



EUROPEAN COMMISSION

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SENSITIVE* : *COMP Operations*

Subject: SA.62495 (2021/N) – Italy –
**COVID-19: amendment to SA.57021 – Regime Quadro –
prolongation of the measures and increase of the aid ceilings related
to the measures 3.1 and 3.12 of the Temporary Framework**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 25 March 2021, Italy notified amendments (“the notified amendments”) concerning the aid scheme *SA.57021- COVID 19 Regime Quadro* as amended by *SA.58547– Italy COVID-19: amendment to SA.57021 – Regime Quadro – aid to small and micro enterprises*, by *SA.59655- COVID-19: Modifications to SA.57021, SA.56966, SA.59295, SA.58802, SA.59255, SA.57947, SA.57891, SA.56786 and SA.56690* and by *SA.59827– Italy COVID-19: Amendment to SA.57021 – Regime Quadro - addition of aid measure 3.12 of the Temporary Framework* (altogether “the existing aid scheme”) approved, respectively, by Decision C(2020) 3482 final of 21 May 2020 (the “Regime Quadro Decision”), Decision C(2020) 6341 of 11 September 2020, Decision C(2020) 9121 of 10 December 2020 and Decision C(2020) 9300 of 15 December 2020. The notified amendments consist in prolonging the measures under the existing aid scheme and increasing the aid ceilings of the measures under 3.1 and 3.12 of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹

* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

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

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- (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 1/1958² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE NOTIFIED AMENDMENTS

2.1. Basic elements of the notified amendments

- (3) By Communication of 28 January 2021³, the Commission amended the Temporary Framework. Among other things, the Commission extended the validity of the Temporary Framework until 31 December 2021 and increased the aid ceilings of various measures set out in that framework.
- (4) Following the aforementioned amendment of the Temporary Framework, the Italian authorities notified the following amendments to the existing aid scheme:
- (a) to extend the duration of the State aid measures approved under Sections 3.1, 3.2, 3.3, 3.6, 3.7, 3.8 and 3.12⁴ of the Temporary Framework until 31 December 2021;
 - (b) to increase the maximum amount of aid approved under Section 3.1 of the Temporary Framework to EUR 1.8 million per undertaking (all figures used must be gross, that is, before any deduction of tax or other charge);
 - (c) to increase the maximum aid amount to undertakings active in the primary production of agricultural products⁵ to EUR 270 000 per undertaking and to undertakings in the fishery and aquaculture sectors⁶ to EUR 225 000 per undertaking (all figures used must be gross, that is, before any deduction

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

³ C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

⁴ See respectively: paragraph 2 of article 61 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021 for Section 3.1; paragraph 8 of article 55 and paragraph 2 of article 61 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No of 22 March 2021 for Section 3.2; paragraph 3 of article 56 and paragraph 2 of article 61 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021 for Section 3.3; paragraph 2 of article 61 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021, whereas paragraph 5 of article 57 has been abrogated, for Sections 3.6, 3.7 and 3.8; paragraph 2, letter a) of article 60-bis and paragraph 2 of article 61 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021 for Section 3.12.

⁵ As defined in Article 2(5) of Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1.

⁶ As defined in Article 2(1) of Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector, OJ L 190, 28.6.2014, p. 45.

of tax or other charge) under Section 3.1 of the Temporary Framework;
and

- (d) to increase the maximum amount of aid approved under Section 3.12 of the Temporary Framework to EUR 10 million (all figures used must be gross, that is, before any deduction of tax or other charge).

(5) The Italian authorities further notify that:

- (a) to amend the existing aid scheme in line with point 23(a) of the Temporary Framework, namely aid to undertakings active in the primary production of agricultural products or in the fishery and aquaculture sector mentioned in recital (4)(c) may be granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity provided the total nominal value of such measures does not exceed the overall cap of EUR 270 000 or EUR 225 000 per undertaking; all figures used must be gross, that is, before any deduction of tax or other charge;
- (b) to amend the existing aid scheme in line with the extended duration of the State aid measures approved under Sections 3.1 in relation to respectively to footnotes 19 and 27 and to footnote 23 of the Temporary Framework, namely aid granted on the basis of schemes approved under Section 3.1 of the Temporary Framework which has been reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded and for the aid granted in the form of a tax advantage, the tax liability in relation to which the advantage is granted must have arisen no later than 31 December 2021;
- (c) to modify the existing aid scheme in line with point 23ter of the Temporary Framework, namely aid under the Temporary Framework in form of repayable advances, guarantees, loans or other repayable instruments may be converted into other forms of aid such as grants, provided the conversion takes place by 31 December 2022 at the latest and the conditions in Section 3.1 are complied with;
- (d) to modify and extend the duration of the existing aid scheme in line with point 43(c) of the Temporary Framework, namely individual aid awards of the wage subsidy scheme are granted no later than 31 December 2021, for employees that would otherwise have been laid off as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak (or for self-employed individuals whose business activity has been negatively impacted by the COVID-19 outbreak), and subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted (or subject to the condition that the relevant business activity of the self-employed individual is maintained for the entire period for which the aid is granted);
- (e) to modify the existing aid scheme in line with point 43(d) of the Temporary Framework, namely the monthly wage subsidy shall not exceed 80% of the monthly gross salary (including employer's social security contributions) of the benefitting personnel (or 80% of the average monthly wage equivalent income of the self-employed individual).

- (6) The Italian authorities further notify an increase of the estimated budget of the existing aid scheme of EUR 2.5 billion. The initial estimated budget in *SA.57021-COVID 19 Regime Quadro* was EUR 9 billion. The Italian authorities then have provided an additional estimated budget of approximately EUR 1 billion for the amendment in *SA.59827 – Italy COVID-19: Amendment to SA.57021 – Regime Quadro - addition of aid measure 3.12 of the Temporary Framework*. Therefore, the total estimated budget for the existing aid scheme is approximately EUR 12.5 billion.
- (7) The Italian authorities confirm that no further amendments are proposed to the existing aid scheme. All other conditions of the existing aid scheme remain unchanged and as described in the Regime Quadro Decision, as modified.

2.2. Legal basis

- (8) The legal basis of the notified amendments is article 28 “Regime-Quadro per l'adozione di misure di aiuti di Stato per l'emergenza COVID-19” of the Decree-Law No. 41 of 22 March 2021, which amends articles 54, 55, 56, 57, 60, 60-bis and 61 of the Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020⁷.
- (9) The Italian authorities confirmed that aid may be granted under the existing aid scheme as amended by the notified amendments only as from the notification of the Commission’s approval.

3. ASSESSMENT

3.1. Lawfulness of the measure

- (10) As the Italian authorities committed not to grant aid before the notification of the Commission’s approval (recital (9)), the Commission considers that the Italian authorities have respected their obligation under Article 108(3) TFEU.

3.2. Existence of State aid

- (11) 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.
- (12) Recitals (31) to (36) of the Regime Quadro Decision establish that the measures under the existing aid scheme constitute State aid within the meaning of Article 107(1) TFEU. The notified amendments do not affect that finding, which is applicable also to the notified amendments. The Commission therefore refers to the respective assessment of the aforementioned decision and concludes that the existing aid scheme, as amended, constitutes State aid in the meaning of Article 107(1) TFEU.

⁷ That was the legal basis of the measures authorised by the Regime Quadro Decision.

3.3. Compatibility

- (13) The Commission assessed the existing aid scheme on the basis of Articles 107(3)(b) and 107(3)(c) TFEU and concluded that it complied with the compatibility conditions set out in the Temporary Framework.
- (14) The Commission refers to its compatibility analysis set out in recitals (37) to (58) of the Regime Quadro Decision. As regards the compatibility of the aid measure under section 3.12 of the Temporary Framework approved by Decision C(2020) 9300 of 15 December 2020, the Commission refers to its analysis set out in recitals (29) to (33) of that Decision.
- (15) As regards the notified amendments by the Italian authorities:
- (a) the extension of the duration, mentioned in recital (4)(a), of the State aid measures approved under Sections 3.1, 3.2, 3.3, 3.6, 3.7, 3.8 and 3.12 of the Temporary Framework until 31 December 2021 for the existing aid scheme, complies, respectively, with: point (22)d, point (25)c, point 27(c), point 35(a), point 37(b), point 39(b) and point 87(a) of the Temporary Framework.
 - (b) The increase of the aid ceilings to EUR 1.8 million per undertaking mentioned in recital (4)(b)⁸ and to EUR 270 000 per undertaking active in the fishery and aquaculture sector or EUR 225 000 per undertaking active in the primary production of agricultural products, mentioned in recital (4)(c)⁹ (all figures used must be gross, that is, before any deduction of tax or other charge), approved under Section 3.1 of the Temporary Framework for the existing aid scheme, complies respectively with point 22(a) and point 23(a) of that framework.
 - (c) The increase of the aid ceiling to EUR 10 million scheme, mentioned in recital (4)(d)¹⁰ (all figures used must be gross, that is, before any deduction of tax or other charge), approved under Section 3.12 of the Temporary Framework for the existing aid scheme, complies with point 87(a) of the Temporary Framework.
 - (d) The amendment, mentioned in recital (5)(a)¹¹, that aid to undertakings active in the primary production of agricultural products or in the fishery and aquaculture sector, mentioned in recital (4)(b), may be granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity provided the total

⁸ See paragraphs 1 and 2 of article 54 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021.

⁹ See paragraph 3 of article 54 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021.

¹⁰ See paragraph 5 of article 60-bis of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021.

¹¹ See paragraph 3 of article 54 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021.

nominal value of such measures does not exceed the overall cap of EUR 225 000 or EUR 270 000 per undertaking and that all figures used must be gross, that is, before any deduction of tax or other charge, complies with point 23 (a) of the Temporary Framework.

- (e) The amendment that aid granted on the basis of measures approved under Section 3.1 of the Temporary Framework and reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded, mentioned in recital (5)(b)¹², is in line with footnotes 19 and 27 of the Temporary Framework.
- (f) The amendment, mentioned in recital (5)(b)¹³, that if the aid is granted in the form of a tax advantage, the tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2021 is in line with footnote 23 of the Temporary Framework.
- (g) The amendment, mentioned in recital (5)(c)¹⁴, that aid under the Temporary Framework in form of repayable advances, guarantees, loans or other repayable instruments may be converted into other forms of aid such as grants, provided the conversion takes place by 31 December 2022 at the latest and the conditions in Section 3.1 are complied with, is in line with point 23ter of the Temporary Framework.
- (h) The amendment, mentioned in recital (5)(d)¹⁵, that individual aid awards of the wage subsidy scheme are granted no later than 31 December 2021, for employees that would otherwise have been laid off as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak (or for self-employed individuals whose business activity has been negatively impacted by the COVID-19 outbreak), subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted (or subject to the condition that the relevant business activity of the self-employed individual is maintained for the entire period for which the aid is granted), complies with point 43 (c) of the Temporary Framework.
- (i) The amendment, mentioned in recital (5)(e)¹⁶, that the monthly wage subsidy shall not exceed 80% of the monthly gross salary (including employer's social security contributions) of the benefitting personnel (or

¹² See paragraph 7-bis of article 54 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021.

¹³ See paragraph 7-ter of article 54 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021.

¹⁴ See paragraph 7-quater of article 54 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021.

¹⁵ See paragraph 4 of article 60 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021.

¹⁶ See paragraph 5 of article 60 of Decree-Law No. 34 of 19 May 2020, converted in the Law No. 77 of 17 July 2020 as modified by article 28 of the Decree-Law No. 41 of 22 March 2021.

80% of the average monthly wage equivalent income of the self-employed individual), complies with point 43 (d) of the Temporary Framework.

- (16) Furthermore, the increase of the budget of the existing aid scheme, mentioned in recital (6), does not alter the Commission's conclusions on the compatibility of that scheme, as amended, set out in the Regime Quadro Decision, as amended. The existing aid scheme continues to comply with point 22(b) of the Temporary Framework, as the aid is granted based on a scheme with an estimated budget.
- (17) Apart from the notified amendments, the Commission notes that there are no other amendments to the existing measure (recital (7)).
- (18) In light of the above, the Commission considers that the notified amendments comply with the compatibility conditions laid down in the Temporary Framework. As regards the notified amendments related to sections 3.1, 3.2, 3.3, 3.10 and 3.12 of the Temporary Framework, those amendments are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU, since they meet the conditions of the Temporary Framework. As regards the notified amendments related to sections 3.6, 3.7 and 3.8 of the Temporary Framework, the Commission has taken due consideration of the positive effects of those amendments on tackling the health crisis provoked by the COVID-19 outbreak when balancing those effects against the potential negative effects of the amendments on the internal market. The Commission concludes that those positive effects of the notified amendments outweigh its potential negative effects on competition and trade. Therefore, the notified amendments do not alter the Commission's conclusions on the compatibility of the existing aid scheme, as amended.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified amendments on the grounds that they are compatible with the internal market pursuant to Article 107(3)(b) and Article 107(3)(c) 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

