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Subject: State Aid SA.103289 (2022/N) – Italy
TCF: "Decontribuzione SUD - Agevolazione contributiva per l'occupazione in aree svantaggiate colpite dalla aggressione militare russa in Ucraina" (partial exemption from the payment of social security contribution in disadvantaged areas affected by the Russian aggression against Ukraine)

Excellency,

1. PROCEDURE

(1) By electronic notification of 8 June 2022, Italy notified aid in the form of limited amounts of aid ("*Decontribuzione SUD - Agevolazione contributiva per l'occupazione in aree svantaggiate colpite dalla aggressione militare russa in Ucraina*", 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]. Italy submitted additional information on 15 and 17 June 2022.

[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 131 I, 24.3.2022, p. 1).

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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 1/1958[2] and to have this Decision adopted and notified in English.

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 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 negative effects, affecting the national economy as a whole, are heightened in those Italian Southern regions that are already in a disadvantaged situation[3] since their economy is characterised by structurally higher energy supply costs in both industry and services[4], and comparatively greater weight of transport costs compared to the rest of the country[5]. In addition, dependence on labor as a production factor is stronger in those regions than in the rest of Italy[6], therefore liquidity shortages in the Southern part of Italy would hit employment intensely and worsen the already fragile social and economic situation in those regions with a possible trigger of wider negative effects on the Italian economy. Thus, the measure aims to remedy the 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 and preserve employment levels.

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

3 Italian regions with a 2018 regional GDP below 75 % of the EU average, or between 75 % and 90 %, and a 2018 employment rate below the national average (i.e. Abruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily).

4 Italy considers that electricity consumption per EUR of added value in the industry and the services sectors is structurally higher in the South than in the Centre-North. Italy estimates e.g. that in the period 2014-2018 for each EUR-100-million added value created in the industry sector, an average of approximately 35 GWh was consumed in the Centre-North against approximately 50 GWh in the South (i.e., about 42% more in the South), while the production of the same added value in the services sector required an average consumption of roughly 10.8 GWh in the Centre-North, against 11.5 in the South. The higher energy supply costs in the southern regions of Italy also relies on the greater concentration of small-sized businesses in this area (e.g. limited access to more convenient bargaining systems). Italy estimates that a symmetric shock on electricity prices that increases their costs by 10% determines – all things being equal – shrinking industry margins in Southern Italy about 7 times greater than that observed in the rest of Italy.

5 Italy refers to the greater distance of the southern regions from the main outlets and supply markets and considers that the average kilometers – weighed on transaction amounts – travelled by goods and services purchased by operators in Southern regions are more than double those of any other area in the Country (SVIMEZ estimate on Banca Intesa data).

6 Italy explains that 80% of the employees in Southern Italy work in SMEs, against 58.9% in the rest of Italy.

(4) 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.

(5) 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

(6) The measure provides aid in the form of partial exemption from the payment of social security contributions.

2.2. Legal basis

(7) The legal bases for the measure are Article 1, paragraphs 161 to 168 of Law no. 178 of 30 December 2020 on the "*Budget of the State for the financial year 2021 and multi-year budget for the three-year period 2021-2023*"[7] and the draft Circular of the National Institute for Social Security (INPS Circular). Article 1, paragraph 165 of the said Law no.178 provides for a standstill clause.

2.3. Administration of the measure

(8) The Ministry of Labour and Social Policies is the authority responsible for the scheme, while INPS is the authority granting the aid under the measure.

2.4. Budget and duration of the measure

(9) The estimated budget of the measure is EUR 2 816 million.

(10) 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 2022.

2.5. Beneficiaries

(11) The beneficiaries of the measure are private employers with at least one operative site in Abruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily that are affected by the crisis, irrespective of their size. However, credit institutions or other financial institutions are excluded as eligible final beneficiaries[8].

(12) 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

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7 OJ General Series no. 322 of December 30, 2020 - Ordinary Supplement no. 46.

8 Article 1, paragraph 162 of Law no. 178 of 30 December 2020, further stipulates the eligibility scope of the measure by explicitly excluding from it certain entities that may be considered comparable to private employers and that operate in specific sectors, such as economic public bodies; autonomous public housing institutes transformed into economic public bodies pursuant to regional legislation; entities transformed into joint stock companies, even if based on entirely public capital, as a result of proceedings of privatisation.

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.

(13) 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[9]. 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

(14) The measure is open to all sectors except the primary production of agricultural products, the domestic work and the financial sectors.

(15) The measure applies to Italian regions with either a 2018 regional GDP below 75 % of the EU average, or a 2018 regional GDP between 75 % and 90 % of the EU average and a 2018 employment rate below the national average. Italy stated that, based on those criteria, the following regions are included in the geographical scope of the measure: Abruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily.

2.7. Basic elements of the measure

(16) The measure has as its main purpose to reduce the level of compulsory contributions due by private employers[10] in the Southern regions of Italy, which are heavily impacted by the socio-economic consequences of the current crisis, and thereby to preserve employment levels, which are at serious risk.

(17) As indicated in section 2 of the INPS Circular (recital (7)), aid under the measure is only granted to undertakings affected directly or indirectly by the current crisis.

(18) The measure provides for a reduction by 30 % of the social security contributions due by the beneficiary for the contribution period running from 1 July 2022 until 31 December 2022[11] for employment contracts with place of employment in the eligible regions[12] (recital (15)). The measure does not apply to premiums and

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[9] 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).

[10] For the purposes of the measure, in case of administration of work (*somministrazione di lavoro*), the "private employer" (the beneficiary) is the undertaking for which the worker, who is formally employed by an employment agency or a similar entity, performs his/her activity in an operative site in the eligible regions (place of employment).

[11] The present decision does not apply to those partial exemptions provided in the same legal bases for contribution periods after 1 January 2023. The INPS Circular clarifies that for those partial exemptions Italy will assess the compliance with State aid rules and may submit, in compliance with the applicable State aid rules, a distinct notification to the Commission under Article 108(3) TFEU.

[12] For certain categories of workers in the fisheries sectors (e.g. workers under Article 115 of the Italian Navigation Code working on board vessels), the place of employment is determined based on the maritime registers the vessel is registered in (*Compartimenti marittimi*).

contributions due to INAIL[13] for insurance against accidents at work that are therefore excluded from the calculation of the total social security contribution.

(19) Applications can be submitted from the date of adoption of this Decision until no later than 31 December 2022.

(20) Italy confirms that the overall aid (gross, i.e. before any deduction of tax or other charge) will not exceed EUR 35 000 per undertaking active in the fisheries and aquaculture sectors and EUR 400 000 per undertaking in all other sectors at any given point in time[14].

(21) Italy confirms that the aid granted to undertakings active in the processing and marketing of agricultural products[15] is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned.

(22) Italy confirms that aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1(1)(a) to (k) of Regulation (EU) No 717/2014[16].

(23) Italy confirms that where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 41(a) and 42(a) of the Temporary Crisis Framework, it will be ensured, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 400 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 42(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 35 000 is not exceeded per undertaking.

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[13] Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro - National Institute for Insurance against Accidents at Work.

[14] Aid granted on the basis of schemes approved under section 2.1 of the Temporary Crisis Framework that has been reimbursed before granting new aid under that section will not be taken into account in determining whether the relevant ceiling is exceeded.

[15] As defined in Article 2(6) and Article 2(7) 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).

[16] 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 90, 28.6.2014, p. 45).

2.8. Cumulation

(24) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[17] and/or with aid under the General Block Exemption Regulation[18] and under the Fisheries Block Exemption Regulation[19] provided the provisions and cumulation rules of those Regulations are respected.

(25) For aid granted to beneficiaries in the fisheries sectors, the Italian authorities confirm that aid under the measure may be cumulated with other forms of Union financing, provided that the maximum aid intensities indicated in the relevant Guidelines or Regulations are respected.

(26) The Italian authorities confirm that aid under the measure may be cumulated with aid under measures approved by the Commission under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak[20] (COVID-19 Temporary Framework) and that the aid under the notified measure may be cumulated with those measures provided the respective cumulation rules are respected.

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

(28) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 2.1 of the Temporary Crisis Framework, the overall maximum cap per undertaking, as set out in point(s) 41(a) and 42(a) of that framework, will be respected. Aid granted on the basis of schemes approved by the Commission under section 2.1 of the Temporary Crisis Framework which has been reimbursed before granting new aid under this same

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17 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 1408/2013 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 in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014, and 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).

18 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).

19 Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 369, 24.12.2014, p. 37).

20 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).

section will not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. Monitoring and reporting

(29) The Italian authorities confirm that they 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 and EUR 10 000 in the fisheries sectors on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[21]).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

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

(32) The measure is imputable to the State, since it is administered by the authorities as indicated in recital (8) and it is based on the national legal bases in recital (7). It is financed through State resources, since it is financed by public funds (recital (9)).

(33) The measure confers an advantage on its beneficiaries in the form of partial contribution exemptions (recital (6)). The measure thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(34) The advantage granted by the measure is selective, since it is awarded only to certain undertakings as stated in recital (11), excluding the primary production of agricultural products, the domestic work sector and the financial sector (recital (11)).

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

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

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

3.3. Compatibility

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

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

(39) By adopting the Temporary 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 caused by the Russian military aggression against Ukraine, the sanctions imposed by the EU or by its international partners, as well as the economic counter measures taken so far, for example by Russia.

(40) The measure aims at reducing the labour costs borne by private employers in the Southern regions of Italy thereby preserving employment levels (recital (16)) 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.

(41) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve employment and economic continuity 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. In particular, the measure concerns a significant portion of the Italian territory (eight regions out of twenty), which have been the most affected by the socio-economic consequences of the current crisis, especially with regard to the employment levels (recital (16)). 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

(42) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the relevant conditions of the Temporary Crisis Framework. In particular:

- The aid takes the form of partial exemption from social security contributions (recital (6)).

- The overall nominal value of those contribution exemptions will not exceed EUR 400 000 per undertaking at any given point in time; all figures used must be gross, that is, before any deduction of tax or other charges (recital (20)). The measure therefore complies with point 41(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 (9). The measure therefore complies with point 41(b) of the Temporary Crisis Framework.

- Aid will be granted under the measure no later than 31 December 2022 (recital (10)). The measure therefore complies with point 41(c) of the Temporary Crisis Framework.

- Aid will be granted only to undertakings affected by the crisis (recital (17)). The measure therefore complies with point 41(d) of the Temporary Crisis Framework.

- Aid granted to undertakings active in the processing and marketing of agricultural products is excluded when the aid is conditional on being partly or entirely passed on to primary producers, fixed on the basis of the price or quantity of products put on the market by the undertakings concerned or purchased from primary producers, unless, in the latter case, the products were either not put on the market or were used for non-food purposes such as distillation, methanization or composting by the undertakings concerned (recital (21)). The measure therefore complies with point 41(e) of the Temporary Crisis Framework.

- The overall nominal value of the contribution exemptions does not exceed at any point in time EUR 35 000 per undertaking active in the fishery and aquaculture sectors (recital (20)). The measure therefore complies with point 42(a) of the Temporary Crisis Framework.

- Aid granted to undertakings active in the fishery and aquaculture sector does not concern any of the categories of aid referred to in points (a) to (k) of Article 1(1) of Commission Regulation (EU) No 717/2014 (recital (22)). The measure therefore complies with point 42(c) of the Temporary Crisis Framework.

- Where an undertaking is active in several sectors to which different maximum aid amounts apply in accordance with points 41(a) and 42(a) of the Temporary Crisis Framework, Italy will ensure, by appropriate means such as separation of accounts, that the relevant ceiling is respected for each of those activities and that the overall maximum amount of EUR 400 000 is not exceeded per undertaking (recital (23)). Where an undertaking is active in the sectors covered by point 42(a) of the Temporary Crisis Framework, the overall maximum amount of EUR 35 000 is not exceeded per undertaking (recital (23)). The measure therefore complies with point 43 of the Temporary Crisis Framework.

(43) The Italian authorities confirm that, pursuant to point 32 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 (4)).

(44) The Italian authorities confirm that, pursuant to point 33 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 (12)).

(45) The Italian authorities confirm that the monitoring and reporting rules laid down in section 3 of the Temporary Crisis Framework will be respected (recital (29)). The Italian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Crisis Framework, the COVID-19 Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (24) to (28)).

(46) 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