



EUROPEAN COMMISSION

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SENSITIVE (*): *COMP Operations*

Subject: **State Aid SA.105118 – (2022/N) – Italy**
TCF: Support to tourist transport operators by covered buses (non PSO)

Excellency,

1. PROCEDURE

- (1) By electronic notification of 2 December 2022, Italy notified aid in the form of limited amounts of aid (*Support to tourist transport operators by covered buses (non PSO)*, the “measure”) under the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the “Temporary Crisis Framework”) ⁽¹⁾.
- (2) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with Article 3 of Regulation 1/1958 ⁽²⁾ and to have this Decision adopted and notified in English.

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⁽¹⁾ Communication from the Commission on the Temporary Crisis Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 426, 28. 10.2022, p. 1). This Temporary Crisis Framework (‘current Temporary Crisis Framework’) replaces the Temporary Crisis Framework adopted on 23 March 2022 (OJ C 131I, 24.3.2022, p. 1), as amended on 20 July 2022 (OJ C 280, 21.7.2022, p. 1) (‘previous Temporary Crisis Framework’). The previous Temporary Crisis Framework was withdrawn with effect from 27 October 2022.

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

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2. DESCRIPTION OF THE MEASURE

- (3) Italy considers that the Russian aggression against Ukraine, the sanctions imposed by the European Union (EU) and its international partners and the counter-measures taken by Russia ('the current crisis') so far affects the real economy. The current crisis has created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected cost increases, especially in natural gas, electricity and oil as well as raw materials.
- (4) Italy submits that, among the sectors most affected by the increases in the cost of raw materials, natural gas and oil, is that of passenger road transport by bus not subject to public service obligations and not compensated by public authorities ⁽³⁾.
- (5) The current crisis has led to a sharp increase of fuel prices in Italy. According to official data ⁽⁴⁾, the cost of diesel increased by 35% between February 2022 and March 2022, and by 56 % over the period from February 2022 to June 2022. Annually, from March 2021 to March 2022, this increase was 48%. This trend has continued throughout the second (Q2) and the third quarters (Q3) of 2022.
- (6) According to Italy, the sharp increase in fuel prices forms part of a more general increase in the prices of energy, to the latter being mainly driven by the increase in electricity prices. Electricity prices in August 2022 registered an annual increase of about 135.9 % compared to August 2021. Similarly, the trend growth in city gas and natural gas registered in July 2022 an annual increase of 42.8 % compared to July 2021. That general increase in energy prices has led to a sharp increase in certain operating costs of bus transport services (costs of raw materials ⁽⁵⁾, tires, lubricants, electricity, gas and fuel).
- (7) Italy also submits that, in addition to the sharp increase in their daily operating costs, undertakings providing road passenger transport by bus services are also losing revenues due to the current crisis. According to Italy, the loss of revenues is mainly due to two factors:
 - (a) The loss of purchasing power of households in Italy and outside of Italy ⁽⁶⁾ due to the rises in energy prices which led to a reduction of the demand for tourism transport services;
 - (b) the lower attractiveness of international tourism due, in particular, to the current crisis ⁽⁷⁾.

⁽³⁾ This sector comprises, in particular, occasional bus transport services provided in favour of pre-established groups of people organised within the tourism chain (such as school trips and pilgrimages).

⁽⁴⁾ Data from ISTAT, the Italian National Institute of Statistics.

⁽⁵⁾ For example, the cost of oil, aluminium and other metals.

⁽⁶⁾ According to the Bank of Italy's Economic Bulletin No 2/2022 dated April 2022, the broad-based increase in consumer prices (e.g. inflation reached 7 % in March 2022 and was not accompanied by a corresponding increase in negotiated wages for employees) led to a general slowdown in consumption, including tourism and long-distance mobility.

⁽⁷⁾ According to the Bank of Italy's Survey on International Tourism dated 16 June 2022, the spending of Russian travellers in Italy, which in 2019 represented 5,8 million travellers, amounted to

- (8) The representative bodies of the transport sector in Italy ⁽⁸⁾ reported difficulties in accommodating the losses of revenues combined with sudden and significant increases in daily operating costs, within their contractual agreements with customers. In addition, they reported a significant risk of liquidity shortages among bus transport operators and a risk of business disruption that that would have wider implications for Italy’s tourism sectors which depend on the availability of sufficient bus-transport capacity ⁽⁹⁾.
- (9) Thus, Italy considers that all bus transport operators actively providing services in Italy are seriously affected by the current crisis due to the increase in costs of raw materials, electricity, gas and fuel, and loss of revenues, with an impact on the liquidity available to bus operators.
- (10) The measure consists of direct grants that aim to provide liquidity support to tourist transport bus operators affected by the current crisis, which has led to a significant increase of natural gas, electricity and fuel prices as well as an increase of raw materials costs in Italy. Thus, the measure aims to remedy the resulting liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy caused by the Russian aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as by the economic counter measures taken so far by Russia.
- (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 1 and 2.1 of the Temporary Crisis Framework.

2.1. The nature and form of aid

- (13) The measure provides aid in the form of direct grants to tourist transport operators by covered buses providing services in Italy.

2.2. Legal basis

- (14) The legal bases for the measure are:
- Article 4, paragraph 1 of Decree-Law No. 4/2022 of 27 January 2022 on *“Urgent measures on supporting businesses and economic, work, health operators, and local services, related to the emergency from COVID-19,*

approximately EUR 1 000 000 000 and 3 % of the Italian income linked to tourism, decreased to zero in 2022.

⁽⁸⁾ In particular, ANAV - Associazione Nazionale Autotrasporto Viaggiatori, representative body for all sectors of bus transport in Italy.

⁽⁹⁾ In particular, ANAV’s Press release of 29 October 2022 : “Stati Generali del Turismo, Biscotti (ANAV): Risorse e riforme per il trasporto turistico con autobus” (available at <https://www.anav.it/wp-content/uploads/2022/10/comunicato29102022.pdf>).

as well as for the containment of price increases in the electricity sector”, converted into law with amendments by Conversion Law No. 25 of 28 March 2022; and

- *Interministerial Decree No. 13921 of 26 October 2022: “Implementing provisions concerning the methods of distribution and allocation of resources destined for the year 2022 to support businesses, not subject to public service obligations, authorized to carry out tourist transport of people by covered buses, pursuant to article 4, paragraph 1, of the D.L. January 27, 2022, n. 4, converted by the law of 28 March 2022, n. 25, from the fund referred to in Article 1, paragraph 366, of the Law of 30 December 2021, no. 234 - budget law 2022”.*

- (15) Italy has confirmed that, in line with the standstill clause observed in the national legal bases of the measure ⁽¹⁰⁾, the aid will not be granted before the notification of the Commission’s decision approving the measure.

2.3. Administration of the measure

- (16) The Ministry of Tourism is responsible for granting and administering the measure.

2.4. Budget and duration of the measure

- (17) The estimated budget of the measure is EUR 5 million. The measure is financed from the State budget. Italy undertakes that no more than EUR 150 000 in nominal amounts per undertaking will be granted under the measure.
- (18) Aid may be granted under the measure as from the notification of the Commission’s decision approving the measure until no later than 31 December 2023.

2.5. Beneficiaries

- (19) The final beneficiaries of the measure are undertakings, not subject to public service obligations, authorized to operate tourist transport by covered buses in Italy, irrespective of their size ⁽¹¹⁾, that are affected by the crisis. The estimated number of beneficiaries of the measure is about five thousand.
- (20) However, credit institutions or other financial institutions are excluded as eligible final beneficiaries.
- (21) In order to be eligible to the measure, undertakings must fulfil a number of conditions laid down in Interministerial Decree No. 13921 of 26 October 2022, including :

⁽¹⁰⁾ As laid down in Article 4, 2-septies of Decree-Law No. 4 of 27 January 2022, and in Article 6 of Interministerial Decree No. 13921 of 26 October 2022.

⁽¹¹⁾ Italy confirms that SMEs and large enterprises concerned by the measure are defined as in 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).

- a) being registered in the National Business Register with the ATECO code 49.39.09 – Other land passenger transport activities n.e.c;
 - b) having their registered office in Italy;
 - c) holding an authorisation to operate bus rental services with driver in accordance with the Law of 11 August 2003, n. 218 for the purpose of carrying out activities competing with the formation of the tourist offer pursuant to art. 4, paragraph 1, of Annex 1 to Legislative Decree 79/2011;
 - d) not having any pending bankruptcy, dissolution or liquidation proceedings;
 - e) the absence of disqualification sanctions pursuant to Article 9(2) of Legislative Decree No. 231 of 8 June 2001;
 - f) the compliance with social security, tax and insurance obligations;
 - g) not being impeded from contracting with the public administrations;
 - h) not being, as of 31 December 2019, an undertaking in difficulty pursuant to Regulation (EU) no. 651/2014, except in the case of micro or small enterprises, as defined in Annex I to Regulation (EU) no. 651/2014, provided they are not subject to insolvency proceedings under national law and not recipients of rescue aid or restructuring aid;
 - i) an average reduction in turnover of at least 30% in 2021 as compared to the average turnover in 2019.
- (22) In addition to the above eligibility criteria referred to in Article 2, paragraphs (a) to (i) of Interministerial Decree No. 13921 of 26 October 2022, in order to be eligible to the measure, undertakings will be required to demonstrate the fact that they are affected by the current crisis to the granting authority.
- (23) Pursuant to Article 5 of Interministerial Decree No.13921 of 26 October 2022, the demonstration of the eligibility criteria referred to in recitals (21) and (22) above will be subject to checks by the granting authority both prior to and after the granting of the aid ⁽¹²⁾.
- (24) Italy confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the EU, including but not limited to: (i) persons, entities or bodies specifically named in the legal acts imposing those sanctions; (ii) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or (iii) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions.

⁽¹²⁾ Pursuant to Article 5 of Interministerial Decree No.13921 of 26 October 2022, in case of falsehood of the statements and documents submitted by undertakings, Italy indicates that (i) these undertakings expose themselves to national criminal proceedings, (ii) these undertakings will be excluded from the benefit of aid under the measure, and (iii) in case of *ex post* checks, the granting authority will proceed with the immediate full recovery of aid that may have been granted and paid.

- (25) Italy confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the EU or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations⁽¹³⁾. In particular, natural persons or entities subject to the sanctions will not benefit directly or indirectly from the measure.

2.6. Sectoral and regional scope of the measure

- (26) The measure is open to tourist transport operators by covered buses not subject to public service obligations established and authorised to provide services in Italy (recitals (19) and (21)). The measure is not open to undertakings active in the financial sector (recital (20))
- (27) The measure applies to the whole territory of Italy.

2.7. Basic elements of the measure

- (28) The measure consists of direct grants that aim to provide liquidity support to tourist transport operators by covered buses affected by the current crisis, which has led to a significant increase of natural gas, electricity and fuel prices as well as an increase of raw materials costs in Italy.
- (29) Pursuant to Interministerial Decree No. 13921 of 26 October 2022, the individual amount of aid is set up by applying the following percentages to the difference between the amount of the beneficiary's turnover, calculated for the period from 1 January 2019 to 31 December 2019 and the amount of the beneficiary's turnover for the period from 1 January 2021 to 31 December 2021, as follows:
- a) 30 % of the difference in turnover for undertakings whose revenues did not exceed EUR 200 000 in 2019;
 - b) 20 % of the difference in turnover for undertakings whose revenues exceeded EUR 200 000 and remained below EUR 500 000 in 2019;
 - c) 10 % of the difference in turnover for undertakings whose revenues exceeded EUR 500 000 and remained below EUR 25 million in 2019;
 - d) 5 % of the difference in turnover for undertakings whose revenues exceeded EUR 25 million in 2019.
- (30) Italy confirms that, in any event, the overall nominal value of the direct grants will not exceed the overall amount of EUR 150 000 per undertaking⁽¹⁴⁾.
- (31) Italy explains that, in the event that the total amount of aid to be granted under the measure on the basis of the aforementioned terms in recitals (29) and (30) would exceed the budget of the measure, the individual amount of aid will be reduced proportionally for all the beneficiaries.

⁽¹³⁾ For example, Article 12 of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p. 1).

⁽¹⁴⁾ All figures used are gross, that is, before any deduction of tax or other charges.

- (32) Italy confirms that no aid under the measure will be granted after 31 December 2023.
- (33) Italy commits to granting aid under the measure only to undertakings affected by the current crisis. Italy considers that the bus transport operators fulfilling the eligibility conditions of the measure (recitals (19) and (22)) are all seriously affected by the current liquidity crisis, due to the increase in costs of raw materials, energy sources and fuel.

2.8. Cumulation

- (34) Italy confirms that aid granted under the measure may be cumulated with aid under de minimis Regulations⁽¹⁵⁾ or the General Block Exemption Regulation⁽¹⁶⁾ provided the provisions and cumulation rules of those Regulations are respected.
- (35) Italy confirms 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 Crisis Framework provided the provisions in those specific sections are respected.
- (36) Italy confirms 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 2.1 of the Temporary Crisis Framework, the overall maximum cap per undertaking, as set out in point(s) 55(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (37) Italy confirms that it will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting⁽¹⁷⁾).

⁽¹⁵⁾ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1), Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

⁽¹⁶⁾ 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 of 26.6.2014, p. 1).

⁽¹⁷⁾ Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014.

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (39) 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.
- (40) The measure is imputable to the State, since it is administered by the Ministry of Tourism (recital (16)) and it is based on Decree-Law No. 4/2022 of 27 January 2022, converted with amendments by Conversion Law No. 25 of 28 March 2022 and on Interministerial Decree No. 13921 of 26 October 2022 (recital (14)). It is financed through State resources, since it is financed by public funds (recital (17)).
- (41) The measure confers an advantage on its beneficiaries in the form of direct grants (recital (13)) which aim at alleviating their liquidity shortage caused by the sharp and significant increase of natural gas, electricity and fuel prices as well as an increase of raw-materials costs in Italy, and a loss of revenue, as a result of the current crisis caused by the Russian aggression against Ukraine.
- (42) The measure thus confers an advantage on those beneficiaries which they would not have had under normal market conditions.
- (43) The advantage granted by the measure is selective, since it is awarded only to certain undertakings providing tourist transport services by covered buses that fulfil the criteria laid down in recitals (19) and (21) of the present decision, excluding undertakings in the financial sector (recital (20)).
- (44) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries as compared to undertakings that are not eligible for aid under the measure. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists (i.e. tourist transport by bus).
- (45) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. Italy does not contest that conclusion.

3.3. Compatibility

- (46) 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.

- (47) 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*”.
- (48) By adopting the Temporary Crisis Framework on 23 March 2022, the Commission acknowledged (in section 1) that the military aggression against Ukraine by Russia, the sanctions imposed the EU or its international partners and the counter measures taken, for example by Russia have created significant economic uncertainties, disrupted trade flows and supply chains and led to exceptionally large and unexpected price increases, especially in natural gas and electricity, but also in numerous other input and raw materials and primary goods. Those effects taken together have caused a serious disturbance of the economy in all Member States, including in the economy of Italy. 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 if it serves to remedy the liquidity shortage faced by undertakings that are directly or indirectly affected by the serious disturbance of the economy.
- (49) The measure aims at providing liquidity support to undertakings at a time when a wide range of economic sectors are affected, the normal functioning of markets is severely disturbed leading to severe disturbances of the real economy of Member States, including in the economy of Italy.
- (50) The measure is one of a series of measures conceived at national level by Italy to remedy a serious disturbance in its economy. The importance of the measure to ensure sufficient liquidity to undertakings in order to mitigate the risk of insolvency due to the sharp and significant increase of natural gas, electricity and fuel prices as well as an increase of raw materials costs, and a loss of revenue is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Italian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (“*Limited amounts of aid*”) described in section 2.1 of the Temporary Crisis Framework.
- (51) 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 relevant conditions of the Temporary Crisis Framework. In particular:
- The aid takes the form of direct grants (recital (13)).
 - The overall nominal value of the direct grants will not exceed EUR 150 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recitals (17) and (30)). The measure therefore complies with point 55 (a) of the Temporary Crisis Framework.
 - Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (17). The measure therefore complies with point 55 (b) of the Temporary Crisis Framework.

- Aid will be granted under the measure no later than 31 December 2023 (recital (18)). The measure therefore complies with point 55 (c) of the Temporary Crisis Framework.
 - Aid will be granted only to undertakings affected by the crisis (recitals (19), (28) and (33)). The measure therefore complies with point 55 (d) of the Temporary Crisis Framework.
- (52) The Italian authorities confirm that, pursuant to point 46 of the Temporary Crisis Framework, 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)).
- (53) The Italian authorities confirm that, pursuant to point 47 of the Temporary Crisis Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the EU, including but not limited to: a) persons, entities or bodies specifically named in the legal acts imposing those sanctions; b) undertakings owned or controlled by persons, entities or bodies targeted by sanctions adopted by the EU; or c) undertakings active in industries targeted by sanctions adopted by the EU, insofar as the aid would undermine the objectives of the relevant sanctions (recital (24)).
- (54) The Italian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (37)). Italy further confirms that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Crisis Framework and the cumulation rules of the relevant Regulations are respected (recitals (34) to (36)).
- (55) 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 Crisis 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

