EUROPEAN COMMISSION

Brussels, 1.8.2023
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SENSITIVE (*): *COMP Operations*

Subject: **State Aid SA.108490 (2023/N) – Italy**
TCTF: Abruzzo – Regional Framework scheme

Excellency,

1. PROCEDURE

(1) By electronic notification of 6 July 2023, Italy notified aid in the form of limited amounts of aid (*"Abruzzo TCTF scheme to support the transition to new business and production structures"*, the "measure") under the Temporary Crisis and Transition Framework for State aid measures to support the economy following the aggression against Ukraine by Russia (the "Temporary Crisis and Transition Framework")[1]. Italy provided additional information on 20 July 2023.

(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 and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia (OJ C 101, 17.3.2023, p. 3). This Temporary Crisis and Transition Framework replaces the Temporary Crisis Framework adopted on 28 October 2022 (OJ C 426, 9.11.2022, p. 1), ('Temporary Crisis Framework'), which had already replaced the previous 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). The Temporary Crisis Framework was withdrawn with effect from 9 March 2023.

(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 and its direct and indirect effects, including the sanctions imposed and the counter-measures taken, for example by Russia, have economic repercussions on the entire internal market ('the current crisis'). The current crisis 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. In particular, the Italian authorities consider that the current crisis has affected undertakings in the Abruzzo region, which have experienced difficulties in affording the increase in production costs and covering their working capital requirements. Overall, the current crisis has weakened the region's production system.

(4) In order to overcome the negative effects mentioned in recital (3), the notified measure aims at remedying the liquidity shortage faced by undertakings affected by the serious disturbance of the regional economy in Abruzzo (notably caused by the increase in production costs, especially electricity, gas and raw materials costs) and therefore incentivising beneficiaries to invest in the regional production system (see recital (17) for more details on the types of investment projects).

(5) Italy confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the European Economic Area ('EEA') to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

(6) The compatibility assessment of the measure is based on Article 107(3), point (b), TFEU in light of sections 1 and 2.1 of the Temporary Crisis and Transition Framework.

2.1. The nature and form of aid

(7) The measure provides aid on the basis of a scheme in the form of direct grants.

2.2. Legal basis

(8) The legal basis for the measure is the 'Decision No DPH006/13 of 12 June 2023 of the Department of Economic Development and Tourism' and related Annex. Pursuant to point 6 of the dispositive part of the legal basis, aid can only be granted following the Commission's approval of the measure.

2.3. Administration of the measure

(9) The Abruzzo region's Department for Economic Development and Tourism – which is a public authority – is responsible for administering the measure.

2.4. Budget and duration of the measure

(10) The estimated budget of the measure is EUR 54 million. It will be co-financed by national public funds and by the European Regional Development Fund, in

accordance with the rules applicable to that fund ([3]). The Department for Economic Development and Tourism is the responsible authority for the implementation of the draft public notice cited in footnote 7, which lays down the conditions for financing under the European Regional Development Fund.

(11) 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

(12) The beneficiaries of the measure are SMEs ([4]) active in Abruzzo (that is: the beneficiary performs an economic activity in Abruzzo), affected by the crisis (assessed under the criteria indicated in recital (18)), and not subject to collective insolvency proceedings under Italian law. However, credit institutions or other financial institutions are excluded as eligible beneficiaries.

(13) Italy confirms that the aid under the measure is not granted to undertakings under sanctions adopted by the Union, 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 Union; or (iii) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions.

(14) Italy confirms that the measure may not in any way be used to undermine the intended effects of sanctions imposed by the Union or its international partners and will be in full compliance with the anti-circumvention rules of the applicable regulations ([5]). 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

(15) The measure is open to all sectors except: the financial sector, the primary production, processing and marketing of agricultural products, the fishery and

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([3]) Under the 2021-2027 Abruzzo Regional Operational Programme, Policy Objective 1, Strategic Objective 1.3 – Boosting sustainable growth and competitiveness of SMEs and creation employment in SMEs, including through productive investments. According to Article 5 of the draft public notice cited in footnote 7 below, the amount of resources earmarked under the Regional Programme of Abruzzo 2021-2027 and to be financed under the European Regional Development Fund is EUR 40 million.

([4]) As defined in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

([5]) 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).

aquaculture sector, and the sectors excluded from the scope of Regulation (EU) No 1407/2013 ([6]).

2.7. Basic elements of the measure

(16) The amount of the aid shall not exceed EUR 600 000 per undertaking (gross of any tax or other charge).

(17) The aid will finance investments of a minimum of EUR 50 000, subject to the conditions and eligibility rules laid down in the draft public notice notified by the Italian authorities ([7]), covering one or more of the following types of eligible projects:

(a) industrial investments in machinery, plant and intangible assets;

(b) the restructuring, rationalisation or modernisation of a plant or production process;

(c) the innovation of an existing production process already started by means of changes in techniques, equipment and/or software, aimed at reducing the unit cost of production and/or increasing the production capacity;

(d) implementation of innovative business models for the organisation of work, by purchasing new technological tools and/or supporting the adoption of a smart working plan.

(18) In order to be eligible for aid under the measure, the beneficiaries have to demonstrate that they are undertakings affected by the crisis by declaring that they experienced one of the following circumstances, by comparing the period 2022 and the average for the three-year period from 2019 to 2021: ([8])

(a) increased electricity/fuel/gas costs;

(b) increased costs for raw and semi-finished materials imported from sanctioned and war-affected areas, including the interruption of existing contracts and projects;

(c) suffered a decrease in turnover due to the reduction of exports to the areas sanctioned and affected by the war, including the interruption of existing contracts and projects;

([6]) Article 1 of 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).

([7]) Draft public notice, "Measure 1.3.1.1 Support for productive investments aimed at innovation in the companies", issued in implementation of Policy Objective 1 "A more competitive and smarter Europe", Specific Objective 1.3. "Enhancing the sustainable growth and competitiveness of SMEs and job creation in SMEs, including through productive investments", Action 1.3.1. "Support for growth in the competitiveness of the local production system (SMEs)", under the 2021-2027 European Regional Development Fund regional programme of the Abruzzo Region, approved by Commission Decision C(2022) 9380 final of 8 December 2022. This draft public notice forms an integral part of the national legal basis cited in recital (8).

([8]) The veracity of this declaration is subject to random checks and in the case of forgery, the applicant is subject to criminal consequences under national legislation (Presidential Decree No 445 of 28 December 2000 'Legislative provisions on administrative documentation', published in Official Gazette No 42 of 20 February 2001).

(d) suffered a drop in turnover due to the blockage of payments as a result of sanctions and countermeasures;

(e) have suffered a reduction in trade with the countries involved in the conflict;

(f) have suffered a drop in turnover caused by the reduction of tourists to and from the countries directly or indirectly affected by the current crisis.

(19) The Italian authorities confirm that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law.

2.8. Cumulation

(20) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulation[9] or the General Block Exemption Regulation[10] provided the provisions and cumulation rules of those Regulations are respected.

(21) The Italian authorities confirm that aid under the measure may be cumulated with aid under decision in case SA.57021 ([11]). That measure was approved by the Commission under the COVID-19 Temporary Framework) ([12]) and the aid under the notified measure may be cumulated with that measure provided the respective cumulation rules are respected.

(22) The Italian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Crisis and Transition Framework provided the provisions in those specific sections are respected.

(23) The Italian authorities confirm that for aid granted under section 2.1 of the Temporary Crisis and Transition Framework and the previous Temporary Crisis Framework, the aid ceilings provided in the respective sections of the Temporary Crisis and Transition Framework are respected at any point in time.

(24) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 2.1 of the Temporary Crisis and Transition Framework, the overall maximum cap per undertaking, as set out in point 61(a) of that framework, will be respected.

([9]) Commission Regulation (EU) No 1407/2013 of 18 December 2013.

([10]) 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).

([11]) Commission Decision C(2020) 3482 final of 21 May 2020 'State Aid SA.57021 (2020/N, ex 2020/PN) – Italy - COVID-19 Regime Quadro'.

([12]) Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

2.9. Monitoring and reporting

(25) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 3 of the Temporary Crisis and Transition 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 ([13]).

3. ASSESSMENT

3.1. Lawfulness of the measure

(26) By notifying the measure before putting it into effect the Italian authorities have respected their obligations under Article 108(3) TFEU (recital (8)).

3.2. Existence of State aid

(27) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(28) The measure is imputable to the State, since it is administered by the Abruzzo region's Department for Economic Development and Tourism – which is a public authority (recital (9)) – and it is based on its 'Decision No DPH006/13 of 12/06/23 (recital (8)). It is financed through State resources, since it is financed by public funds (recital (10)). In particular, as the authority responsible for implementing the draft public notice cited in footnote 7, which lays down the conditions for financing under the European Regional Development Fund, the Department for Economic Development and Tourism enjoys discretion as regards those funds, which come under its control.

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

(30) The advantage granted by the measure is selective, since it is awarded only to SMEs active in the region of Abruzzo (recital (12)), excluding the sectors mentioned in recital (15).

(31) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

([13]) Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) 2022/2472 and Annex III to Commission Regulation (EU) 2022/2473.

(32) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

(33) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(34) Pursuant to Article 107(3), point (b), TFEU, the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".

(35) By adopting the Temporary Crisis and Transition Framework, the Commission acknowledged (in section 1) that the current crisis has 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.

(36) 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), point (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 current crisis.

(37) The measure aims at remedying liquidity shortages faced by undertakings that are affected by the current crisis and at boosting investment at a time when a wide range of economic sectors are affected, and 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.

(38) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measure to overcome the negative effects of the crisis is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire economy of Abruzzo, which is important for 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 and Transition Framework.

(39) 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 and Transition Framework. In particular:

- The aid takes the form of direct grants (recital (7)). Therefore, the notified measure complies with point 61(a) of the Temporary Crisis and Transition Framework.
- The overall nominal value of aid will not exceed EUR 2 million per undertaking per Member State; all figures used must be gross, that is,

before any deduction of tax or other charges (recital (16)). The measure therefore complies with point 61(a) of the Temporary Crisis and Transition Framework.

- Aid is granted under the measure on the basis of a scheme with an estimated budget (recital (10)). The measure therefore complies with point 61(b) of the Temporary Crisis and Transition Framework.
- Aid will be granted under the measure no later than 31 December 2023 (recital (11)). The measure therefore complies with point 61(c) of the Temporary Crisis and Transition Framework.
- Aid will be granted only to undertakings affected by the crisis (recital (18)). The measure therefore complies with point 61(d) of the Temporary Crisis and Transition Framework.

(40) State aid measures that entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law cannot be declared compatible with the internal market ([14]).

(41) Italy has confirmed that the proposed measures do not by themselves, or by the conditions attached to them or by their financing method constitute a non-severable violation of Union law (recital (19)). In addition, the Commission has no indications of any possible breach of Union law that would prevent the notified measure from being declared compatible with the internal market.

(42) Therefore, the Commission considers that the measure does not infringe any relevant provisions of Union law.

(43) Italy confirms that, in accordance with point 95 of the Temporary Crisis and Transition Framework, overall aid granted under sections 2.1 of the Temporary Crisis and Transition Framework and the previous Temporary Crisis Framework will not exceed the aid ceilings provided in the respective sections of the Temporary Crisis and Transition Framework at any point in time (recital (23)).

(44) The Italian authorities confirm that, as required by point 51 of the Temporary Crisis and Transition 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 (5)).

(45) The Italian authorities confirm that, as required by point 52 of the Temporary Crisis and Transition Framework, the aid under the measure will not be granted to undertakings under sanctions adopted by the Union, 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 Union; or (c) undertakings active in industries targeted by sanctions adopted by the Union, insofar as the aid would undermine the objectives of the relevant sanctions (recital (13)).

([14]) Judgment of 31 January 2023, *Commission v Braesch and Others*, C-284/21 P, EU:C:2023:58, paragraphs 96 *et seq.*

(46) The Italian authorities confirm that the monitoring and reporting requirements set out in section 3 of the Temporary Crisis and Transition Framework will be respected (recital (25)). The Italian authorities further confirm that aid under the measure may only be cumulated with other aid if the specific provisions in the relevant sections of the Temporary Crisis and Transition Framework, the previous Temporary Crisis Framework and the COVID-19 Temporary Framework and the cumulation rules in the relevant Regulations and applicable Communications are respected (recitals (20) to (23)).

(47) The Italian authorities also confirm that the rules under the European Regional Development Fund will be respected (recital (10)).

(48) The Commission therefore concludes that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and is compatible with the internal market pursuant to Article 107(3)(b) TFEU, since it meets all the relevant conditions of the Temporary Crisis and Transition Framework.

4. CONCLUSION

The Commission has 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: https://competition-cases.ec.europa.eu/search?caseInstrument=SA.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION