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Subject: State Aid SA.106777 (2023/N) – Italy – RRF - Support for the development of Renewable Energy Communities

Excellency,

1. PROCEDURE

(1) On 13 June 2023, following pre-notification contacts, Italy notified its support scheme for the production and self-consumption of renewable electricity within renewable energy communities, jointly acting renewable self-consumers and remote renewable self-consumers (the 'scheme'), pursuant to Article 108(3) of the Treaty on the Functioning of the European Union ('TFEU'). On 28 July 2023 and 18 October 2023, the Commission requested additional information, which Italy submitted on 11 and 26 September 2023, 24 October 2023, and 8 and 10 November 2023.

(2) By letter signed on 11 September 2023, Italy agreed to exceptionally waive its rights deriving from Article 342 TFEU in conjunction with Article 3 of Regulation 1/1958 ([1]) and to have the present decision adopted and notified in English.

([1]) 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) The scheme provides aid for the construction or upgrade of renewable power generation capacities and for the self-consumption of renewable electricity within self-consumption configurations as defined in recital (7) (hereafter 'configurations'), by means of two measures that can be cumulated.

(4) The scheme is open to configurations which use the existing distribution grid to share electricity produced by renewable installations with a capacity of maximum 1MW per power plant. Italy expects that the scheme will facilitate the deployment of up to 5 GW of new renewable power generation capacity.

(5) Members of these configurations can be either a producer, meaning a natural or legal person who produces electricity, and/or a consumer that takes electricity from the grid and receives an electricity bill. The relations among the members of such configurations are governed by private law contracts ([2]). Undertakings can become members, provided that the production of renewable electricity (as well as sale and storage) does not constitute their primary commercial or professional activity.

(6) Being a member of such configurations does not create any constraints for consumption and production: each final consumer continues to purchase electricity taken from the grid by choosing the commercial offer considered most appropriate, and each producer continues to sell its electricity fed into the grid in the preferred manner.

(7) Depending on the number of members and their location, such configurations are classified as:

(a) Individual remote renewable self-consumers, meaning final customers who can generate renewable electricity for their own consumption and who may store or sell self-generated renewable electricity. Remote self-consumers can use the existing distribution network to share the energy produced by renewable energy plants and consume it at their owned points of delivery ([3]).

(b) Jointly acting renewable self-consumers, which are groups of at least two renewable self-consumers, who must be located in the same building ([4]).

([2]) The contract protects end customers' rights, including the right to choose one's own seller, unequivocally identifies an authorized representative responsible for the collection and payment towards the sales companies and the GSE, and it regulates the members' exit procedures.

([3]) See definition in Article 2, Recital (14) of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) (OJ L 328, 21.12.2018, p. 82) ('Directive (EU) 2018/2001'), transposed in Article 30, paragraph 1, letter a), number 2.2 of legislative decree n. 199/2021.

([4]) See definition in Article 2, Recital (15) of Directive (EU) 2018/2001, transposed in Article 30, paragraph 2 of legislative decree n. 199/2021.

(c) Renewable energy communities, which are legal entities effectively controlled by some specific categories of shareholders or members, as defined by national law ([5]). The latter must be located in the proximity of the renewable energy installations which are owned by or fully available to the renewable energy community itself. The primary purpose of renewable energy communities is to provide environmental, social and economic benefits for their members or shareholders, rather than generating a financial profit ([6]).

(8) All technologies for the production of renewable electricity are eligible. Italy however expects that the technology that will most likely be chosen is photovoltaic, in view of its versatility in terms of installation, placement and simplicity of operation.

(9) The granting authority is the Ministry for Environment and Energy Security and the managing authority of the scheme is the Gestore dei Servizi Energetici ('GSE') ([7]).

(10) Aid is granted up to the funding gap of the projects. By separate accounts, the scheme allows for additional payments to final consumers other than undertakings or for the financing of social projects in the local community. The aid and the additional payments are clearly separated (see Section 2.5.4 below).

(11) Aid can be granted through a premium tariff (Measure 1) and/or through a capital grant (Measure 2).

(12) Under the scheme, configurations receive a premium tariff from the GSE for each hour of electricity that is self-consumed (or 'shared') within the configuration itself (Measure 1). The self-consumption is 'virtual', i.e. reconstructed *ex-post* from actual consumption data within the configuration, and it is equal to the portion of electricity shared between producers and end consumers belonging to the configuration, which have to be located below the same portion of electricity grid (primary substation) ([8]). It is equal, each hour, to the lower value between the electricity fed into the grid by the renewable installation and the sum of electricity withdrawals attributed to end customers who are members of the configuration.

([5]) See definition in Article 31 of the Italian Legislative Decree No 199 of 2021 "Implementation of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources. (21G00214)".

([6]) See definition in Article 2, Recital (16) of Directive (EU) 2018/2001, transposed in Article 31 of legislative decree n. 199/2021.

([7]) The GSE is 100% owned by the Ministry of Economic Affairs and Finance and controlled by the Ministry for Environment and Energy Security. The GSE is the Italian public body responsible for the promotion of renewable energy and energy efficiency in Italy. It is also responsible for the monitoring of the development of renewable energies, from a statistical, technical, economic and environmental point of view.

([8]) *Ex-post* reconstruction of the electricity flows is necessary because electricity produced is not all self-consumed under the same meter (as would be in case of one prosumer self-consuming directly its electricity when it is produced through its solar panels on the roof). In this case electricity needs to enter the distribution system when produced and delivered to other consumers under the same primary substation but not under the same meter. Therefore self-consumption needs to be reconstructed ex-post.

(13) Each configuration enters into a contract with the GSE through an administrator ('Contact Point') to whom the configuration confers a collective mandate to request access to the premium tariff. On the basis of the electricity measurements collected from the electricity meters, the GSE transfers, monthly, the premium tariff to the Contact Point of each configuration. The latter will then distribute the premium among the members or allocate them to specific activities as specified in the agreements defined in the private contract (see recital (5)). The Contact Point is required to adopt a separate accounting reporting model for payments to members of the configurations engaged in an economic activity (undertakings) that may not exceed the funding gap for the respective (reference) installation. Any funds received from the State in excess of this production support must be accounted separately.

(14) Renewable production plants producing within jointly acting renewable self-consumption and renewable energy communities configurations located in municipalities with less than 5 000 inhabitants can also receive an investment grant up to 40% of the eligible costs (Measure 2). This specific measure is included in the Italian National Recovery and Resilience Plan (NRRP) ([9]) – Mission 2, Component 2 (M2C2), Investment 1.2 'Promotion of RES for energy communities and jointly acting renewables self-consumers' and will be funded by the Recovery and Resilience Facility ('RRF') ([10]). In case of cumulation of the two measures, the tariff of Measure 1 is reduced accordingly.

(15) Italy has confirmed that the scheme entails no violation of any relevant Union Law.

2.1. Background and objective

(16) The EU has set an ambitious climate protection target of reducing greenhouse gas emissions by at least 55% by 2030, with a view to becoming climate neutral by 2050 ([11]). Italy has a national target, set in its National Energy and Climate Plan submitted in 2019 (Piano Nazionale Integrato per l'Energia e il Clima, PNIEC), of 30% of gross final energy consumption from renewable energy sources by 2030, with a projected 55%-share of renewables in gross final electricity consumption. In this view, the scheme plays an important role in promoting electricity production from renewable energy sources.

(17) The Italian authorities explained that, to reach the 2030 targets, it is necessary to deploy all possible solutions, even the most innovative ones, such as those covered by this scheme. Italy considers that the scheme is necessary to incentivize the dissemination of self-consumption configurations from renewable sources in Italy, which will make an important contribution to achieving the national greenhouse gas reduction target.

([9]) Please find the Italian NRRP here: PNRR.pdf (governo.it).

([10]) Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility ('RRF Regulation'), OJ L 57, 18.2.2021, p. 17.

([11]) Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

(18) The objective of the scheme is also to promote the public acceptance and development of decentralised renewable energy sources, energy efficiency at all levels, and the participation to the energy market of different users (in particular households), as well as to fight energy poverty and vulnerability.

(19) Italy considers that these configurations will become one of the most sustainable forms of renewable sources development as citizens and SMEs will become *prosumers*, playing an important role in terms of local consensus for the realization of these installations. Furthermore, these configurations will unlock existing spaces (e.g. households' rooftops) for the production of renewable energy.

(20) The scheme has the objective of promoting a paradigm shift towards greater awareness and responsibility from citizens, in order to generate behaviours that can support the creation of renewable installations accepted by the community. Moreover, Italy argues that incentivising self-consumption will help mitigate the expected negative effect on grid congestion and stability and overgeneration of solar renewable which is expected given the ambitious renewable generation targets set by Italy ([12]).

(21) The ultimate objective of the scheme is to help Italy reach the 2030 EU decarbonisation targets, reduce energy dependency, and favour cost reductions and integration of renewable sources in the electricity mix to improve environmental quality.

2.2. National Legal Basis

(22) The legal basis is the Legislative Decree no. 199 of 8 November 2021 transposing Directive (EU) 2018/2001 and the Revised Council Executive Decision for the approval of the evaluation for the Italian NPRR – Measure M2C2 – Investment 1.2 'Renewable promotion for energy communities and self-consumption' of 8 July 2021.

(23) Italy will adopt and publish the Ministerial Decree containing the implementing regulation for the scheme (the 'Implementing Decree') following State aid approval. Aid under the scheme will only be granted after the notification of the Commission decision.

2.3. Beneficiaries and access to the scheme

(24) While the recipients of the support under the scheme are the configurations (for Measure 1 all the configurations as defined in recital (7) above, for Measure 2 the configurations as defined in recital (7) above in letter b) and c)), the beneficiaries of State aid are the entities that carry out the eligible renewable production projects in a configuration, to the extent they are undertakings.

(25) To access Measure 1, the plant and the configuration to which it belongs, need to meet the following requirements:

([12]) Italy, in its PNIEC, has planned a massive deployment of renewables by 2030. In particular for solar photovoltaic, it is expected to reach 79 GW by 2030 from the 25 GW in 2022.

(a) The maximum nominal capacity of the new or upgraded plant is 1MW per power plant;

(b) Renewable energy communities have to be properly established by the application date;

(c) The power plants and the consumption points are connected to the distribution grid through existing connection points belonging to the same primary substation except for small islands ([13]);

(d) Undertakings that are members of renewable energy communities must be SMEs ([14]), and their participation in the renewable energy community cannot represent their main commercial or industrial activity;

(e) The installations meet the requirements for environmental protection ([15]) necessary to respect the *'Do No Significant Harm' (DNSH)* principle ([16]);

(f) The investment contributes to the climate objectives set by the RRF Regulation;

(g) The configurations must ensure complete and adequate information to their members regarding the benefits deriving from the access to the scheme.

(26) In order to be eligible to Measure 1, the aid application has to be submitted within 120 days from the date of entry into operation of the plant. The total capacity that can be supported under this measure is 5 GW.

(27) In order to benefit from Measure 2, the following additional requirements need to be met: i) the aid application must be submitted before the start of works; ii) possession of a permit under national administrative law for the construction and operation of the plant; and iii) possession of a final estimate of the cost to connect to the electricity grid.

(28) For Measure 2, aid applications need to be submitted before 31 March 2025 and aid will be granted until the available funds are exhausted, on a first-come first-served basis. Plants must enter into operation within 18 months from the date of acceptance of the aid application and no later than 30 June 2026.

([13]) Art. 32, comma 8, letter e), of the Legislative Decree n. 199 of 2021.

([14]) See Article 2, paragraph 1, letter (g) of the legislative decree n. 199/2021, which refers to recommendation 2003/361/CE, transposed with MD 18 April 2005, 'Adaptation of the criteria for identifying small and medium sized enterprises to the Community framework'.

([15]) In particular, for biogas plants and biomass plants, the sustainability and greenhouse gases emissions reduction criteria of Directive (EU) 2018/2001 and its implementing delegated acts must be complied with.

([16]) See Articles 9 and 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 defining the environmental objectives and the principle 'Do no significant harm' (DNSH) (OJ L 198, 22.6.2020, p.13-43). For the purposes of verifying compliance with the DNSH principle in addition to Reg. 852/2020, Reg UE 2021/2139 shall apply.

(29) To access either of the two measures, there is no selection process, meaning that all configurations that meet the requirements listed above (recitals (25) to (28)) will be granted aid upon application, provided the eligibility criteria of the scheme are met.

(30) In cases where some of the requirements listed in recitals (25) to (28) above are no longer met or if false information have been given during the application process, the GSE will declare the end of the incentive with full recovery of the sums already paid.

(31) For Measure 1, the Italian authorities estimate the number of potential eligible projects to range between 5,000 to 1,600,000, depending on the size of the installations that will apply for support. They estimate that Measure 1 will support a number of projects equal to 210,000, for a total number of members within the configuration to which they belong equal to 2 million ([17]).

(32) For Measure 2, the eligible configurations must be located in municipalities of less than 5,000 inhabitants. Remote renewable self-consumers as defined in recital (7)(a) cannot benefit from Measure 2. These limitations were introduced in view of the aim of Measure 2, namely, to support small municipalities, often at risk of depopulation, and strengthen social cohesion towards the weakest population groups through the action of the local authority. The Italian authorities have estimated a number of potential eligible projects ranging from 2,000 to 660,000, estimating the number of supported projects at 85,000.

(33) Installations within configurations which will be located in the territory of other Member States of the European Union (or in a third country geographically bordering Italy, with which the EU has a free trade agreement in force) will be allowed to receive support from Measure 1 subject to the following conditions:

(a) There is a cooperation agreement with the Member State or the country where the installation will be located, in accordance with the requirements laid out in Article 16 of Legislative Decree n.199 of 2021;

(b) The agreement establishes a reciprocity system and the modalities by which proof of physical import of electricity to Italy is provided;

(c) The installations comply with the same requirements applicable to installations located in the Italian territory.

2.4. The measures under the scheme

(34) As explained in recital (10), Aid is granted up to the funding gap of the projects. Italy points out that while the scheme does not, a priori, distinguish between the different uses of the support granted within a configuration, the separate accounting reporting model within a configuration, as described in recital (10), serves to guarantee the correct allocation of payments to the different uses of the support granted.

([17]) The following assumptions were made: a distribution between the different power classes with 50% up to 200 kW and 50% between 200 kW and 1 MW; participants to each configuration ranging from 1 for 3 kW installations to 400 for 1 MW installations.

2.4.1. Measure 1

(35) As described in recital (11), Measure 1 provides support in the form of a premium tariff on shared energy. The premium is paid on the energy shared within the configuration for 20 years ([18]).

(36) To define the content of Measure 1, the Ministry of the Environment and Energy Security carried out a public consultation in November and December 2022, involving citizens, businesses, consumers, institutional actors and key environmental stakeholders.

(37) The premium tariff varies depending on the size of the installation to take into account economies of scale, as shown in Table 1.

Table 1: Premium tariff by capacity

Capacity	**Premium tariff (EUR/MWh)**
> 600kW	100
> 200kW and ≤ 600 kW	110
≤ 200kW	120

Source: Italian Authorities

(38) The Italian authorities have introduced a reduction mechanism in case of an unexpected increase in electricity prices ([19]).

(39) In case of photovoltaic installations, the premium tariff is adjusted to take into consideration the different insolation levels of the Italian regions, which affect the productivity of photovoltaic installations, as shown in Table 2, and to guarantee a level playing field for the beneficiaries.

([18]) Stops of production due to renewal or capacity upgrading interventions which are not incentivised are not considered in the final count towards the 20 years.

([19]) When the hourly zonal price of electricity exceeds 140 EUR/MWh, the premium tariff is proportionally reduced down to a minimum of 60, 70 and 80 EUR/MWh respectively for each category, according to a formula detailed in Annex 1 of the Implementing Decree.

Table 2: Correction factors by geographical zone

Geographical Zone	Correction Factor
Central Regions (Lazio, Marche, Toscana, Umbria, Abruzzo)	+ 4 EUR/MWh
Northern Regions (Emilia-Romagna, Friuli-Venezia Giulia, Liguria, Lombardia, Piemonte, Trentino-Alto Adige, Valle d'Aosta, Veneto)	+ 10 EUR/MWh

Source: Italian Authorities

(40) The Italian authorities have explained that, according to productivity data of photovoltaics (in terms of full load hours) recorded in individual regions from 2015 to 2021 ([20]), the average productivity in the central regions and northern regions are respectively 6% and 15% lower than in the south of the peninsula. The correction is therefore aimed at compensating for the different level of productivity of the plants with respect to their location, and it is aimed at ensuring a level playing field among the beneficiaries. As such, the correction factors do not influence the aid intensity (see recital (63)).

(41) The correction factors aim at an even distribution of these projects and configurations throughout the Italian territory, thus avoiding network congestion and helping to reduce system integration costs. This would allow to satisfy the higher energy demand in the Northern regions despite the higher productivity in the South of the Italian peninsula.

2.4.2. Measure 2

(42) Measure 2 consists in an investment grant, which can cover up to 40% of the eligible investment costs.

(43) The eligible costs are listed in the Implementing Decree (Annex 2) and include in particular:

(a) construction of plants using renewable sources;

(b) supply and installation of storage systems;

(c) purchase and installation of machinery, plant and hardware and software, including costs of installation and commissioning;

(d) construction works strictly necessary for the execution of the project;

(e) connection to the national electricity grid;

([20]) See 'Rapporto Statistico Solare Fotovoltaico' (2021), issued by GSE.

(f) pre-feasibility studies, design, geological and geotechnical surveys, consultancy, etc. essential to the implementation of the project, up to a maximum of 10% of the total amount eligible for support.

(44) Aid will be granted within the limits of the maximum eligible investment costs presented in recital (53).

2.4.3. Cumulation of Measure 1 and Measure 2

(45) Aid under Measure 2 can be cumulated with aid under Measure 1. In this case, the premium tariff (Measure 1) is reduced in a way commensurate to the capital grant. The new premium tariff is reduced by 50% in case of cumulation with a capital grant covering 40% of eligible costs. The reduction factor has been defined based on the business plans of the reference projects to ensure proportionality.

2.5. Calculation of the aid amount and funding gap

2.5.1. Reference projects

(46) Italy has identified five reference projects. In all cases, the reference technology is solar photovoltaic (PV), in view of its lower costs which allow to present a more conservative estimate of the necessary aid.

(47) Indeed, while PV installations present OPEX in the range of 20 EUR/kW and CAPEX in the range of 1.000-1.500 EUR/kW (see details in Section 2.5.2), wind plants are associated with OPEX and CAPEX of respectively 40-60 EUR/kW and 1.900-4.000 EUR/kW ([21]). Similarly, biomass installations have OPEX ranging from 230 to 280 EUR/kW and CAPEX in the range of 5.800-6.100 EUR/kW ([22]). This data clearly show photovoltaic plants are less expensive than other technologies.

(48) For each reference project, Italy provided a complete business plan, considering both the case where the configuration only participates to Measure 1 and the case where the same cumulates Measure 1 and Measure 2. The business plans refer to the Southern regions of Italy.

(49) For renewable energy communities, three different reference projects have been presented, for installations with a capacity of 200 kW, 600 kW, and 1 MW respectively. Italy has selected these reference projects as they are representative of the biggest size admissible for each premium tariff, thus allowing to calculate the lowest possible funding gap and maximum aid intensity for each bracket. In particular, Italy explained that smaller projects have higher costs per kW and, consequently, a higher funding gap, but they will receive the same amount of aid.

(50) Italy has also considered a reference project with a capacity of 20 kW, representative of a joint self-consumption configuration in a condominium, and the

([21]) See ‘Energia e Clima in Italia‘, Rapporto trimestrale (Q4 2022), by GSE.

([22]) Estimate on the basis of data provided by operators when accessing incentive mechanisms in recent years (over 200 plants). Italy moreover notes that these values are consistent with previous studies (See ‘Costi di Produzione di Energia Elettrica da Fonti Rinnovabili’, Politecnico di Milano (2013) and ‘Renewable power generation costs in 2022’, IRENA study of 2022, where the latter, although referring to large plants, shows higher costs of renewable generation from biomass than photovoltaic).

case of a small individual self-consumer who installs a 3kW photovoltaic installation.

2.5.2. Costs and revenues

(51) The business plans provided by the Italian authorities set out the forecast revenues and costs of the reference projects.

(52) The expected economic life of the power plants involved in the scheme is 20 years. Since the useful life of the power plants in the business plans is the same as the incentive period, the final residual value has been considered to be zero.

(53) The investment costs (CAPEX) have been determined based on statistical observations and literature studies ([23]). They amount to 1,500 EUR/kW for an installation up to 20 kW, 1,200 EUR/kW up to 200 kW, 1,100 EUR/kW up to 600 kW, and 1,050 EUR/kW up to 1 MW.

(54) The Italian authorities have included operation and maintenance (O&M) costs of 20 EUR/kW, on the basis of the data communicated by the operators when accessing incentive mechanisms in recent years, as reported in the GSE's periodical report ([24]). The Italian authorities have also considered administrative management costs, ranging from 5 EUR/kW to 30 EUR/kW. These are included to take into consideration those costs deriving from the monitoring activities and the complexity of these configurations' administration. Indeed, the support needs to be divided among several subjects, which has to consider the entering and exiting of members from the communities as well as the contribution of each subject to the shared energy.

(55) The Italian authorities have then considered, based on statistical observations in the South of Italy ([25]), full load hours ranging from 1.250 to 1.350, increasing together with the size of the installations, as it has been assumed that larger installations are more oriented toward production maximization.

(56) In addition, based on statistical observations ([26]), a quota of shared energy of 35% has been considered for individual self-consumers. This quota increases up to 45% for groups and renewable energy communities. The Italian authorities specified that these values are already above the national average, and therefore can be considered the result of a conservative hypothesis.

(57) Finally, in line with the scenarios described in the PNIEC, the Italian authorities assumed an average 20-year value for the energy injected into the network equal to 70 EUR/MWh. According to the Italian authorities, this value appears to be the most correct one and even conservative. Indeed, in light of the decarbonisation policies that Italy is implementing to guarantee a greater integration of renewable sources in the network, Italy claims that there will be necessarily a significant reduction in energy prices, especially with regard to the time period in which the

([23]) See the survey published in the National Survey Report of PV Power Applications in Italy 2021 (iea-pvps.org), page 11.

([24]) See 'Energia e Clima in Italia', Rapporto trimestrale (Q4 2022), by GSE.

([25]) See 'Rapporto Statistico Solare Fotovoltaico' (2021), p. 39-40, by GSE.

([26]) See 'Rapporto Statistico Solare Fotovoltaico' (2021), p. 44-45, by GSE.

production of the plants serving renewable energy communities will be concentrated.

(58) The business plans consider the revenues deriving from the market sale of all the energy fed into the grid, regardless of whether it is shared or not.

(59) In addition, the business plans also include the 'network service return', which is meant to compensate for the avoided fees for the electricity system for the portion of energy that is self-consumed within the configurations. This refund of avoided grid fees in the electricity bill is applied without distinction to all configurations of renewable and non-renewable self-consumption.

2.5.3. Funding gap

(60) For all the reference projects, the Italian authorities have provided the calculation of the funding gap related to the project, i.e., the net present value (NPV) of the project without State support. They explained that in the counterfactual scenario the aid beneficiary would not carry out the investment.

(61) To calculate the NPV of the projects absent the aid, the Italian authorities have discounted the free cash flow using a weighted average cost of capital (WACC) of 8%. The WACC has been defined based on notably a cost of debt of 5% and a cost of equity of 15% ([27]). The Italian authorities explained that they used a WACC slightly higher than the one traditionally used for photovoltaic installations (6%-7%) ([28]) to take into account the specificities of the configurations.

(62) Table 3 below summarises the main assumptions of each reference project and the estimated funding gap. In particular, the funding gap for power plants within renewable energy communities with an installed capacity of 200 kW, 600 kW and 1 MW amount to EUR 157 000, EUR 438 000, and EUR 700 600, respectively. For small power plants within configurations with a capacity of 3 kW and 20 kW, the estimated funding gap amounts to EUR 2.6 and EUR 18.8 thousand. The Italian authorities concluded that the projects would not be feasible based solely on market revenues, without receiving aid.

Table 3: Funding gap for each reference project and main business plan assumptions

		PV 3 kW	**PV 20 kW**	**Energy Community 200 kW**	**Energy Community 600 kW**	**Energy Community 1 MW**
CAPEX	EUR/kW	1.500	1.500	1.200	1.100	1.050
OPEX	EUR/kW	25	30	40	45	50

([27]) The Italian authorities have made the following assumptions: tax rate of 27.9%; equity quota of 30% and debt quota of 70%, and inflation rate of 1.5%.

([28]) See the Arera report 'Criteri per la determinazione e l'aggiornamento del tasso di remunerazione del capitale investito per i servizi infrastrutturali dei settori elettrico e gas per il periodo 2022-2027 (tiwacc 2022-2027)', 23 December 2021.

Shared Energy	%	35%	45%	45%	45%	45%
WACC	%	8%	8%	8%	8%	8%
NPV without aid	kEUR	-2.6	-18.8	-157	-438	-700.6

Source: Italian authorities

(63) The Italian authorities moreover explained and provided the relevant calculations showing that for the reference projects the amount of aid remains below the funding gap. Table 4 below summarises the result of these calculations for Measure 1 only and in case of cumulation between Measure 1 and Measure 2.

Table 4: Expected aid intensity (aid amount divided by the funding gap) for each reference project, with and without cumulation between Measure 1 and Measure 2.

		PV 3 kW	**PV 20 kW**	**Energy Community 200 kW**	**Energy Community 600 kW**	**Energy Community 1 MW**
Measure 1	Aid intensity (%)	52%	64%	78%	80%	78%
With cumulation with Measure 2	Aid intensity (%)	96%	96%	100%	100%	100%

Source: Italian authorities

2.5.4. Uses of funds received by a configuration for purposes other than renewable electricity production

(64) The Implementing Decree introduces a predefined, automatic and transparent mechanism to avoid the risk of overcompensation for beneficiaries under the scheme and ensure that the aid does not exceed the funding gap.

(65) Italy submits that since the amount of aid paid under Measure 1 depends on the amount of shared energy, this may lead to a configuration receiving support exceeding the funding gap of the project. In particular, the funding gap of the reference projects is fully covered when the percentage of shared energy reaches the thresholds reported below in recital (66) and this variable depends on the behaviour of the members of the configurations. The Italian authorities have provided the relevant estimations to substantiate this.

(66) Italy points out that the administrator of the configuration will record any excess support in a separate account. This applies when the percentage of self-consumed energy is greater or equal to 55% in case of access to Measure 1 only and 45% in case of cumulation with Measure 2.

(67) Italy refers to section 2 of the Commission Notice on the notion of State aid ([29]), according to which '*State aid rules only apply where the beneficiary of a measure is an 'undertaking*', and submits that such excess support will not constitute State aid because it will be directed solely to consumers other than undertakings and/or used for social purposes, that are not economic activities impacting the areas in which the shared installations are located. Italy considers that this is in line with the rationale underlying the support of self-consumption configurations and renewable energy communities under Directive (EU) 2018/2001.

(68) To this end, the configurations are required to ensure, by means of an express statutory provision, a private agreement, or, in case of individual self-consumption, a declaration substituting a notary act, that any amount of the premium tariff, when the shared energy exceeds the thresholds reported in recital (66), will be intended exclusively for consumers other than businesses and/or used for social purposes impacting the areas in which the shared installations are located.

(69) The measure moreover foresees that the reduction factor applied to the tariff in case of cumulation with a capital grant (see recital (45)) is not applied to the tariff awarded to the electricity self- consumed by regional and local authorities, religious bodies, third sector entities and environmental protection bodies. Also for configurations including the latter entities, any potential additional amount received as a result of the scheme over the funding gap will adopt the separate account reporting model and can be directed exclusively towards final consumers other than private undertakings or for the financing of social projects in the local community.

(70) The GSE will be in charge of verifying the compliance with this provision, ensuring that:

(a) Configurations will adopt a separate account reporting model for the amount in excess of that determined by the shared energy quotas reported in recital (66).

(b) The GSE determines, on an annual basis, the amount of aid in excess, based on the disbursements and on the data transmitted in the reference year, while making the information available to the configurations.

(c) The configurations will provide – under penalty of suspension of the benefit - evidence regarding the correct use of the exceeding amounts relating to the previous financial year, as it must emerge from the separate account reporting model.

(d) The GSE will carry out random checks on compliance with the provision. In case of non-compliance, sanctions will be applied, which can go as far as the return of the aid granted.

(71) In addition, the GSE will collect and analyse data every year on the existing configurations to identify any changes in the costs of raw materials and components recorded on the national and European markets. Based on the collected data, the GSE will assess the necessity of the aid and the need to adjust the level of the

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([29]) Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (OJ, 2016, C 262/01).

premium tariff as well as of the maximum eligible investment costs. The changes only apply to applications received after the changes have been approved and published by Decree.

2.6. Financing, budget and duration

(72) The total cost of the scheme is estimated to be EUR 5.7 billion, including both measures.

(73) The cost of Measure 1 is estimated at EUR 175 million per year, for a total of EUR 3.5 billion over 20 years ([30]). Measure 1 will be financed by a levy on electricity consumption proportional to electricity use (the general system charges), specifically the general system charges for the support of renewable energy and cogeneration (ASOS) component of the final customers' electricity bill. The ASOS component is used to finance several measures that support renewable energies and cogeneration ([31]).

(74) Measure 2 will be financed through the financial resources dedicated to Investment 1.2 ('Renewable promotion for energy communities and self-consumption'), Component 2 ('Renewable energy, hydrogen, network and sustainable transport'), Mission 2 of the NRRP, for a total budget of EUR 2.2 billion.

(75) Support under Measure 1 will be granted until the capacity of 5 GW is reached, and in any event no later than 31 December 2027. Support under Measure 2 must be granted before 31 December 2025 for the achievement of the NRRP milestone.

2.7. Transparency and cumulation

(76) Italy will ensure that detailed records regarding all measures involving the granting of aid are maintained. These records will be kept for the duration of the scheme plus an additional period of ten years, including all information relevant to demonstrating that the terms of the proposed scheme have been complied with.

(77) Detailed information about the projects funded will be published on a comprehensive website in order to comply with points 58 to 61 of the Guidelines on State aid for climate, environmental protection and energy 2022 ('CEEAG') ([32]). The relevant data of the notified measure will be published on the Italian State Aid Register ([33]).

(78) Italy has submitted that it will ensure compliance with the cumulation rules laid down in points 56 to 57 CEEAG.

([30]) Since the premium tariff depends partially on the energy price, the budget has been calculated assuming: an energy price of 70 EUR/MWh; the realization of the full capacity of 5 GW; a distribution of the initiatives of 50% with capacity up to 200 kW and 50% with capacity between 200 kw and 1 MW.

([31]) E.g., the same levy is used for the scheme described in Commission decision of 14.6.2019 in case SA.53347 (2019/N) – Italy – Support to electricity from renewable sources 2019-2021 (OJ C 303, 6.9.2019, p.4).

([32]) Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022 (OJ C 80, 18.2.2022, p. 1).

([33]) https://www.rna.gov.it/sites/PortaleRNA/it_IT/home; https://www.gse.it/trasparenza/sovvenzioni-contributi-sussidi-vantaggi-economici; https://www.gazzettaufficiale.it/.

(79) In particular, Measure 1 can be combined with any capital contribution up to a maximum of 40%, without prejudice to the principle of the prohibition of double financing. In this case, the premium tariff is reduced in a way commensurate to the capital grant. The new premium tariff is calculated using the following formula:

$$TIP_{\text{capital grant}} = TIP * (1-F)$$

Where F is a parameter that varies from 0 (no capital grant) to 0.5 (capital grant equal to 40% of eligible costs). The values of the parameter F have been defined based on the business plans of the reference projects.

(80) Regarding Measure 2, cumulation rules are defined according to the principle of avoiding double financing, as in the case of all RRF measures.

2.8. Companies in difficulty or under recovery order

(81) Undertakings in difficulty as defined by the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ([34]) are excluded from the scheme.

(82) For undertakings subject to outstanding recovery orders following a previous Commission decision declaring an aid illegal and incompatible with the internal market, access to the scheme is not allowed.

2.9. Evaluation Plan

(83) The Italian authorities notified, together with the measure, an evaluation plan, taking into account the best practices in the Commission Staff Working Document on a Common Methodology for State aid Evaluation. The main elements of the evaluation plan are described below.

(84) The evaluation plan describes the objectives of the scheme and comprises evaluation questions that, through both quantitative and qualitative analysis, address the direct and indirect effects of the scheme, as well as its proportionality and appropriateness.

(85) The questions addressing the direct effect of the aid will mainly investigate the scheme's contributions to: reach the targets established in Mission 2 of the NRRP 'Green Revolution and Ecological Transition' (namely to achieve at least 2 additional GW of renewable power in municipal areas with less than 5,000 inhabitants); reach the target of an additional 5 GW of renewable power installations from self-consumption individual, remote or renewable energy communities; to reduce greenhouse gas emissions; to favour the creation of renewable energy communities, jointly acting self-consumers and remote self-consumers.

(86) A set of questions will address the indirect impacts of the aid (on regional and national economic growth, on employment, and on energy consumers), as well as the appropriateness and proportionality of the aid.

([34]) Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

(87) The evaluation plan describes the result indicators that will be used to measure the degree of achievement of the scheme's objectives, and which are matched with evaluation questions, as well as the methodology applied to identify the impact of the scheme.

(88) Given the characteristics of the scheme, Italy considers that it seems implausible that projects will be carried out without aid, which jeopardises the possibility of creating a control group based on projects carried out in the absence of support. While committed to use impact evaluation approaches to assess the effectiveness of the scheme, Italy will select at a later stage the approach for conducting the evaluation. If a robust counterfactual scenario can be identified and an adequate amount of data is collected, the possibility of using a quasi-experimental approach such as the Regression Discontinuity Design (RDD) or 'Difference-in-Differences (DID)' will be considered.

(89) The evaluation will be carried out by an independent body selected by the Ministry of Environment and Energy Security on the basis of the criteria listed in the evaluation plan, essentially: independency and absence of conflict of interest with the GSE and the Ministry, experience on the evaluation of projects and measures. Data will be collected by the GSE mainly from the configurations, when they apply for the aid, and then annually during the management of the scheme (namely, technical information on production plants, energy shared, members of renewable energy communities and jointly acting self-consumers, monitoring systems, investments, eligible costs, operating costs, and authorizations). Secondly, any other useful data may also be collected by the GSE through surveys, for example, during the usual official statistical surveys on renewable energy sources or through dedicated statistical surveys.

(90) An interim report will be submitted to the Commission by 31 December 2025, presenting descriptive statistics on the aid already granted and verifying the actual suitability of the foreseen methodology. The final evaluation will be submitted within nine months from the end of the scheme in relation to Measure 1, i.e. before 31 March 2027.

(91) The evaluation plan and the evaluation reports will be published on the website of the Ministry of Environment and Energy Security.

3. ASSESSMENT

3.1. Presence of State aid

(92) A measure constitutes State aid in the meaning of Article 107(1) TFEU if it is '*granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods […] in so far as it affects trade between Member States*'.

(93) In order to conclude if State aid is present, the Commission must assess whether the cumulative criteria of Article 107(1) TFEU (i.e. transfer of State resources and imputability to the State, selective advantage, potential distortion of competition and effect on intra-EU trade) are met for the measure under assessment.

3.1.1. *Imputability and State resources*

(94) The Commission notes that the support under the scheme is imputable to the State, as it is granted by the Ministry for the Environment and Energy Security and implemented by the GSE (see recital (9)) and it is established by a National Legislative Decree and a Ministerial Implementing Decree (see recitals (22) and (23)).

(95) According to the settled case law, only advantages that are granted directly or indirectly through State resources are to be regarded as aid within the meaning of Article 107(1) TFEU ([35]). That definition covers both advantages, which are granted directly by the State, and those granted by a public or private body designated or established by the State ([36]). Thus, resources do not need to transit through the State budget to be considered as State resources. It is sufficient that they remain under public control ([37]). Similarly, the originally private nature of the resources does not prevent them being regarded as State resources ([38]).

(96) The Court has, more specifically, held that funds financed through compulsory charges imposed by State legislation, and administered and apportioned in accordance with that legislation, may be regarded as State resources within the meaning of Article 107(1) TFEU even if they are administered by entities separate from the public authorities ([39]). In particular, a mechanism for offsetting additional costs that is financed by all end consumers of electricity in the national territory and where the sums thus collected are apportioned and distributed to the recipient undertakings, under the legislation of a Member State, by a public entity, must be regarded as constituting an intervention by the State or through State resources within the meaning of Article 107(1) TFEU ([40]).

(97) Measure 1 will be financed through a levy on electricity consumption imposed by law (see recital (73)) and it will be transferred to accounts managed by GSE, a State-controlled public entity specifically appointed by the State to collect the financing and to pay out the aid amount.

(98) Measure 2 is financed by the RRF, which constitutes State resources since Member States have discretion to decide on the use of those resources. Once awarded, the RRF funds would be directly controlled by the Italian State and the granting authority would be the Ministry for Environment and Energy Security which is the central administration in charge of the implementation of the NRRP, Mission 2, component 2, Investment 1.2 – 'Renewable promotion for renewable energy communities and self-consumption' in Italy.

([35]) Judgment of 24 January 1978, *Van Tiggele*, 82/77, EU:C:1978:10, paragraphs 25 and 26; Judgment of 12 December 1996, *Air France* v *Commission*, T-358/94, EU:T:1996:194, paragraph 63.

([36]) Judgment of 22 March 1977, Steinike & Weinlig, 78/76, EU:C:1977:52, paragraph 21.

([37]) Judgment of 16 May 2002, *France* v *Commission*, C-482/99, EU:C:2002:294, paragraph 37.

([38]) Judgment of 12 December 1996, *Air France* v *Commission*, T-358/94, EU:T:1996:194, paragraphs 63 to 65.

([39]) See judgment of 19 December 2013, *Vent de Colère*, C-262/12 EU:C:2013:851, paragraph 25.

([40]) See order of 22 October 2014, *Elcogás*, C-275/13, not published, EU:C:2014:2314, paragraph 30, judgment of 15 May 2019, *Achema*, C-706/17, EU:C:2019:38, paragraph 68.

(99) On the basis of those elements, the Commission concludes that the scheme is imputable to the State and financed through State resources.

3.1.2. Selective advantage and beneficiaries

(100) The scheme supports the production of electricity within the context of self-consumption configurations and it is not accessible by other electricity producers (see recital (3)). The beneficiaries of State aid are the entities carrying out the eligible renewable production projects within configurations, to the extent that they are undertakings.

(101) The scheme foresees aid in the form of a premium tariff for shared energy (see recital (35)), as well as aid in the form of an investment grant for the construction of the production plants (see recital (42)). The premium tariff will allow the beneficiaries to get a higher remuneration than the normal market price for shared electricity. The investment grant will also cover part of the costs they would normally bear for the construction of the installation.

(102) The Commission notes that any configuration is held to maintain separate accounts for the support received from the State (see recital (66)). One account serves to allocate the support up to the funding gap, which is separate from accounts that allocate funds in excess of the funding gap to actors that are not undertakings and for purposes that do not constitute an economic activity. Therefore, the beneficiaries of the aid under the notified measure are the undertakings receiving support through the account dedicated to cover the funding gap.

(103) On the basis of the above, the Commission concludes that the scheme confers a selective advantage to the beneficiaries.

3.1.3. Effect on trade and impact on competition

(104) The supported beneficiaries are engaged in a sector, the production of electricity, which is open to competition throughout the EU. Although the aid will mainly support self-consumption, the installations will also inject and sell part of the electricity produced into the grid. For those reasons, the scheme is likely to distort competition on the electricity market and affect trade between Member States.

3.1.4. Conclusion on the presence of State aid

(105) Based on the above, the Commission concludes that the scheme involves State aid within the meaning of the article 107(1) TFEU.

(106) Payments directed solely to consumers other than undertakings, to the budget of other government entities and/or used for social purposes which do not constitute economic activities or by public administrations solely for the exercise of their public function (see recitals (67) to (69)), do not constitute State Aid as they do not benefit undertakings. Italy has confirmed that it will pay due regard to the concepts in Section 2 of the Notice on the Notion of Aid.

3.2. Lawfulness of the aid

(107) By notifying the measure before its implementation (see recital (23)), the Italian authorities have respected the notification and standstill obligation laid down in Article 108(3) TFEU.

3.3. Compatibility of the aid

(108) Article 107(3), point (c), TFEU provides that the Commission may declare compatible aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest. Therefore, compatible aid under that provision of the Treaty must contribute to the development of certain economic activities. Furthermore, the aid should not distort competition in a way contrary to the common interest.

(109) The supported activities fall within the scope of the CEEAG. More specifically, they fall under the category of aid for the reduction and removal of greenhouse gas emissions, including through support for renewable energy and energy efficiency (see point 16(a) CEAAG).

(110) The Commission has therefore assessed the scheme under the general compatibility provisions in Section 3 CEEAG, as well as the specific compatibility criteria for aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy and energy efficiency in Section 4.1 CEEAG.

3.3.1. Positive condition: the aid must facilitate the development of an economic activity

3.3.1.1. Identification of the economic activity which is being facilitated by the measure, its positive effects for society at large and, where applicable, its relevance for specific policies of the Union

(111) In line with points 23 to 25 CEEAG, Member States must identify the economic activities that will be facilitated as a result of the aid and describe if and how the aid will contribute to the achievement of Union policies and targets.

(112) Italy has explained that the scheme aims at supporting the production and self-consumption of renewable electricity from small installations within remote self-consumers, jointly acting self-consumers configurations and renewable energy communities.

(113) By supporting these installations, Italy aims at reducing the national greenhouse gas emissions, therefore contributing to the achievement of the 2030 EU and Italy's decarbonisation targets.

(114) These specific configurations also have the potential to provide direct benefits to society and citizens by increasing energy efficiency, reducing electricity bills and creating local job opportunities. They contribute to increasing public acceptance of

renewable energy projects and make it easier to attract private investments in the clean energy transition ([41]).

(115) Directive (EU) 2018/2001 aims to strengthen the role of renewables self-consumers and renewable energy communities. Empowering renewable energy communities to produce, consume, store and sell renewable energy will also help advance energy efficiency in households, support the use of renewable energy and at the same time contribute to fighting poverty through reduced energy consumption and lower supply tariffs.

(116) The Commission therefore considers that the scheme complies with the requirements of Section 3.1.1 CEEAG.

3.3.1.2. Incentive effect

(117) State aid can only be considered to facilitate an economic activity if it has an incentive effect. An incentive effect occurs when the aid induces the beneficiary to change its behaviour towards the development of an economic activity pursued by the aid, and if this change in behaviour would not otherwise occur without the aid ([42]).

(118) To demonstrate the presence of an incentive effect, point 28 CEEAG requires the factual scenario and the likely counterfactual scenario in the absence of aid to be identified. Furthermore, point 28 CEEAG requires the incentive effect to be demonstrated through a quantification referred to in Section 3.2.1.3 CEEAG. Point 52 CEEAG explains that a counterfactual scenario may consist in the beneficiary not carrying out an activity or investment. Where evidence support that this is the most likely counterfactual scenario, the net extra cost may be approximated by the negative NPV of the project (hence, implicitly assuming that the NPV of the counterfactual is zero).

(119) Italy states that, in the factual scenario, the beneficiary, thanks to the aid, would invest in the production of electricity in the context of self-consumption configurations (see recital (62)). Italy considers that the most likely counterfactual scenario consists in the beneficiary not carrying out any comparable project in terms of technical characteristics of the renewable energy production (see recital (60)).

(120) Italy has identified five reference projects, as described in recitals (49) and (50). The choice of these projects allows to represent all the categories of projects that can access the scheme. The Commission considers the reference projects appropriate given the information provided by Italy.

(121) As shown in Section 2.5, the Italian authorities have provided the calculations of the NPV for each reference project and the main assumptions underlying those calculations. The Commission notes that the calculations include all main investment costs and operating costs of the projects. The Italian authorities have also duly justified the level of the WACC used.

([41]) https://energy.ec.europa.eu/topics/markets-and-consumers/energy-communities_en.

([42]) See in that sense Section 3.1.2 CEEAG, as well as the *Hinkley* judgment (C-594/18 P, Austria v Commission, EU:C:2020:742, paragraphs 20 and 24).

(122) As a result of these calculations, for each reference project, the NPV is negative (see Table 3). It is, therefore, very unlikely that any project would be carried out without aid. These power plants, without the aid, are not financially viable.

(123) The Commission therefore considers that the most likely counterfactual scenario in the absence of aid would be the beneficiary not carrying out the project.

(124) Since the aid will trigger a change in behaviour of the beneficiaries, the requirements in points 26 and 28 CEEAG are fulfilled.

(125) Point 29 CEEAG stipulates that aid does not normally present an incentive effect in cases where works on the project started prior to the aid application. Point 30 CEEAG further explains that the aid application may take various forms.

(126) As explained in recital (27), for Measure 2, the application must be submitted before the start of the works.

(127) For Measure 1, the Italian authorities have explained in recital (29) that the aid is automatically granted to all the applicants that comply with the requirements listed in recital (25), until the available capacity of 5 GW is exhausted. The Commission notes that this is in line with point 31(a) CEEAG, as the aid is granted automatically in accordance with objective and non-discriminatory criteria and without further exercise of discretion by the Member State.

(128) The Commission therefore considers that the scheme has an incentive effect.

3.3.1.3. No breach of any relevant provision of Union Law

(129) State aid cannot be declared compatible with the internal market if the supported activity, the aid measure, or the conditions attached to it entail a violation of relevant Union law ([43]).

(130) Italy has confirmed that the measure entails no violation of any relevant Union Law (see recital (15)). In particular, Italy confirmed that the scheme and the conditions attached to it comply with the EU and national environmental protection rules.

(131) Furthermore, any levy that has the aim of financing a State aid measure and forms an integral part of that measure needs to comply in particular with Article 30 and 110 TFEU ([44]).

(132) According to the case law, for a levy to be regarded as forming an integral part of an aid measure, it must be hypothecated to the aid under the relevant national rules, in the sense that the revenue from the charge is necessarily allocated for the financing of the aid and has a direct impact on the amount of the aid and, consequently, on the assessment of the compatibility of that aid with the common

([43]) Point 33 CEEAG, and Judgment of 22 September 2020, *Austria v Commission*, C-594/18 P, EU:C:2020:742, paragraph 44.

([44]) Judgment of 17 July 2008, *Essent Netwerk Noord and Others*, C-206/06, EU:C:2008:413, paragraphs 40 to 59. For the application of Articles 30 and 110 TFEU to tradable certificates schemes, see Commission Decision C(2009)7085 of 17.9.2009, State aid N 437/2009 — Aid scheme for the promotion of cogeneration in Romania (OJ C 31, 9.2.2010, p. 8), recitals 63 to 65.

market ([45]). In particular, the charge at issue must be levied specifically and solely for the purpose of financing the aid at issue ([46]).

(133) In the present case, Measure 2, i.e. the investment grant, will be financed through resources obtained through the RRF, which is paid from the general budget, and Measure 1, i.e. the premium tariff, will be financed by the revenues from the levy on electricity consumption (see recital (73)).

(134) The GSE, which will disburse the premium tariff, will obtain the funds via a levy on electricity consumption proportional to electricity use (the general system charges) and in particular on the ASOS component of the final customers' electricity bill. The ASOS component is used to finance several measures that support renewable energies and cogeneration (see recital (73)).

(135) However, as the Commission cannot exclude the existence of hypothecation between the levy and the aid awarded, the Commission has examined its compliance with Articles 30 and 110 TFEU.

(136) According to the case law, a charge which is imposed on domestic and imported products according to the same criteria may nevertheless be prohibited by the Treaty if the revenues from such a charge are used to support activities which specifically benefit the taxed domestic products. If the advantages which those domestic products enjoy wholly offset the burden imposed on them by the charge, the effects of that charge are apparent only with regard to imported products and that charge constitutes a charge having equivalent effect to custom duties, contrary to Article 30 TFEU. If, on the other hand, those advantages only partly offset the burden borne by domestic products, the charge in question constitutes discriminatory taxation for the purposes of Article 110 TFEU and will be contrary to this provision as regards the proportion used to offset the burden borne by the domestic products. ([47])

(137) In line with its decisional practice ([48]), the Commission considers the opening of the competitive bidding process to producers from other Member States and neighbouring countries as described in recital (33) to remedy any potential

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([45]) See judgment of 22 December 2008, *Régie Networks v Rhone Alpes Bourgogne*, C-333/07, EU:C:2008:764, paragraph 99 and case law cited.

([46]) See judgment of 22 December 2008, *Régie Networks v Rhone Alpes Bourgogne*, C-333/07, EU:C:2008:764, paragraphs 100 and 104.

([47]) Judgment of the Court of 17 July 2008, *Essent Netwerk Noord e.a.*, C-206/06, EU:C:2008:413, paragraphs 42 *et seq*.

([48]) See Commission Decision of 20 December 2021 in State Aid SA.58731 (2020/N) – Austria – Operating aid to electricity from RES in Austria, section 3.3.4; Commission Decision of 29 April 2021 in State Aid SA.57779 (2020/N) – Germany - EEG 2021, section 3.3.1.3; Commission Decision of 24 November 2021 in State aid SA.60064 (2021/N) – Greece - Greek RES and CHP scheme 2021-2025, section 3.3.12; Commission decision of 23 April 2019 in State Aid SA.50199 (2019/N) – Lithuania Support to power plants producing electricity from renewable energy sources, section 3.4.1; Commission decision of 29 March 2019, in Aide d'État SA.48601 (2018/N) – Luxembourg Production d'électricité basée sur les sources d'énergie renouvelables, modification du régime de soutien pour les énergies renouvelables au Luxembourg, section 3.3.8; Commission decision of 24 October 2014 in State aid No SA.36204 (2013/N) – Denmark Aid to photovoltaic installations and other renewable energy installations, section 3.4.

discrimination against renewable energy sources producers in other Member States, under Articles 30 and 110 TFEU.

(138) Based on the information provided by the Italian authorities, the Commission has no indications of a possible breach of any relevant provision of Union law that would prevent the notified measure from being declared compatible with the internal market. Therefore, the Commission considers the requirements of point 33 CEEAG are fulfilled.

3.3.1.4. Conclusion

(139) The Commission therefore concludes that the scheme fulfils the first (positive) condition of the compatibility assessment i.e. that the aid facilitates the development of an economic activity pursuant to the requirements set out in Section 3.1 CEEAG.

3.3.2. Negative condition: the aid cannot unduly affect trading conditions to an extent contrary to the common interest

3.3.2.1. The need for State intervention

(140) To demonstrate the necessity of aid, points 38 and 90 CEEAG explain that the Member States must show that the reference project(s) would not be carried out without the aid, taking into account the counterfactual situation, as well as relevant costs and revenues including those linked to measures identified in point 89. Point 89 CEEAG states that Member State must identify the policy measures already in place to reduce greenhouse gas emissions. In addition, point 90 CEEAG states that where support is granted in the form of a certain guaranteed remuneration to limit exposure to negative scenarios, limits to profitability and/or clawbacks linked to possible positive scenarios may be required to ensure proportionality. Finally, to ensure the aid remains necessary for each eligible category of beneficiary, Member States must update their analysis of relevant costs and revenues at least every three years for schemes that run longer than that, as set out in point 92 CEEAG.

(141) The Italian authorities explained that, to reach the 2030 targets, it is necessary to deploy all possible solutions, even the most innovative ones, such as those covered by this scheme. Italy considers that the scheme is necessary to incentivize the dissemination of self-consumption configurations from renewable sources in Italy, which will make an important contribution to achieving the national greenhouse gas reduction target (see recitals (16) and (17)).

(142) Italy has identified five reference projects, described in recitals (49) and (50). The Commission recalls its analysis in recitals (121) and (122), and its conclusion in recital (123) that, without the aid, these projects would not be financially viable and they would not be undertaken. Indeed, electricity generation from power plants within self-consumption configurations and renewable energy communities is not currently economically viable without any incentive. The Commission considers that the requirements of point 90 CEEAG are complied with.

(143) The Commission further notes that aid under the scheme is not granted to limit exposure to negative scenarios but rather to cover for the high costs of the supported power plants as well as to incentivize self-consumption within these configurations. In any case, the Commission notes that the aid is limited to the funding gap of the

reference projects (see recital (10)) and that any additional payment over the funding gap does not constitute State Aid as it will not be distributed to undertakings (see also below in section 3.3.2.4).

(144) Italy has confirmed that the GSE will collect and analyse data every year on the existing configurations to identify any changes in the costs of raw materials and components recorded on the national and European markets. Based on the collected data, the GSE will assess the necessity of the aid and the need to adjust the level of the premium tariff as well as of the eligible investment costs (see recital (71)).

(145) The Commission therefore considers that the scheme is necessary to support the development of electricity generation within self-consumption configurations and renewable energy communities.

3.3.2.2. The appropriateness of the aid

(146) Point 93 CEEAG states that the Commission presumes the appropriateness of aid for achieving decarbonisation goals – and therefore of aid for renewable energy– provided all other compatibility conditions are met.

(147) Since as exposed above in Section 3.3.1 and 3.3.2 all other compatibility conditions are met, the Commission therefore considers that the aid in the scheme is an appropriate instrument to support the targeted economic activity in a manner that increases environmental protection.

3.3.2.3. Eligibility

(148) Point 95 CEEAG explains that decarbonisation measures targeting specific activities, which compete with other unsubsidised activities can be expected to lead to greater distortions of competition, compared to measures open to all competing activities. As such, Member States should give reasons for measures which do not include all technologies and projects that are in competition. Furthermore, Member States must regularly review eligibility rules and any rules related thereto to ensure that all reasons provided to justify a more limited eligibility continue to apply for the lifetime of each scheme, as set out in point 97 CEEAG.

(149) The Commission notes that the scheme is open to all renewable technologies (see recital (8)).

(150) The scheme targets renewable power plants within self-consumption configurations and renewable energy communities listed in recital (7). The aim of the scheme is to promote self-consumption and energy-sharing solutions that allow to put citizens and companies at the centre of the energy transition. The Commission considers that power plants within these configurations are specific and are not comparable to traditional electricity generation plants due to their location (plants need to be located under a primary substation), the higher costs associated to managing these configurations and due to their purpose (self-consumption).

(151) The Commission considers that the requirements of point 95 CEEAG are complied with. In view of the limited duration of the scheme, the Commission considers that the reasons provided to justify the more limited eligibility will most likely continue to apply for the duration of the scheme.

3.3.2.4. The proportionality of the aid including cumulation

(152) Point 47 CEEAG explains that State aid is considered to be proportionate if the aid amount per beneficiary is limited to the minimum needed for carrying out the aided project or activity.

(153) Point 103 CEEAG states that aid for reducing greenhouse gas emissions should, in general, be granted through a competitive bidding process. Point 107 CEEAG however provides exceptions from the requirement to allocate aid and determine the level of aid through a competitive bidding process.

(154) The projects supported under the scheme have a capacity lower or equal to 1 MW (see recital (25)(a)). As these are small projects below or equal to 1 MW of installed capacity, access to the aid can be granted without a competitive bidding process, in accordance with point 107(b) CEEAG.

(155) According to point 51 CEEAG, where the aid is not granted under a competitive bidding process, the funding gap must be determined by comparing the profitability of the factual and counterfactual scenarios. To determine the funding gap in such cases, the Member State must submit a quantification, for the factual and a credible counterfactual scenario, of all main costs and revenues, the estimated WACC of the beneficiaries to discount future cash flows, as well as the NPV for the factual and counterfactual scenarios, over the lifetime of the project. The Member State must provide reasons for the assumptions used for each aspect of the quantification and explain and justify any methodologies applied. The typical net extra cost can be estimated as the difference between the NPV for the factual scenario and for the counterfactual scenario over the lifetime of the reference project.

(156) The Commission recalls its conclusion in recital (123) that in the absence of aid, the most likely counterfactual scenario would be the beneficiary not carrying out the project.

(157) According to point 53 CEEAG, for aid schemes, the calculations and projections in point 51 CEEAG need to be presented on the basis of one or more reference projects.

(158) As explained in recitals (49) and (50), Italy has identified five reference projects, which represent all the categories of projects that may be supported under the scheme. The Italian authorities have considered as reference projects solely photovoltaic installations in view of their lower costs which allow to present a more conservative estimate of the necessary aid (see recitals (46) and (47)).

(159) The Commission finds the reference projects selected by Italy representative and sufficient also for other potential technologies supported by the measure, in view of the fact that aid will be limited to the funding gap calculated based on the business plan of photovoltaic installations, which is indeed expected to be conservative given the higher costs (CAPEX and OPEX) of other technologies (see recital (47)).

(160) The Commission notes that the calculation of the funding gap provided by the Italian authorities for each reference project is based on detailed business plans (see recitals (60) to (63)), which the Commission has reviewed.

(161) The underlying assumptions of the business plans, such as the operating life of the installations and the percentage of shared energy are credible. On the latter, the Italian authorities have based their assumptions regarding the percentage of shared energy on statistical observations (see recital (56)).

(162) Moreover, the capital expenditures and revenues are credible, complete and in line with the expected developments of the Italian electricity market. In particular, the calculations take into consideration the additional costs deriving from the monitoring of the system and the higher administrative costs related to presence of multiple members within the configurations. Finally, for the estimation of electricity prices they have used the same assumptions as in the Italian PNIEC, transmitted to the Commission. As detailed in recital (57), Italy considers that this value is appropriate and possibly even conservative.

(163) Moreover, the correction factors applied to the reference tariff for Measure 1, based on the location of the installation, have been justified by the Italian authorities with reference to statistical data (see recital (40)). By compensating for the different level of productivity of the plants, the correction factors do not influence the aid intensity (see recital (63)) across installations in different locations.

(164) The Commission concludes that the assumptions made to calculate the funding gap of the projects over their lifetime are credible and sufficiently justified by the Italian authorities.

(165) As shown in Table 4, for Measure 1 the expected aid intensity for the reference projects is never above 80%, meaning that the aid given is lower than the funding gap. When Measure 1 is cumulated with Measure 2, the aid intensity goes up to 100%, fully covering the funding gap.

(166) According to point 55 CEEAG, where a competitive bidding process is not used and future developments in costs and revenues are surrounded by a high degree of uncertainty and there is a strong asymmetry of information, the Member State may be required to introduce compensation models that are not entirely *ex ante*. Instead, these models will be a mix of *ex ante* and *ex post* or introduce *ex post* claw-back or cost monitoring mechanisms, while keeping incentives for the beneficiaries to minimize their costs and develop their business in a more efficient manner over time.

(167) The Commission notes to this end that, in line with Italy's submission (see recital (65)), due to the fact that the amount of aid paid under Measure 1 depends on the amount of shared energy, this may lead to a configuration receiving support exceeding the funding gap for the project. In particular, the funding gap of the reference projects is fully covered when the percentage of shared energy reaches the thresholds reported in recital (66) and this variable depends on the behaviour of the members of the configurations. The Commission notes that the Italian authorities have provided the relevant estimations to substantiate this.

(168) The Commission positively notes that, to avoid overcompensation, the aid amount paid to undertakings engaged in economic activities is limited to the funding gap identified for reference projects through the provisions described in section 2.5.4.

(169) Support under Measure 1 can be combined with support under Measure 2. In this case, the premium tariff is reduced in a way commensurate to the capital grant, as described in recital (45).

(170) The Commission considers that Italy has provided sufficient proof that the premium reduction factor foreseen ensures that the aid amount under the two measures does not exceed the funding gap.

(171) The Commission notes that Italy committed to comply with points 56 and 57 CEEAG (see recital (78)).

(172) In view of the above, the Commission concludes that the measure is proportionate.

3.3.2.5. The transparency of the aid

(173) As confirmed in recital (77), Italy will ensure compliance with the transparency requirements laid down in point 58 to 61 CEEAG.

3.3.2.6. Avoidance of undue negative effects of the aid on competition and trade

(174) Point 70 CEEAG explains that the Commission will approve measures under these guidelines for a maximum period of 10 years. As stated in Section 2.5.4, the scheme will run until 31 December 2027, so point 70 CEEAG is complied with.

(175) Point 116 CEEAG explains that the aid must not merely displace the emissions from one sector to another and must deliver overall greenhouse gas emissions reductions.

(176) The Commission considers that, by increasing the production and consumption of energy from renewable sources, the scheme will deliver overall greenhouse gas emissions reductions.

(177) Point 120 CEEAG explains that Member States must demonstrate that reasonable measures will be taken to ensure that projects granted aid will actually be developed.

(178) The Commission notes that, for Measure 2, as detailed in recital (28), there is a clear deadline for the plant to be operational. In addition, Italy will apply certain pre-qualifications requirements, as applicants must have obtained a permit for the construction and operation of the plant and submit it in their application form (see recitals (25) and (27)). For Measure 1, access to the support takes place after the entry into operation of the installations so that no budget is allocated to projects that are not realised (see recital (26)).

(179) Point 121 CEEAG explains that aid which covers costs mostly linked to operation rather than investment should only be used where the Member State demonstrates that this results in more environmentally friendly operating decisions. Point 122 CEEAG states where aid is primarily required to cover short-term costs that may be variable, Member States should confirm that the production costs on which the aid amount is based will be monitored and the aid amount updated at least once per year.

(180) As mentioned in recital (11), the aid can take the form of a premium tariff on shared electricity and/or an investment grant. The Commission notes that the aid covers both the costs linked to the investment and the operation of the plant. However, it is not meant to cover costs mostly linked to operations or variable short-term costs. As shown in Table 3, investment costs account for the vast majority of costs in the reference projects. Therefore in this case, points 121 and 122 CEEAG do not apply.

(181) Point 123 CEEAG requires the aid to be designed to prevent any undue distortion to the efficient functioning of the markets and preserve efficient operating incentives and price signals.

(182) The Commission observes that under the configurations, final consumers continue to purchase electricity taken from the grid by choosing the commercial offer considered most appropriate, and producers continues to sell their electricity fed into the grid in the preferred manner (see recital (6)). The aid is granted on the basis of the 'virtual self-consumption' within the configurations and therefore does not distort the functioning of the markets.

(183) Point 126 CEEAG requires measures to avoid providing incentives for the production of energy that would displace less polluting forms of energy.

(184) As mentioned in recital (8) and further substantiated in recital (46), the scheme will mostly support PV installations. On this basis and according to currently available renewable energy production possibilities, the Commission identifies no risk that the scheme will provide support enabling the displacement of less polluting forms of energy.

(185) Point 127 CEEAG explains that aid for decarbonisation may unduly distort competition where it displaces investments into cleaner alternatives that are already available on the market, or where it locks in certain technologies, hampering the wider development of a market for and the use of cleaner solutions. The Commission will therefore also verify that the aid measure does not stimulate or prolong the consumption of fossil-based fuels and energy, thereby hampering the development of cleaner alternatives and significantly reducing the overall environmental benefit of the investment.

(186) As the measure only targets renewable technologies, it does not stimulate or prolong the consumption of fossil-based fuels and energy.

(187) Point 131 CEEAG explains that, where risks of additional competition distortions are identified or measures are particularly novel or complex, the Commission may impose conditions, including the obligation to perform an *ex-post* evaluation, as set out in point 76 CEEAG.

(188) In view of the significant budget of the scheme, it will be subject to an *ex-post* evaluation as described in Section 2.9.

(189) Point 132 CEEAG states that for schemes benefiting a particularly limited number of beneficiaries or an incumbent beneficiary, Member States should demonstrate how the proposed measure will not lead to distortions of competition, for example, through increased market power.

(190) The Commission considers that the measure is intended to support a large number of beneficiaries of different types, so that it is not expected that the scheme will benefit a particularly limited number of beneficiaries or an incumbent beneficiary (see recitals (31) and (32)).

(191) On the basis of the conclusions presented above, the Commission considers that aid granted under the scheme avoids undue negative effects on competition and trade.

3.3.3. Weighing up the positive and negative effects of the aid

(192) Point 134 CEEAG states that, provided that all other compatibility conditions are met, the Commission will typically find that the balance for decarbonisation measures is positive (that is to say, distortions to the internal market are outweighed by positive effects) in light of their contribution to meeting Union energy and climate objectives, as long as there are no obvious indications of non-compliance with the 'do no significant harm' principle. As the measure is in line with the measures set by the NRRP as approved by the Council, its compliance with the 'do no significant harm' principle is considered fulfilled.

(193) The Commission notes that the measure will contribute to the achievement of Italy's energy and climate objectives and that all other compatibility conditions are met. The Commission finds no obvious indications of non-compliance with the 'do no significant harm' principle.

(194) Based on the above, the Commission concludes that the positive effects of the scheme outweigh the negative effects on the internal market.

3.3.4. Companies in difficulty and under recovery order

(195) As explained in Section 2.8, the scheme is not open to undertakings in difficulty or undertakings that are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market.

(196) Based on the above, the Commission concludes that the scheme complies with point 14 and 15 CEEAG.

3.3.5. Evaluation plan

(197) Points 455 and 456 CEEAG state that to further ensure that distortions of competition and trade are limited, the Commission may require notifiable aid schemes to be subject to an *ex-post* evaluation and that in any event *ex post* evaluation will be required when the State aid budget exceeds EUR 750 million over the total duration of the scheme.

(198) As further explained in point 459 CEEAG, the Member State must notify a draft evaluation plan, which will be an integral part of the Commission's assessment of the scheme.

(199) In view of the envisaged budget, the scheme will be subject to an *ex-post* evaluation. In this context, the Commission required the submission of an evaluation plan, which the Italian authorities submitted in the context of the notification as an integral part of it.

(200) The Commission considers that the notified evaluation plan contains all the necessary elements: the objectives of the measure to be evaluated, including evaluation questions, the result indicators, the envisaged methodology to conduct evaluation and the proposed timing of the evaluation including the date of submission of the final evaluation report (see section 2.9).

(201) The Commission notes that:

(a) The scope of the evaluation is defined in an appropriate way. It comprises a list of evaluation questions with matched result indicators. Moreover, the evaluation plan explains the main methods that will be used in order to identify the impacts of the scheme;

(b) The Italian authorities committed, in accordance with the Commission requirements, that the evaluation be conducted according to the notified evaluation plan by an independent evaluation body in accordance with the criteria laid down in the evaluation plan;

(c) The proposed modalities for the publication of the evaluation results are adequate to ensure transparency;

(d) Italy committed to submit to the Commission an interim report by end of 2025 and a final evaluation report nine months before the expiry of the scheme (31st March 2027). The Commission notes that the evaluation method might be further fine-tuned in common accord between the Italian authorities and the Commission, and it will be described in the interim report.

(202) The Commission notes that Italy will communicate to the Commission any difficulty that could significantly affect the agreed evaluation in order to work out possible solutions.

(203) Moreover, the Commission notes that the scheme will be suspended if the final evaluation report were not submitted in good time and sufficient quality.

3.3.6. Conclusion on the compatibility of the measure

(204) The Commission concludes that the aid facilitates the development of an economic activity and does not adversely affect trading conditions to an extent contrary to the common interest. Therefore, the Commission considers the aid compatible with the internal market based on Article 107(3), point (c), TFEU and on the relevant points of CEEAG.

4. AUTHENTIC LANGUAGE

(205) As mentioned in recital (2), Italy has accepted to have the decision adopted and notified in English. The authentic language will therefore be English.

5. CONCLUSION

(206) 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), point (c), TFEU.

Yours faithfully,

For the Commission

Didier REYNDERS
Member of the Commission