direct grants (recital (13)).

The overall nominal value of direct grants 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 (see recital (24)). 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 (16)). The measure therefore complies with point 22(b) of the Temporary Framework.
- Aid may not be granted under the measure to medium-sized¹² and large enterprises that were in difficulty on 31 December 2019 (recital (19)). 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 aid¹³ or restructuring aid¹⁴ (recital (19)). 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 (recital (17)) the measure therefore complies with point 22(d) of the Temporary Framework.

¹² As defined in Annex I to the GBER.

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.

- (43) 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 (11)).
- (44) 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 and the cumulation rules of the relevant Regulations are respected (recitals (26) to (28)).
- (45) 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

