



EUROPEAN COMMISSION

Brussels, 08.08.2022
C(2022) 5831 final

PUBLIC VERSION

This document is made available for
information purposes only.

**Subject: State Aid SA.100704 (2021/N) – Italy
RRF - Support scheme for the promotion of biomethane**

Excellency,

1. PROCEDURE

- (1) On 18 November 2021, Italy notified a support scheme (the “scheme” or the “measure”) for the promotion of biomethane to be injected into the natural gas grid, pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (TFEU). On 21 December 2021, 8 March 2022, 8 and 21 July 2022, the Commission requested additional information, which Italy submitted on 25 January 2022 and 1, 6, 11 and 26 July 2022.
- (2) By letter dated 6 July 2022, Italy agreed to exceptionally waive its rights deriving from Article 342 TFEU in conjunction with Article 3 of Regulation 1/1958¹ and to have the present decision notified and adopted in English.

2. DETAILED DESCRIPTION OF THE MEASURE

- (3) The measure provides support for the production of biomethane through the combination of two forms of support, an investment grant up to 40% of eligible investment costs and an incentive tariff paid out in the form of a Feed-in Tariff or

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

Onorevole Luigi Di Maio
Ministro degli Affari esteri e della Cooperazione Internazionale
Piazzale della Farnesina, 1
00135 Roma
ITALIA

a Feed-in Premium, to be granted cumulatively to biomethane producers selected via tenders.

2.1. Background and objectives of the notified scheme

- (4) The EU has set an ambitious climate protection target of reducing greenhouse gas emissions by at least 55 % by 2030, with a view to becoming climate neutral by 2050.² In order to achieve this, far-reaching changes are required in all sectors of the economy.
- (5) As outlined in the Commission’s REPowerEU Communication,³ increasing the EU production of biomethane is an important means to achieve the EU ambition to reduce imports of natural gas from Russia. The objective set out in the REPowerEU Communication is to boost sustainable biomethane production to 35 bcm by 2030.
- (6) In its legislation, Italy imposes blending obligations on fuel suppliers operating in the transport sector with the aim to promote demand for biofuels, including advanced biofuels.⁴ A previous measure to support production of biomethane and advanced biofuels for use in the transport sector has been put in place from 2018 until the end of 2022 (the “previous scheme”).⁵
- (7) However, according to the Italian authorities, the measures in force have not been sufficient to significantly promote the construction of biomethane production plants, and the availability of advanced biofuels is generally very limited compared to what is needed to achieve the European targets. The Italian National Energy and Climate Plan (NECP) defines for the transport sector a very ambitious target in terms of share of energy from renewable sources (RES) of 22% in 2030, higher than the European one set at 14% in 2030. The Italian target is very ambitious also in the electricity sector, but it is expected to reach it mainly through an increase of wind and PV installations. It is therefore necessary to redirect the use of biogas, which is now mainly intended for electricity production, towards the production of biomethane for the transport and heating sectors, with more direct incentive measures that allow the planning of investments. In this context, the measure aims at ensuring that producers of biomethane intended for use in the transport and heating sector receive a benefit that is sufficient to incentivise the investment and compensate for the part of

² Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’) (OJ L 243, 9.7.2021, p. 1).

³ Communication on REPowerEU: Joint European Action for more affordable, secure and sustainable energy, COM(2022) 108 final, (8.3.2022).

⁴ Decree of the Minister of Economic Development 10 October 2014 and subsequent amendments and additions; the legislative decree 8 November 2021 n. 199, implementing the Directive (EU) 2018/2001 of the Parliament and of the Council, of 11 December 2018, Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast).

⁵ Commission decision of 1 March 2018, SA.48424 (2017/N) - Italy - Support scheme for the production and distribution of advanced biomethane and other advanced biofuels for use in the transport sector (OJ C158, 4.5.2018, p.5).

production costs that cannot be recovered through the market price⁶ when or if necessary.

- (8) The measure should support, when fully operational, a maximum annual production of approximately 2.5 billion standard cubic meters of biomethane. Such biomethane is to be used in the transport and thermal sector, contributing to the 2030 target of RES share on the total final energy consumption. In addition, the measure will favour objectives of greenhouse gas emissions reduction in particular in the agricultural sector.⁷
- (9) The main objective of the measure is therefore to contribute to the achievement of the 2030 national targets established under EU Energy policies. Ultimately the measure will also contribute to improving Italy's security of gas supply.
- (10) This measure is linked with the investment support measures set by the National Recovery and Resilience Plan (NRRP) under Mission 2, Component 2, Investment 1.4 – “Development of biomethane, according to criteria for the promotion of circular economy”.⁸

2.2. National legal basis

- (11) The legal basis is the Legislative Decree no. 199/2021 of 8 November 2021 transposing European Directive 2018/2001 and the draft Ministerial Decree providing implementation of the National Recovery and Resilience Plan, Mission 2, Component 2 (M2C2), Investment 1.4 "Development of biomethane according to criteria for the promotion of the circular economy" (the “Implementing Decree”).

2.3. Scope

- (12) The scope of the measure is the production of biomethane to be injected into the natural gas grid, for uses ranging from transport to heating.⁹ The Italian authorities have explained that for the moment and in the coming years covered by the measure there are no other technologies in competition with biomethane. Other renewable gas, such as Renewable Fuels of Non-Biological Origins (RFNBO) or hydrogen, have a maturity and production costs that are very different so that they are not in competition with biomethane and will not be in the next 3 to 4 years.
- (13) Italy has confirmed that the supported biomethane will comply with the criteria set out in the Renewable Energy Directive¹⁰ (“RED II”) in order for the measure

⁶ In the case of biomethane, the final sale price is the same with that for natural gas.

⁷ The measure will also have broader positive impacts on the agricultural sector, resulting for example from the use of digestate as organic fertilizers.

⁸ On 13 July 2021, the Council adopted the implementing decision on the approval of the assessment of the recovery and resilience plan for Italy, notified to Italy by letter LT161/21 of 14.07.2021.

⁹ The scheme covers biomethane used as fuel in the transport sector, as well as biomethane used in the industrial, residential tertiary and agricultural sectors, with the exception of the thermoelectric generation sector.

¹⁰ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, OJ L 328, 21.12.2018.

to comply with the ‘do no significant harm’ principle and the relevant requirements set out in footnote 8 of Annex VI to the Recovery and Resilience Facility Regulation.¹¹

- (14) In particular, the supported biomethane will be compliant with the sustainability and greenhouse gas emissions saving criteria in RED II. For biomethane for the transport sector, the objective is to achieve a reduction of at least 65 % of greenhouse gas emissions through the use of biomass. In this case, the biomethane has to be produced from the feedstock for the production of advanced biofuels listed in Annex IX to RED II. For biomethane for other uses, the objective is to achieve a reduction of at least 80 % of greenhouse gas emissions through the use of biomass.
- (15) Although it cannot be excluded that support may be granted to food and feed crops-based biomethane, Italy confirms that it will be in limited quantities and that Italy will not exceed the limits set in RED II.
- (16) Italy has also confirmed that all the biomethane produced will be certified in accordance with RED II through the required certification systems for verification of compliance with the sustainability and greenhouse gas emissions saving criteria.

2.4. Allocation process

- (17) Beneficiaries will be selected through a competitive bidding process. The successful selection through the competitive bidding process triggers the award of both the investment grant and the incentive tariff.
- (18) Production capacity quotas, expressed in standard cubic meters/hour of biomethane, will be auctioned. The annual quota of auctioned capacity, as envisaged by Italy, is shown in Table 1.

Table 1. Annual quotas [Smc/h]

Year	2022	2023	2024	Total
Auctioned capacity (Smc/h)	67.000	95.000	95.000	257.000

Source: the Implementing Decree

- (19) Italy envisages to carry out one bidding process in 2022 and at least two bidding processes per year in the following years, with an opening period for the applications of 60 days. Italy estimates that the quotas would be allocated for around 50% of these amounts per each of the twice-per-year bidding processes.
- (20) Applicants will bid a percentage of reduction, which must be at least 1%, compared to a reference tariff set in the Implementing Decree. The reference tariffs for 2022 and 2023, expressed in €/MWh, are identified in Table 2.

¹¹ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17.

Table 2. Reference Tariffs for 2022 and 2023 [€/MWh]

Type of plant	Biomethane production capacity (C _p)	Reference tariff [€/MWh]
Bio-waste fuelled plants ¹²	Any	62
Agricultural plants ¹³	C _p ≤ 100 Smc/h	115
	C _p > 100 Smc/h	110

Source: the Implementing Decree

- (21) For bidding processes carried out in 2022 and 2023, the reference tariffs will be equal to those indicated in Table 2. For the following years, the reference tariffs will be those in Table 2, reduced by 2%.
- (22) Italy has confirmed that the bidding processes will be carried out electronically in accordance with the fundamental principles of transparency, advertising, protection of competition and in a non-discriminatory manner.
- (23) The Gestore dei Servizi Energetici (GSE)¹⁴ will assess the applications and publish the ranking lists of those eligible as well as those in “useful position” (i.e. winning the auctions) within 90 days of the closure of each individual procedure.
- (24) In particular, the GSE will verify that applicants comply with the eligibility requirements laid down in the Implementing Decree (See Section 2.4.1) and, within the limits of the available production capacity quotas, form a ranking based on the percentage of reduction offered by each applicant compared to the applicable reference tariff.
- (25) In the event that for the same percentage of reduction offered, the available quotas are exceeded, the GSE will apply additional priority criteria such as the earlier date of submission of the complete application.
- (26) Unallocated production capacity can be reallocated to the first subsequent auction until the quotas are exhausted and in any event no later than 30 June 2026.
- (27) Italy confirmed that the aid will be granted solely on the basis of the initial offer submitted by the bidder.

¹² “Impianti alimentati da rifiuti organici” as defined in the Implementing Decree.

¹³ Also covering forestry residues.

¹⁴ The GSE is a joint-stock company, 100 % owned by the Ministry of Economic Affairs and Finance and controlled by the Ministry for Ecological Transition. The GSE is the Italian public body responsible for the promotion of renewable energy and energy efficiency in Italy. It is also responsible for the monitoring of the development of renewable energies, from a statistical, technical, economic and environmental point of view.

- (28) For each successful beneficiary, the tariff offered during the auction, which corresponds to the applicable reference tariff minus the percentage of reduction offered as a bid on the applicable reference tariff, becomes the incentive tariff for that selected applicant.
- (29) Successful beneficiaries must come into operation at the latest within 18 months from the date of publication of the ranking for agricultural plants and 24 months for bio-waste fuelled plants. Failure to comply with such terms involves the application of a 0,5% reduction in the incentive tariff for each month of delay, up to a maximum of nine months of delay.¹⁵ After these nine months, the benefit of the incentive tariff is lost.
- (30) Successful beneficiaries must notify the GSE of their date of entry into operation no later than 30 days after the entry into operation. Failure to notify within that period means that the incentive period between the date of entry into operation of the plant and the first day of the month following the date of notification is lost for the granting of the incentive tariff.

2.4.1. Eligibility

- (31) Beneficiaries are the owners of newly built biomethane plants or agricultural biogas plants upgraded to biomethane.
- (32) In order to be eligible under the scheme and be able to participate in the competitive bidding process, the applicants must comply with a set of requirements detailed in the Implementing Decree.
- (33) In particular, the applicants must hold a permit for the construction and operation of the plant and in the case of plants to be connected to the gas transmission and distribution network with third party connection obligations, have obtained and accepted the connection estimate issued by the relevant network operator.
- (34) The aid can be granted only to beneficiaries that have not started works before their inclusion in the ranking list of bids (as undertaking eligible in terms of requirements and permits).
- (35) Beneficiaries shall furthermore comply with the air pollution and emission limits, with the Industrial Emission Directive,¹⁶ when carrying out an “industrial” activity and with the nitrates and other pollutants emission limits, when carrying out agricultural activities.
- (36) Undertakings in difficulty as defined by the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty¹⁷ are excluded from the scheme.

¹⁵ Except in case of force majeure or calamitous events ascertained by the competent authorities.

¹⁶ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p.17).

¹⁷ Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

- (37) For undertakings subject to outstanding recovery orders following a previous Commission decision declaring an aid illegal and incompatible with the internal market, access to the scheme is suspended as long as the undertaking has not reimbursed the full amount of the unlawful and incompatible aid, including recovery interest.
- (38) The Implementing Decree extends the scheme to biomethane plants located in other Member States which physically import their biomethane production to Italy, subject to the conclusion by Italy of a cooperation agreement with the Member State where the producer is located. The foreign plants will participate in the tenders under the same conditions and requirements set out in the Implementing Decree for plants located in Italy, subject to a specific quota in the tendering procedure. Such a quota is determined annually by the GSE and represents a share of the annual production capacity quotas referred to in Table 1. This share is equal to the estimated amount of imported biomethane from other Member States over the total consumption of natural gas in Italy. The estimated amount of imported biomethane is calculated based on the share of biomethane in the natural gas consumption of each Member State as certified by Eurostat for the last available year and the total quantity of natural gas produced and imported to Italy by each Member State.
- (39) Italy points to a general provision in national law¹⁸ that 40% of the NRRP funds received by Italy should be reserved to investments in the South of Italy. As regards the notified measure covered by this decision, Italy has clarified that its implementation will not make any distinction based on location within the Italian territory. Nevertheless, the Italian authorities have mentioned that in the course of the scheme they would monitor whether the implementation results in a sufficient flow of funds to the South and reserves the right to notify an amendment to the scheme in line with the requirements of the applicable State aid guidelines¹⁹. Italy has clarified that information on the cost differences (construction, management or any other relevant factor) between plants located in Southern Italy with respect to Central and Northern Italy will be available after the construction of a significant number of plants and forms part of the evaluation of the measure within the terms set out in the notification.
- (40) Finally, a maximum quantity of production of 1.1 billion cubic metres per year, calculated taking into account that provided for in implementation of the previous scheme, can be allocated to the transport sector. The GSE will publish and update on a monthly basis the production value assigned to transport and, after notifying the Ministry for Ecological Transition (MiTE), will publish on its website the notice that the limit has been reached. In procedures carried out after the publication of this notice, only plants producing biomethane for other uses than transport will be eligible under the scheme.

¹⁸ Decree-law 31 May 2021, n. 77, coordinated with the conversion law of 29 July 2021, n. 108 containing: "Governance of the National Recovery and Resilience Plan and first measures to strengthen administrative structures and accelerate and streamline procedures", in Article 2, paragraph 6-bis.

¹⁹ Italy has reported that at least 85% of the existing biogas plants are located in the North of Italy.

2.4.2. Reference tariffs

- (41) To elaborate the reference tariffs presented in Table 2, the Italian authorities have identified two main reference projects concerning bio-waste fuelled plants and agricultural plants.
- (42) For agricultural plants, the reference project corresponds to a new plant with a production capacity of 250 scm/hour and using raw materials composed of 60% of manure and 40% of intermediate crops. For bio-waste fuelled plants, the reference project corresponds to a new plant with a production capacity of 1000 scm/hour and using 100% of organic waste.
- (43) The Italian authorities have explained that the cost structure of plants that produce biomethane from organic waste and that of plants that produce biomethane from agricultural residues is different. In particular, plants that produce biomethane from organic waste use more complex technologies than plants that produce biomethane from agricultural residues and consequently bear higher investment costs. On the other hand, plants that produce biomethane from organic waste have lower operating costs as the cost of the raw material is negative since they actually receive a fee for taking up such waste.
- (44) For agricultural plants, the Italian authorities have also defined a specific reference tariff for small-scale installations (<100 smc/hour).²⁰ Italy has explained that small plants generally have higher production costs than larger ones which benefit from economies of scale. Small plants would therefore most likely be excluded from the measure if they were to bid based on the same reference tariff that plants of larger size. However, Italy's objective is to support a large number of biomethane plants, of various sizes, widespread in Italy. Italy considers that small plants will benefit local supply chains and thanks to their proximity to the source of raw materials, will allow to exploit feedstocks that may not be processed otherwise because of high transport costs (to the extent that transporting the waste is even possible). Italy also stresses the importance of small plants as they may enter into operation faster than larger plants and benefit from a higher social acceptability. The Italian authorities also claim that having a specific tariff for small-scale installations will increase the number of participants in the bidding process and increase competition, while avoiding concentration of the market.
- (45) The Italian authorities have set the reference tariffs taking into account the estimated investment and operating costs, as well as the investment grant, of those reference projects. The estimated costs are mainly based on data collected by the GSE from plants benefitting from the previous scheme. Investment costs take into account construction costs for the digester (for biogas production), the upgrading system (to transform biogas into biomethane) and other costs (for example for the network connection costs). The investment grant is deducted from the overall costs. Operating costs take into account the following elements: costs for raw materials, labour costs and other operational costs (electricity, thermal energy, ordinary and extra-ordinary maintenance, insurance costs). The reference tariffs

²⁰ Equivalent to installations of 1 thermal MW of installed capacity.

have been defined to obtain a profitability in terms of IRR of the reference projects in the range of 7 to 8%. The expected lifetime of the projects is 15 years.

- (46) The reference tariffs will serve as the starting point for the auctions, and will apply to all eligible participants, new or converted. Italy has explained that the reference tariffs have been set at a level that would allow wide participation in the auctions and increase competition.
- (47) Table 3 below shows the reference tariff calculation as well as the net present value of the reference projects.

Table 3. Determination of the Reference Tariffs for 2022 and 2023

		New agricultural biomethane plant 100 Scm/h	New agricultural biomethane plant 250 Scm/h	New biowaste 1000 Scm/h
Main raw materials supply	unit	70% manure and 30% intermediate crops	60% manure and 40% intermediate crops	100% organic waste
Plant capacity	Scm/h	100	250	1000
Load factor	%	90%	90%	90%
Total CAPEX	mln€	2,9	6,2	50,0
Total CAPEX (specific)	€/(Scm/h)	29.000	24.800	50.000
<i>of which digester</i>	<i>mln €</i>	<i>0,8</i>	<i>1,6</i>	<i>16,0</i>
<i>of which upgrading</i>	<i>mln €</i>	<i>0,6</i>	<i>1,4</i>	<i>12,0</i>
<i>of which others</i>	<i>mln €</i>	<i>1,5</i>	<i>3,2</i>	<i>22,0</i>
Total OPEX	mln €	0,6	1,5	0,8
<i>of which supply</i>	<i>mln €</i>	<i>0,4</i>	<i>1,1</i>	<i>6,2</i>
<i>of which personnel</i>	<i>mln €</i>	<i>0,04</i>	<i>0,1</i>	<i>0,6</i>
<i>of which others</i>	<i>mln €</i>	<i>0,2</i>	<i>0,4</i>	<i>6,4</i>
Annual production	Scm	788.400	1.971.000	7.884.000
WACC	%	9%	9%	8%
LCOE	€/MWh	137	129	97
CAPEX grant %	%	40%	40%	40%
CAPEX grant	mln €	1,2	2,5	20,0
LCOE (with CAPEX grant)	€/MWh	117	112	65
Reference tariff	€/MWh	115	110	62
IRR (reference tariff)	%	8,0%	7,0%	7,8%
Reference tariff reduced by 1%	€/MWh	114	109	61

Average estimated natural gas price over 15 years	€/MWh	60	60	60
Average estimated price of GO (Guarantee of origin)	€/MWh	20	20	20
Incentive	€/MWh	34	29	-19
Total annual revenues	mIn €	0,8	2,0	4,6
NPV without aid	mIn €	-3,1	-6,9	-10,0
Total aid (investment + tariff) not discounted	mIn €	4,8	10,3	1,7
Total aid (investment + tariff) discounted	mIn €	3,1	6,7	9,6

Source: Italian authorities

- (48) The Net Present Value (NPV) of the reference projects has been calculated using as discount rate a Weighted Average Cost of Capital (WACC) of 9% for agricultural plants and of 8% for bio-waste fuelled plants, justified by the better access to credit of the latter. In Italy, the WACC for regulated infrastructure services in the electricity and gas sectors is set at a range of 5 to 7 %, depending on the services and the update period.²¹ Italy has applied a slightly higher WACC for investments in biomethane plants, in view of the innovative nature of the applicable technology, and of the relatively higher market volatility and uncertainty regarding the availability of raw materials.²²
- (49) The data provided shows that without support the NPV of the reference projects would be negative.²³
- (50) In view of these negative NPV and of the highly innovative character of biomethane production, Italy considers that in the absence of aid a beneficiary would not invest in the construction of a new biomethane plant and in the case of an existing biogas plant, would continue its activity without changes.
- (51) The GSE will analyse data on the production costs of biomethane taking into account data collected from existing plants and any changes in the costs of raw materials and components recorded on the national and European markets, including as a result of the effect of changing inflation rates. These data will be sent annually to the MiTE.
- (52) If those analyses show that the level of aid (including both components) is, in whole or in part, no longer necessary or no longer sufficient to ensure effective competition in tendering procedures, the MiTE may update the reference tariffs (as well as the maximum eligible investment costs – see Section 2.5.1). Any such adjustment shall apply to procedures launched after the update.

²¹ <https://www.arera.it/allegati/docs/18/639-18.pdf> and <https://www.arera.it/it/docs/21/614-21.htm>.

²² In particular for residues and waste from agro-industrial and agricultural activities which by their nature are subject to significant production variations depending on variable climatic conditions. As clarified by Italy, favourable years allow great availability of raw materials and residues with lower prices, while unfavourable years involve scarcity of materials and residues with higher prices and higher costs.

²³ Calculations are based on an average estimated gas price over 15 years of EUR 60 MWh, with a lower gas price, the NPV would be lower.

2.4.3. Competitiveness of the tenders

- (53) Italy has explained that the production of biomethane in Italy is still at an embryonic stage of development and there is a significant level of uncertainty on the future market for biomethane production in Italy. However, Italy considers that the competitive context is dynamic and Italy expects significant demand in response to tender calls.
- (54) Based on the number of existing biogas agricultural plants, Italy estimates that there should be around 1100 plants interested for reconversion and targets the number of winning applicants at around 500-600. For new biomethane plants, the main biogas Italian trade association (CIB – Consorzio Italiano Biogas) estimates a potential of production of around 8.5 billion cubic meters of biomethane from agricultural waste and the CIC composting association estimates a potential of production around 1 billion of cubic meters of biomethane from organic-waste; on the other hand the estimated overall production that could be realized under the scheme is approximately 2.3-2.5 billion cubic meters.
- (55) Based on the above, Italy considers that the expected number of bidders is sufficient to ensure effective competition.
- (56) However, in case of repeated undersubscription, as detailed in recital (52), the Italian authorities may adjust the reference tariffs and maximum eligible investment costs to make the participation in the bidding processes more attractive and therefore to restore effective competition in the subsequent bidding processes.
- (57) In the event that the analyses mentioned in recital (52) do not reveal the necessity to adjust the reference tariffs and maximum eligible investment costs and in case of repeated undersubscription, Italy will put in place other measures to restore effective competition. In particular, Italy clarified that it will be possible to adjust the production capacity quotas made available in the following auctions.

2.5. Form of aid and level of support

- (58) Successful beneficiaries will receive an investment grant and an incentive tariff in the form of a Feed-in Tariff or a Feed-in Premium.

2.5.1. Investment grant

- (59) The investment grant will amount to up to 40% of the eligible investment costs. All eligible costs must be substantiated by invoices and bank transfer payments. Only expenses incurred and paid before the end date of the measure, i.e. 30 June 2026, will be eligible.
- (60) Eligible costs are listed in the Implementing Decree and include in particular:
 - (a) the costs of building and improving the plant, such as the infrastructure and machinery necessary for the management of biomass and the anaerobic digestion process, the composting of the digestate, the storage of digestate, the construction of the biogas purification plant, the transformation and conservation of biomethane and CO₂, the construction of facilities and equipment for farm self-consumption of biomethane;

- (b) equipment for the monitoring of exhaust gases and fugitive emissions;
- (c) the costs of connection to the natural gas network;
- (d) the costs of the acquisition of software necessary for the plant management;
- (e) the costs of design, project management, testing, consultancy, feasibility studies, purchase of patents and licences relating to the above investments, up to a maximum of 12 % of the total eligible expenditure.

(61) The aid will be granted within the limits of the maximum eligible investment costs and according to the percentages shown in Table 4.

Table 4. Maximum eligible investment costs and percentage of support

Type of plant	Biomethane production capacity (C_p)	Maximum eligible investment costs [EUR/Smc/h]		Percentage of support [%]
		New plant	Converted plant	
Agricultural plants	$C_p \leq 100$ Smc/h	33.000	12.600	40 %
	$100 \text{ SMC/h} < C_p \leq 500$ Smc/h	29.000	12.600	40 %
	$C_p > 500$ Smc/h	13.000	11.600	40 %
bio-waste fuelled plants	Any	50.000		40 %

Source: The Implementing Decree

(62) Italy has clarified that the cap on the eligible investment costs allows to select the most cost-efficient projects among comparable technologies and prevents the risk of abuse.

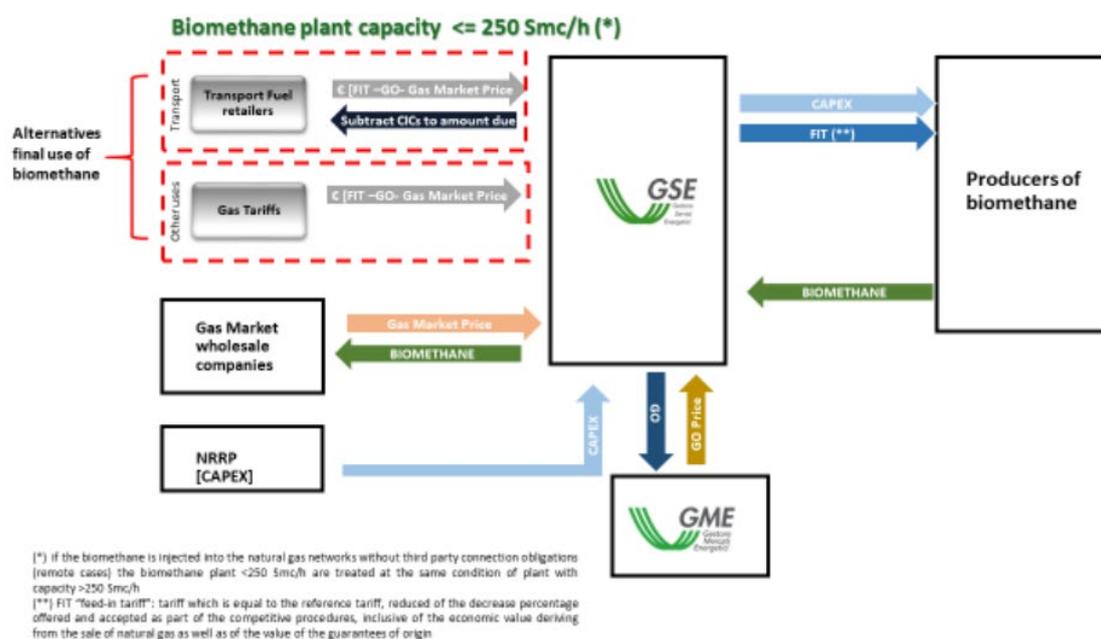
2.5.2. Incentive tariff

(63) The GSE will pay either the incentive tariff in the form of a Feed-in Tariff (“FIT”) or in the form of a Feed-in Premium (“FIP”) to the successful beneficiaries in addition to the market price of natural gas and the value of the guarantees of origin²⁴ which they obtain from the market.

²⁴ Guarantees of origin are used to certify the compliance with the sustainability criteria of the biomethane produced. For every MWh coming from guarantee of origin-recognised plants, the GSE awards a certificate that can be traded on the Italian and/or European market.

- (64) Plants with a production capacity up to 250 Smc/h²⁵ may request disbursement of the aid in the form of a FIT that is equal to the incentive tariff resulting from the auction.
- (65) In the case of FIT, biomethane is purchased by the GSE that can sell it by identifying one or more sales companies, qualified and selected through competitive procedures, or directly on the market. In addition, guarantees of origin are issued and simultaneously transferred free of charge to the GSE and are considered to be in the availability of the latter. Alternatively, the producer can opt for a FIP described in recital (66).

Figure 1. Mechanism for plants with a production capacity up to 250 Smc/h



Source: Italian authorities

- (66) For plants with a production capacity exceeding 250 Smc/h,²⁶ the aid is disbursed in the form of a FIP. A FIP is a premium, which is equal to the difference between the incentive tariff resulting from the auction, the average monthly price of natural gas²⁷ and the average monthly price of the guarantees of origin.²⁸ In the

²⁵ If biomethane is injected into the natural gas networks without third party connection obligations (remote cases), biomethane plants with a production capacity up to 250 Smc/h are treated at the same conditions than plants with a capacity above 250 Smc/h.

²⁶ As well as for all production plants that feed biomethane into the natural gas networks other than those with third party connection obligations.

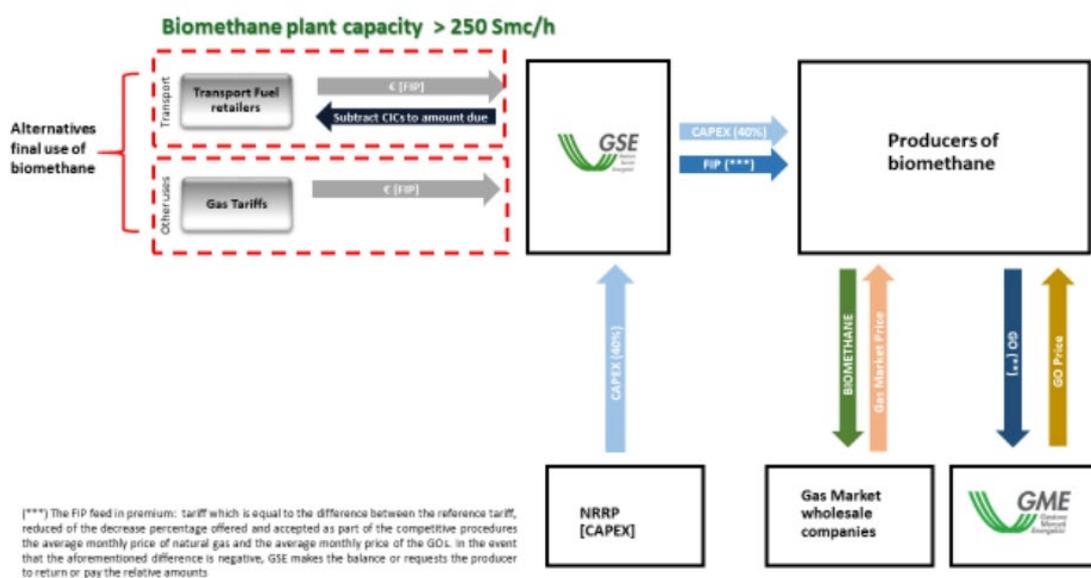
²⁷ The average price of natural gas, weighed by quantities, recorded on the day-ahead market for natural gas (MGP-GAS) in continuous trading and on the intraday market for natural gas (MI-GAS) in continuous trading operated by the Gestore dei Mercati Energetici (GME) in the month of withdrawal, and published by GME on its website.

²⁸ Value of the average monthly price recorded on the market platform for the exchange of guarantees of origin (M-GO) for the guarantees of origin of biomethane used in the transport sector or for those for other uses, as published monthly by GME on its institutional website.

case of FIP, the plants directly sell the biomethane produced and receive the guarantees of origin.

- (67) In the event that the difference between the incentive tariff resulting from the auction and the average monthly price of natural gas plus the average monthly price of the guarantees of origin is negative, the producer will have to return or pay to the GSE the relevant amounts resulting from this negative difference. In essence, this corresponds to a two-way contract for difference.

Figure 2. Mechanism for plants with a production capacity above 250 Smc/h



Source: Italian authorities

- (68) The GSE monthly pays the aid due based on the measurement of biomethane fed into the natural gas network, as factually collected and transmitted to the GSE by the network operators to which the plant is connected, or directly by the beneficiary.

2.6. Duration of the support

- (69) The duration of the scheme is until 30 June 2026.
- (70) The investment grant will be disbursed until 30 June 2026, while the incentive tariff will be disbursed for a period of 15 years from the date of entry into operation of the plant.²⁹
- (71) Failure to carry out the works eligible for financing by 30 June 2026 implies the loss of the investment grant.
- (72) Italy confirms that aid will be granted under the measure only following the adoption of the Commission's decision approving the measure.

²⁹ Net of periods of closure due to force majeure or calamitous events ascertained by the competent authorities.

2.7. Cumulation

- (73) Support under the scheme cannot be combined with other public incentives or support schemes intended for the same projects.

2.8. Budget and financing

- (74) The total budget for the part of the aid in the form of an investment grant amounts to EUR 1 730 000 000 and is made available through the Recovery and Resilience Facility (RRF).³⁰
- (75) For the part of the aid in the form of an incentive tariff, the final budget will depend on the level of participation and on the evolution of the gas price and of the value of the guarantee of origin, as the actual amount of support is the difference between the incentive tariff resulting from the auction for each successful beneficiary, the gas price and the value of the guarantee of origin.
- (76) Assuming an average gas price over 15 years of EUR 60 per MWh and a price of guarantees of origin of EUR 20 per MWh, the Italian authorities estimate that the budget for the part of the aid in the form of an incentive tariff could amount to approximately EUR 2,8 billion.³¹
- (77) The costs that the GSE will bear to grant the aid in the form of an incentive tariff for biomethane injected into the gas grid to be used in the transport sector will be charged to the obliged fuel suppliers (“soggetti obbligati”) on a pro-rata basis taking into account their respective quota obligation. Obligated fuel suppliers have an obligation to place on the market an overall share of fuels from renewable sources and to demonstrate the fulfilment of their obligation through the presentation of an amount of certificates (‘Certificati di Immissione in Consumo’, CICs) issued by the GSE. The amount paid by the obliged fuels suppliers that decide to participate in the scheme will be deducted from the amount of CICs they need to prove compliance with the supply obligation.
- (78) The costs that the GSE will bear to grant the aid in the form of an incentive tariff for biomethane injected into the gas grid to be used in sectors other than the transport sector will be financed through the proceeds of tariff components of natural gas, the payment of which is mandatory, according to procedures defined by the Italian Regulatory Authority for Energy, Networks and Environment (“Autorità di Regolazione per Energia Reti e Ambiente”, ARERA).³² The funding will be allocated to the GSE by another State public entity, the “Cassa per i Servizi Energetici e Ambientali” (CSEA), responsible for the handling of the so-called “public system charges” for electricity and gas, gathered through electricity and gas tariffs. The Italian authorities have explained that the resources allocated

³⁰ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17.

³¹ Considering a gas price of EUR 30 per MWh and a price of guarantee of origin of EUR 15 per MWh, according to Italy’s estimates, the budget could rise to EUR 15 billion.

³² Article 11, paragraph 1, (Incentives on biogas and biomethane production) of the Legislative Decree 8 November 2021, n. 199, on the Implementation of Directive (EU) 2018/2001 of the European Parliament and of the Council, of 11 December 2018, on promotion of the use of energy from renewable sources.

to CSEA to cater for the GSE funding would derive from the “public system charges” as part of the gas tariffs, covering a series of elements, notably the promotion of renewable energy and district heating.

- (79) For both components of the measure, the granting authority is the MiTE and the GSE acts as its delegated implementing body.

2.9. Transparency and other

- (80) Italy will ensure compliance with the transparency requirements laid down in points 58 to 62 of the Guidelines on State aid for climate, environmental protection and energy 2022 (CEEAG).³³ The relevant data of the notified measure will be published on the Italian State Aid Register.³⁴
- (81) Furthermore, the Italian authorities have confirmed that they will comply with Article 30 of RED II and exchange information on whether support has been provided for the production of biomethane in the mass balance system documentation, once the system is operational.

2.10. Evaluation plan

- (82) The Italian authorities notified, together with the measure, an evaluation plan, taking into account the best practices recalled in the Commission Staff Working Document on a Common methodology for State aid evaluation. The main elements of the evaluation plan are described below.
- (83) The evaluation plan describes the objectives of the measure and comprises evaluation questions that, through both quantitative and qualitative analysis, address the direct and indirect effects of the measure, as well as its proportionality and appropriateness.
- (84) The questions addressing the direct effect of the aid will mainly investigate the scheme's contributions to: reduce greenhouse gas emissions; increase the capacity in renewable energy production; increase the share of energy from renewable energy sources on the total energy consumption and on consumption in thermal and transport sectors; reach the targets established in the Mission 2 of the NRRP: “Green Revolution and Ecological Transition”.
- (85) A set of questions will address the indirect impacts of the aid (on the agricultural sector, on the economic growth, on employment, on other environmental objectives, on the energy consumers), as well as the appropriateness and proportionality of the aid.
- (86) The evaluation plan describes the result indicators that will be used to measure the degree of achievement of the measure’s objectives, and which are matched with the evaluation questions, as well as the methodology applied to identify the impact of the measure.

³³ OJ C 80, 18.2.2022, p.1.

³⁴ <https://www.mise.gov.it/index.php/it/incentivi/bda-banca-dati-anagrafica-per-il-monitoraggio-delle-agevolazioni?wsdl?wsdl>.

- (87) Italy considers that the most suitable methodology to be applied for the purpose of the evaluation of the effectiveness of the aid scheme might be Difference-in-differences (DiD). Successful projects in a given tender could be compared, for example, over the same period, to other projects that have not been granted the aid yet, but will be successful in the next call.
- (88) Italy will also evaluate the competitiveness of the auction, the volume tendered, the number of participants in the auction and whether bids are at the bid cap or below. Part of this evaluation are possible remedial measures in case of undersubscription, as above mentioned (recitals (56) and (57)).
- (89) The evaluation will be carried out by an independent body (consultant) selected by the MiTE on the basis of the criteria listed in the Implementing Decree, essentially: independency and absence of conflict of interest with the beneficiary, the GSE and the Ministry, experience on the valuation of projects and measures. Data will be collected by the GSE mainly from aid beneficiaries, when they apply for the aid and then annually during the management of the scheme (namely, technical information on biomethane production plants, energy produced, investments, operation costs, quantity of raw material used, etc.). Secondly, any other useful data may also be collected by the GSE through surveys, for example, addressed to trade associations.
- (90) An interim report will be submitted to the Commission at the end of 2024, presenting descriptive statistics on the aid already granted and verifying the actual suitability of the foreseen methodology. The final evaluation report will be submitted nine months before the expiry of the scheme.
- (91) The evaluation plan and the evaluation reports will be published on the website of the MiTE.

3. ASSESSMENT OF THE MEASURE

3.1. Presence of State aid

- (92) Article 107(1) TFEU states that *'any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, shall, in so far as it affects trade between Member States, be incompatible with the internal market'*.
- (93) In order to conclude if State aid is present, the Commission must assess whether the cumulative criteria of Article 107(1) TFEU (i.e. transfer of State resources and imputability to the State, selective advantage, potential distortion of competition and effect on intra-EU trade) are met for the measure under assessment.

3.1.1. Imputability and State resources

- (94) The Commission notes that the support to biomethane production under the scheme is imputable to the State, as it is granted by the MiTE and implemented by the GSE (see recital (79)) and it is established by a national Legislative Decree and a Ministerial implementing Decree (see recital (11))

- (95) According to settled case law, only advantages that are granted directly or indirectly through State resources are to be regarded as aid within the meaning of Article 107(1) TFEU.³⁵ That definition covers both advantages which are granted directly by the State and those granted by a public or private body designated or established by the State.³⁶ Thus, resources do not need to transit through the State budget to be considered as State resources. It is sufficient that they remain under public control.³⁷ Similarly, the originally private nature of the resources does not prevent them being regarded as State resources.³⁸
- (96) The investment grant is financed by the RRF, which constitutes State resources since Member States have discretion to decide on the use of those resources. Once awarded, the RRF funds would be directly controlled by the Italian State and the granting authority would be the MiTE, which is the Central Administration in charge of the implementation of the National Recovery and Resilience Plan, Mission 2, Component 2, Investment 1.4 – “Development of biomethane according to criteria for the promotion of circular economy” in Italy.
- (97) The part of the measure in the form of an incentive tariff aid is financed through at least two sources, fuel obliged retailers as well as the funding of the GSE through the “public system charges”. The GSE funds used for the disbursement derive from the funds allocated by CSEA - entirely public entity- whose funds on turn derive from the “public system charges”, as part of the gas tariffs. As detailed in recital (78), ARERA, the Italian Regulatory Authority for Energy, Networks and Environment, defines how the resources for the disbursement of the incentive tariff are covered by the revenue of the components of natural gas tariffs. Payment of those components is mandatory.
- (98) All those resources are ultimately under control of the GSE, the MiTE’s delegated implementing body. The GSE is a public company, wholly owned by the Ministry of Economy Affairs and Finance and controlled by the MiTE. Its main activity is the implementation of the renewable energy policies of the Italian government. In particular, the GSE manages, under the control of the Italian government, the programmes aimed at fostering the production of energy produced from renewable sources, including by administering economic subsidies. The GSE must administer the resources it receives from fuel retailers and from the “public system charges” in accordance with the provisions of the Implementing Decree and other relevant national legislation. Therefore, the resources are deemed under State control and qualify as State resources.

3.1.2. *Selective advantage*

- (99) The notified scheme confers an advantage to the producers of biomethane.

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

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

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

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

- (100) The supported producers of biomethane will receive an investment grant for the construction or conversion of their plant, which will cover part of the costs they would normally bear. They will also receive a Feed-in premium or a Feed-in tariff, which will allow them to get a stable and most likely higher remuneration than the normal market price for gas. Moreover, the producers of biomethane referred to in recital (64) also benefit from the certainty of selling their output at a guaranteed price.
- (101) The advantage is selective because it is granted only for the production of biomethane.

3.1.3. Distortion of competition and effect on intra-EU trade

- (102) The supported producers of biomethane are engaged in a sector, the production of natural gas which is open to competition throughout the EU. Therefore, the measure at stake is likely to distort competition on the markets in which they are active and affect trade between Member States.

3.1.4. Conclusion on the assessment of existence of aid

- (103) Therefore, the notified measure constitutes State aid in the meaning of Article 107(1) TFEU.

3.2. Compatibility of the aid

- (104) Article 107(3)(c) TFEU provides that the Commission may declare compatible aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest. Therefore, compatible aid under that provision of the Treaty must contribute to the development of certain economic activity.³⁹ Furthermore, the aid should not distort competition in a way contrary to the common interest.
- (105) The supported activities fall within the scope of the CEEAG. More specifically they fall under the category of aid for the reduction and removal of greenhouse gas emissions, including through support for renewable energy and energy efficiency (see point 16(a) CEEAG).
- (106) The Commission has therefore assessed the measure as support for the producers of biomethane under the general compatibility provisions in Section 3 CEEAG, as well as the specific compatibility criteria for aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy and energy efficiency in Section 4.1 CEEAG.

³⁹ Judgment of 22 September 2020, *Austria v Commission*, C-594/18 P, EU:C:2020:742, paragraphs 20 and 24.

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

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

- (107) In line with points 23 to 25 CEEAG, Member States must identify the economic activities that will be facilitated as a result of the aid and describe if and how the aid will contribute to the achievement of Union policies and targets.
- (108) Italy has explained that the scheme supports, via the granting of an investment grant and an incentive tariff, the production of biomethane to be injected in the grid, therefore contributing to the development of this economic activity.
- (109) By supporting the production of biomethane, Italy aims at reducing the national greenhouse gas emissions, therefore contributing to the achievement of the 2030 national targets.
- (110) Italy has confirmed that supported biomethane will be compliant with the sustainability and greenhouse gases emissions saving criteria in Directive (EU) 2018/2001 and its implementing or delegated acts.
- (111) The Commission therefore considers that the notified scheme complies with the requirements of Section 3.1.1 and of point 80 CEEAG.

3.2.1.2. Incentive effect

- (112) State aid can only be considered to facilitate an economic activity if it has an incentive effect. An incentive effect occurs when the aid induces the beneficiary to change its behaviour towards the development of an economic activity pursued by the aid, and if this change in behaviour would not otherwise occur without the aid.⁴⁰
- (113) In order to demonstrate the presence of an incentive effect, point 28 CEEAG requires the factual scenario and the likely counterfactual scenario in the absence of aid to be identified. Furthermore, point 28 CEEAG requires the incentive effect to be demonstrated through a quantification referred to in Section 3.2.1.3 CEEAG. Point 52 CEEAG explains that a counterfactual scenario may consist in the beneficiary not carrying out an activity or investment.
- (114) Italy states that, in the factual scenario, the beneficiary, thanks to the aid, would invest in the construction of a new biomethane plant or in the conversion (total or partial) of its existing biogas plant to biomethane. Italy considers that the most likely counterfactual scenario in the absence of aid would be the beneficiary not carrying out the project and continuing its business without changes (see recital (50)).

⁴⁰ See in that sense Section 3.1.2 CEEAG, as well as the *Hinkley* judgment (C-594/18 P, Austria v Commission, EU:C:2020:742, paragraphs 20 and 24).

- (115) Italy has identified two main reference projects, bio-waste fuelled plants and agricultural plants. For agricultural plants, the reference project corresponds to a new plant with a production capacity of 250 scm/hour and using raw materials composed of 60% of manure and 40% of intermediate crops. For bio-waste fuelled plants, the reference project corresponds to a new plant with a production capacity of 1000 scm/hour and using 100% of organic waste.
- (116) As shown in recitals (47) to (50), the Italian authorities have provided the calculations of the net present value for each of the reference projects and the main assumptions underlying those calculations. The Commission notes that the calculations include all main investments costs and operating costs of the projects, as well as the expected economic revenues from the sale of biomethane, namely the gas market price and the price of the guarantees of origin. The Italian authorities have also duly justified the level of the WACC used.
- (117) As a result of these calculations, the NPV of the reference projects is negative so that it is very unlikely that any projects would be carried out without aid. The production of biomethane to be injected into the grid cannot compete on market terms in Italy with gas generated from existing conventional fossil gas production. Without the aid, the production of biomethane would not be financially viable.
- (118) The Commission therefore considers that the most likely counterfactual scenario in the absence of aid would be the beneficiary not carrying out the project and continuing its business without changes.
- (119) Therefore, the requirements in points 26 to 28 CEEAG are fulfilled since the aid will trigger a change in behaviour of the aided undertakings.
- (120) Point 29 CEEAG stipulates that aid does not normally present an incentive effect in cases where works on the project started prior to the aid application. Point 30 CEEAG further explains that the aid application may take various forms, including for example a bid in a competitive bidding process. The Commission notes that activities which started before the submission of the application for aid – i.e. in this case the acknowledgment by the GSE of the submission of the bid in the competitive bidding process and of the compliance with all eligibility requirements, materialised in the appearance on the ranking list published by the GSE – are not eligible for aid (see recital (34)). Therefore, the requirements in points 29 and 30 CEEAG are fulfilled.
- (121) The Commission therefore considers that the notified measure has an incentive effect.

3.2.1.3. No breach of any relevant provision of Union law

- (122) State aid cannot be declared compatible with the internal market if the supported activity, the aid measure, or the conditions attached to it entail a violation of relevant Union law.⁴¹

⁴¹ Point 33 CEEAG, and Judgment of 22 September 2020, *Austria v Commission*, C-594/18 P, EU:C:2020:742, paragraph 44.

- (123) In the present case, the Commission has assessed in particular whether the measure contravenes any relevant Union legislation in the energy sector. Italy has confirmed that the measure entails no violation of any relevant Union Law and complies in particular with the requirement of RED II (see Section 2.3). Compliance with the Industrial Emissions Directive is also part of the eligibility requirements (see recital (35)).
- (124) Furthermore, any levy that has the aim of financing a State aid measure and forms an integral part of that measure needs to comply in particular with Articles 30 and 110 TFEU.⁴²
- (125) According to case law, for a levy to be regarded as forming an integral part of an aid measure, it must be hypothecated to the aid under the relevant national rules, in the sense that the revenue from the charge is necessarily allocated for the financing of the aid and has a direct impact on the amount of the aid and, consequently, on the assessment of the compatibility of that aid with the common market.⁴³ In particular, the charge at issue must be levied specifically and solely for the purpose of financing the aid at issue.⁴⁴
- (126) In the present case, the investment grant will be funded through resources obtained through the RRF, which is paid from the general budget, and only the component of the measure granted in the form of an incentive tariff will be financed by the revenues from supply obligations for fuel retailers as well as from the “public system charges”, in this case related to gas.
- (127) The GSE will obtain part of the funds for the aid disbursement tasks via the “public system charges” levied on gas, accrued to a State entity in charge of managing the Fund from such charges. This part of the financing comes from the “public system charges”, which groups several tasks and missions (public system financing, renewable energy and district heating) for gas.
- (128) However, as the Commission cannot exclude the existence of hypothecation between the levies and the aid awarded, the Commission has examined its compliance with Articles 30 and 110 TFEU.
- (129) According to case law, a charge which is imposed on domestic and imported products according to the same criteria may nevertheless be prohibited by the Treaty if the revenue from such a charge is used to support activities which specifically benefit the taxed domestic products. Such a charge would include a levy if the advantages which those products enjoy wholly offset the burden imposed on them, the effects of that charge are apparent only with regard to imported products and that charge constitutes a charge having equivalent effect to custom duties, contrary to Article 30 TFEU. If, on the other hand, those

⁴² Judgment of 17 July 2008, *Essent Netwerk Noord and Others*, C-206/06, EU:C:2008:413, paragraphs 40 to 59. For the application of Articles 30 and 110 TFEU to tradable certificates schemes, see Commission Decision C(2009)7085 of 17.9.2009, State aid N 437/2009 — Aid scheme for the promotion of cogeneration in Romania (OJ C 31, 9.2.2010, p. 8), recitals 63 to 65.

⁴³ See judgment of 22 December 2008, *Régie Networks v Rhone Alpes Bourgogne*, C-333/07, EU:C:2008:764, paragraph 99 and case law cited.

⁴⁴ See judgment of 22 December 2008, *Régie Networks v Rhone Alpes Bourgogne*, C-333/07, EU:C:2008:764, paragraphs 100 and 104.

advantages only partly offset the burden borne by domestic products, the charge in question constitutes discriminatory taxation for the purposes of Article 110 TFEU and will be contrary to this provision as regards the proportion used to offset the burden borne by the domestic products.

- (130) As set out in recital (38), the Italian authorities have committed to open the scheme to biomethane production plants outside of the Italian territory, through a system that requires the conclusion of cooperation agreements with other Member States and subject to a defined quota. Foreign plants would be allowed to participate within the tenders under the same conditions as the domestic projects. Italy has explained that the quota to be opened to foreign plants will be determined annually by the GSE as a share of the total annual quotas tendered in the scheme. As the measure aims at promoting biomethane from renewable sources in Italy, the approach chosen by Italy to calculate the share open to projects in other Member States with reference to the share of biomethane from renewable sources from those Member States in the Italian total natural gas consumption is coherent.
- (131) In line with its case practice⁴⁵, the Commission considers this opening of the competitive bidding process to remedy any potential discrimination against RES producers in other Member States, under Articles 30 and 110 TFEU.
- (132) In light of the above, the Commission considers that the notified aid measure does not infringe relevant Union law, and that the requirements of point 33 CEEAG are fulfilled.

3.2.1.4. Conclusion

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

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

3.2.2.1. The need for State intervention

- (134) Point 89 CEEAG states that the Member State must identify the policy measures already in place to reduce greenhouse gas emissions and that the full costs of greenhouse gas emissions may not yet fully be internalised despite the

⁴⁵ See Commission Decision of 20 December 2021 in State Aid SA.58731 (2020/N) – Austria – Operating aid to electricity from RES in Austria, section 3.3.4; Commission Decision of 29 April 2021 in State Aid SA.57779 (2020/N) – Germany - EEG 2021, section 3.3.1.3; Commission Decision of 24 November 2021 in State aid SA.60064 (2021/N) – Greece - Greek RES and CHP scheme 2021-2025, section 3.3.12; Commission decision of 23 April 2019 in State Aid SA.50199 (2019/N) – Lithuania Support to power plants producing electricity from renewable energy sources, section 3.4.1; Commission decision of 29 March 2019, in Aide d'État SA.48601 (2018/N) – Luxembourg Production d'électricité basée sur les sources d'énergie renouvelables, modification du régime de soutien pour les énergies renouvelables au Luxembourg, section 3.3.8; Commission decision of 24 October 2014 in State aid No SA.36204 (2013/N) – Denmark Aid to photovoltaic installations and other renewable energy installations, section 3.4.

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

- (135) Italy has adopted a legislation that imposes blending obligations on fuel suppliers operating in the transport sector with the aim to promote demand for biofuels, including advanced biofuels. However, as explained in recital (7), the measures in force have not been sufficient to significantly promote the construction of biomethane production plants.
- (136) Italy has identified two main reference projects, described in recital (42), that are representative of the two main types of biomethane plants. One is an agricultural plant with a production capacity of 250 scm/hour and the other one is a bio-waste-based plant with a production capacity of 1000 scm/hour.
- (137) The Commission recalls its analysis in recitals (116) and (117), and its conclusion in recital (118) that without the aid, the production of biomethane for the reference projects would not be financially viable and the projects would not be carried out.
- (138) The Commission notes that part of the support is granted in the form of a certain guaranteed remuneration, namely FIT or FIP. The Commission considers that the measure includes limits to profitability or clawbacks linked to positive scenario as the guaranteed remuneration is limited to the incentive tariff that the applicant initially bid and cannot exceed it. More precisely, in the case of FIT, the beneficiary cannot receive more than the contracted FIT and in the case of FIP, the remuneration works as a two-way contract for difference, so that the producer has to repay to the GSE any revenue perceived in excess of the incentive tariff.
- (139) The Commission notes that the scheme will run for less than four years and that the last round of tenders is expected to take place in 2024 (see recital (18)). However, Italy has indicated that the GSE will collect and analyse every year data on the production costs of biomethane (see recitals (51) and (52)) to assess the necessity of the aid and the need to adjust in consequence the support.
- (140) The Commission therefore considers that the measure is necessary to support the production of biomethane to be injected into the grid.

3.2.2.2. The appropriateness of the aid

- (141) Points 39 and 43 CEEAG explain that the proposed aid measure must be an appropriate policy instrument to achieve the intended objective of the aid, that is to say there must not be a less distortive policy and aid instrument capable of achieving the same results.
- (142) Point 93 CEEAG states that the Commission presumes the appropriateness of aid for achieving decarbonisation goals – and therefore of aid for the production of biomethane to reduce greenhouse gas emissions – provided all other compatibility conditions are met.
- (143) Since as exposed in above Sections 3.2.1 and 3.2.2 and in below Sections 3.2.3, 3.2.4, 3.2.5 and 3.2.6 all other compatibility conditions are met, the Commission therefore considers that the aid in the measure is an appropriate instrument to support the targeted economic activity in a manner that increases environmental protection.

3.2.2.3. Eligibility

- (144) Point 95 CEEAG explains that decarbonisation measures targeting specific activities which compete with other unsubsidised activities can be expected to lead to greater distortions of competition, compared to measures open to all competing activities. As such, Member States should give reasons for measures which do not include all technologies and projects that are in competition. Furthermore, Member States must regularly review eligibility rules and any rules related thereto to ensure that reasons provided to justify a more limited eligibility continue to apply for the lifetime of each scheme, as set out in point 97 CEEAG.
- (145) The measure targets the production of biomethane to be injected into the grid. As set out in recital (12), Italy has explained that for the moment and in the coming years covered by the measure there are no other technologies in competition with biomethane. Other renewable gases, such as RFNBO or hydrogen, have a maturity and production costs that are very different so that they are not in competition with biomethane and will not be in the next 3 to 4 years, corresponding to the duration of the measure.
- (146) The Commission also notes that specific EU production targets until 2030 for biomethane have been set out in the REPowerEU Plan, so that this measure will contribute to the achievement of this EU target.
- (147) In view of the limited duration of the scheme, no significant technological changes are expected. The Commission notes that the duration of the scheme is shorter than the date for the targets set out in the REPowerEU Plan and that the scheme is subject to evaluation.
- (148) The Commission therefore considers that the restricted eligibility criteria for the notified measure are justified.

3.2.2.4. The proportionality of the aid (aid limited to the minimum necessary to attain its objective) including cumulation

- (149) Point 47 CEEAG explains that State aid is considered to be proportionate if the aid amount per beneficiary is limited to the minimum needed for carrying out the aided project or activity. Point 103 CEEAG states that aid for reducing greenhouse gas emissions should, in general, be granted through a competitive bidding process, while point 104 CEEAG explains that this bidding process should, in principle, be open to all eligible beneficiaries to enable a cost effective allocation of aid and reduce competition distortions.
- (150) Point 49 CEEAG sets out the conditions under which aid allocated through a competitive bidding process can be considered proportionate⁴⁶, while point 50 CEEAG explains that the selection criteria used for ranking bids should put the contribution to the main objectives of the measure in relation with the aid amount requested by the applicant.
- (151) Point 106 CEEAG explains that, where the analysis required under point 90 shows there may be a significant deviation between the bid levels of different categories of beneficiaries, the risk of the overcompensation of cheaper technologies should be considered. Where appropriate, bid caps may be required to limit the maximum bid from individual bidders in particular categories. Any bid caps should be justified with reference to the quantification for reference projects referred to in points 51, 52 and 53 CEEAG.
- (152) Point 56 CEEAG explains that when aid under one measure is cumulated with aid under other measures, Member States must specify the method used to ensure that the total amount of aid for a project or an activity does not lead to overcompensation or exceed the maximum aid amount allowed under the CEEAG.
- (153) Finally, point 111 CEEAG requires that when designing aid schemes, Member States must take into account the information on support already received from the mass balance system documentation under Article 30 of Directive (EU) 2018/2001.
- (154) First of all, regarding proportionality of the aid, as the aid will be granted based on a bidding process, the Commission has verified whether it would qualify as a competitive bidding process.

⁴⁶ Namely: a) The bidding process is open, clear, transparent and non-discriminatory, based on objective criteria, defined *ex ante* in accordance with the objective of the measure and minimising the risk of strategic bidding; b) The criteria are published sufficiently far in advance of the deadline for submitting applications to enable effective competition; c) The budget or volume related to the bidding process is a binding constraint in that it can be expected that not all bidders will receive aid, the expected number of bidders is sufficient to ensure effective competition, and the design of undersubscribed bidding processes during the implementation of a scheme is corrected to restore effective competition in the subsequent bidding processes or, failing that, as soon as appropriate; and d) *Ex post* adjustments to the bidding process outcome are avoided as they may undermine the efficiency of the process's outcome.

- (155) Italy has confirmed that the bidding processes will be carried out in accordance with the fundamental principles of transparency, advertising, protection of competition and in a non-discriminatory manner (see recital (22)).
- (156) As described in recitals (20), (23) and (24), the selection is made based on the percentage of reduction proposed by the applicant compared to its applicable reference tariff, as set in the Implementing Decree. The Commission considers that this is an objective criterion, defined ex-ante in accordance with the objective of the measure (see recital (164) below).
- (157) The Commission also considers that this selection criterion based on a percentage of reduction compared to three applicable reference tariffs reduces the risk of strategic bidding as it allows plants of different types and sizes to compete in the same tender and reduces the information applicants may have on other applicants' bids.
- (158) In view of the above, the Commission considers that point 49(a) CEEAG is complied with and that the bidding process is competitive.
- (159) Each tender will be open for 60 days (see recital (19)), so that it can be concluded that the criteria are published sufficiently in advance of the deadline for submitting applications to enable effective competition in line with point 49(b) CEEAG.
- (160) In each round, a specific quota of production capacity will be made available and applicants will be selected until the quota allocated to the round is exhausted (see recital (24)).
- (161) The Commission notes that all eligible applicants compete in the same tender, which reduces the risk of undersubscription. Italy considers that the number of bidders is expected to be higher than the estimated number of successful bidders. Based on the estimates provided in recital (54), it appears that in principle tenders can be set up such that an effective competition between eligible plants can be expected, especially since all eligible plants compete in the same tender.
- (162) However, as explained in recitals (56) and (57), Italy will take remediation measures in case of repeated undersubscribed bidding processes, in particular through the revision of the reference tariffs and maximum eligible investment costs as well as through the adjustment of the tendered production capacities. The objective of the revision of the reference tariffs and maximum eligible investment costs is to increase the attractiveness of the scheme, which should increase the number of participants and therefore the competitiveness of the bidding processes. The Italian authorities will also adjust the production capacity quotas made available in the subsequent bidding processes if it appears necessary to restore competitiveness. The Commission notes that in any case undersubscribed tenders do not enable to attain the biomethane production targets, so that appropriate remediation measures should be put in place. In view of the above, the Commission considers that point 49(c) CEEAG is complied with.
- (163) Italy has confirmed that the selection process does not allow for any ex-post adjustments to the bids made in the bidding process, in line with point 49(d) CEEAG (see recital (27)).

- (164) The selection criterion used for the ranking is the percentage of reduction proposed by the applicant compared to its applicable reference tariff (see recital (20)). This percentage sets the level of the incentive tariff requested by the applicant, which is expressed in EUR per MWh. As the objective of the scheme is the production of biomethane, the Commission considers that point 50 CEEAG is complied with and that the selection criterion used for ranking bids puts the contribution to the main objective of the measure in relation with the aid amount.
- (165) The Commission notes that in line with point 104 CEEAG, the bidding process is open to all eligible beneficiaries.
- (166) Italy has introduced different reference tariffs based on the type of plants, namely organic or agricultural waste-based plants. As explained in recital (43) and shown in Table 3, the two type of plants have a significant costs difference, so that there is a significant deviation between the bid levels that these two categories of beneficiaries are expected to offer. That could result in a risk of overcompensation of the cheapest technology, namely the bio-waste fuelled plants.
- (167) In line with point 106 CEEAG and to reduce the risk of overcompensation of the cheapest category, i.e. the bio-waste fuelled plants, Italy has decided to set different bid caps – i.e. reference tariffs in the present case - for the two categories, on the basis of which applicants bid a percentage discount. The bid caps have been set with reference to the quantification of the relevant reference projects, as detailed in Section 2.4.2.
- (168) Italy has also introduced a different reference tariff for agricultural plants that have a production capacity below 100 scm/hour. This category corresponds to the category of small projects defined in point 107(b)(iii) CEEAG, namely for gas production technologies, projects below or equal to 1 MW of installed capacity or equivalent. Although Italy could have exempted such beneficiaries from the competitive bidding process, it has decided to include them in the same tender with a specific bid cap. The bid cap has been set with reference to the quantification of the relevant reference project, as detailed in Section 2.4.2. The Commission considers that this feature increases the competitiveness of the bidding process, so that including installations below 100 scm/hour in the tender, with a specific bid cap is in line with the proportionality requirements of the CEEAG.
- (169) The support granted is a combination of the investment grant and the incentive tariff. The selection of a beneficiary through the bidding process gives the right to both forms of aid, which constitute the overall incentive. The level of the incentive tariff is directly established via the bidding process where successful participants will receive the incentive tariff for which they bid. Although the amount of investment grant is not directly determined through the competitive bidding process, the Commission considers that it actually forms part of the bid of the applicant. Indeed when setting its bid, it is expected that the applicant will take into account the expected level of the investment grant and deduct it from the overall costs used to define the appropriate level of incentive tariff needed. This consideration is further reinforced by the fact that when establishing the bid caps, Italy took into account the amount of investment grant to be received under the scheme (see recital (45)), so that to be able to participate into the tender and offer

a competitive bid, applicants would also need to take into account the investment grant to be received in their bid.

- (170) The Commission notes that selection is on the incentive tariff which internalises expectations on the investment grant as explained in recital (169). The Commission also notes that the fact that there is a cap on the maximum amount of eligible investment costs can have an impact on the bids placed by undertakings regarding the incentive tariff equivalent to an implicit bid cap. For instance, an undertaking with high investment costs exceeding the caps may need a higher level of FIT or FIP payments to reach the same profitability as an undertaking with investments costs that are below the caps. Although this undertaking may need the same overall amount of aid as an undertaking with lower investment costs, the implicit bid cap related to eligible investment costs may distort its bid for FIT / FIP support on which basis they will be selected. This may have an effect on the participation of certain undertakings to the bidding procedure as well as favour certain categories of undertakings.
- (171) In this respect, Italy expects investments to be based on comparable, if not equivalent, technologies. The caps on the maximum amount of eligible investment costs are set to avoid any abuse (over-invoicing) and to select the most cost-efficient projects among comparable technologies (see recital (62)). The Commission considers that in view of the elements above and in view of the expected level of competition within the tenders, the risk of distortion of competition resulting from these implicit bid caps is likely to be limited to a minimum.
- (172) As regards cumulation, support under the scheme cannot be combined with other public incentives or support schemes intended for the same projects (see recital (73)).
- (173) Regarding point 111, as referred to in recital (81), the Italian authorities commit to provide input and exchange with Commission and other Member States on the mass balance system documentation, implemented under Article 30 of Directive (EU) 2018/2001.
- (174) On the basis of the conclusions above, the Commission considers that aid granted under the notified measure is proportionate.

3.2.2.5. The transparency of the aid

- (175) Italy will ensure compliance with the transparency requirements laid down in points 58 to 62 CEEAG. The relevant data of the notified measure will be published on the Italian State Aid Register.

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

- (176) Point 70 CEEAG explains that the Commission will approve measures under these guidelines for a maximum period of 10 years. As stated in Section 2.6, the scheme will run until 30 June 2026, so point 70 CEEAG is complied with.

- (177) Point 116 CEEAG explains that the aid must not merely displace the emissions from one sector to another and must deliver overall greenhouse gas emissions reductions.
- (178) By increasing the production of biomethane which aims at replacing natural gas, the measure will deliver overall greenhouse gas emissions reductions.
- (179) Point 120 CEEAG explains that Member States must demonstrate that reasonable measures will be taken to ensure that projects granted aid will actually be developed.
- (180) The Commission notes that Italy has set clear deadlines for project delivery. As detailed in recital (29), the successful beneficiary must start operations at the latest within 18 months from the date of publication of the ranking. After that date, penalties apply, reducing the amount of the incentive tariff.
- (181) For the investment grant, as detailed in recital (71), there is also a deadline for carrying out the works.
- (182) In addition, Italy will apply certain pre-qualifications requirements, as applicants must have obtained a permit qualification for the construction and operation of the plant before and submit it in their application form.
- (183) Point 121 CEEAG explains that aid which covers costs mostly linked to operation rather than investment should only be used where the Member State demonstrates that this results in more environmentally-friendly operating decisions. Point 122 CEEAG states where aid is primarily required to cover short-term costs that may be variable, Member States should confirm that the production costs on which the aid amount is based will be monitored and the aid amount updated at least once per year. The aid must be designed to prevent any undue distortion to the efficient functioning of markets, and preserve efficient operating incentives and price signals, as set out in point 123 CEEAG.
- (184) As mentioned in recital (17), the aid is characterized by the combination of the two forms of support, investment grant and incentive tariff. The Commission notes that the aid covers both the costs linked to the investment and the operation and is not meant to cover costs mostly linked to operation. As shown in Table 3, both components of the measure are necessary to trigger the initial investment. In any event, the aid is not aimed at primarily covering short-term costs.
- (185) The Commission positively notes that for larger installations, the incentive tariff is granted in the form of a two-way contract for difference, which will prevent thus the possibility of windfall profits and overcompensation due to unexpectedly high market revenues. For smaller installations, beneficiaries directly receive the incentive tariff resulting from their bid from the GSE, which also prevents the possibly of windfall profits and unexpectedly high market revenues. In this case, the GSE is in charge of selling the gas and keeps the potential benefits resulting from unexpectedly high market revenues.
- (186) Point 127 CEEAG explains that aid for decarbonisation may unduly distort competition where it displaces investments into cleaner alternatives that are already available on the market, or where it locks in certain technologies, hampering the wider development of a market for and the use of cleaner

solutions. The Commission will therefore also verify that the aid measure does not stimulate or prolong the consumption of fossil-based fuels and energy, thereby hampering the development of cleaner alternatives and significantly reducing the overall environmental benefit of the investment. As the measure only targets biomethane, which is a renewable energy source that aims at replacing natural gas, it does not stimulate or prolong the consumption of fossil-based fuels and energy.

- (187) Point 130 CEEAG explains that the Commission will, in principle, consider that State aid for biofuels, bioliquids, biogas and biomass fuels exceeding the caps determining their eligibility for the calculation of the gross final consumption of energy from renewable sources in the Member State concerned in accordance with Article 26 of Directive (EU) 2018/2001, is unlikely to produce positive effects which could outweigh the negative effects of the measure.
- (188) As detailed in recital (15), although it cannot be excluded that support may be granted to food and feed crops-based biomethane, Italy has confirmed that it will be in limited quantities and that the caps set in RED II will be complied with.
- (189) Point 131 CEEAG explains that, where risks of additional competition distortions are identified or measures are particularly novel or complex, the Commission may impose conditions, including the obligation to perform an *ex post* evaluation, as set out in point 76.
- (190) In view of the significant budget of the scheme, the scheme will be subject to an *ex post* evaluation as described in Section 3.2.5.
- (191) Point 132 CEEAG states that for schemes benefiting a particularly limited number of beneficiaries or an incumbent beneficiary, Member States should demonstrate how the proposed measure will not lead to distortions of competition, for example, through increased market power.
- (192) The Commission considers that the measure is intended to support a large number of beneficiaries, of different sizes and different types, agricultural and bio-waste based, so that that it is not expected that the scheme will benefit a particularly limited number of beneficiaries or an incumbent beneficiary. In any event, the Commission notes that the choice of introducing a specific reference tariff for small plants is a way to ensure that small plants can benefit from the support and therefore to avoid concentration of the market.
- (193) On the basis of the conclusions presented above, the Commission considers that aid granted under the notified measure avoids undue negative effects on competition and trade.

3.2.3. *Weighing up the positive and negative effects of the aid*

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

with the measures set by the NRRP as approved by the Council, its compliance with the ‘Do no significant harm’ principle is considered fulfilled.

- (195) The Commission notes that the measure will contribute to the achievement of Italy’s energy and climate objectives and that all other compatibility conditions are met. The Commission notes in particular that the measure will contribute to the achievement of the objective set in the REPowerEU Communication to boost sustainable biomethane production by 2030, and ultimately contribute to reducing the dependence on Russian gas and improving the security of gas supply.
- (196) Based on the above and on the fact that the compliance with the ‘do no significant harm’ principle is considered fulfilled, the Commission concludes that the positive effects of the measure outweigh the negative effects on the internal market.

3.2.4. *Companies in difficulty and under recovery order*

- (197) As explained in recital (36), Italy took the engagement not to award aid under the present measure to undertakings in difficulty as defined by the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty.⁴⁷
- (198) As explained in recital (37), undertakings that are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, cannot access the scheme until the total amount of illegal and incompatible aid has been recovered.⁴⁸
- (199) Based on the above, the Commission concludes that the measure complies with points 14 and 15 CEEAG.

3.2.5. *Evaluation plan*

- (200) Points 455 and 456 CEEAG state that to further ensure that distortions of competition and trade are limited, the Commission may require notifiable aid schemes to be subject to an *ex post* evaluation and that in any event *ex post* evaluation will be required when the State aid budget exceeds EUR 750 million over the total duration of the scheme.
- (201) As further explained in point 459 CEEAG, the Member State must notify a draft evaluation plan, which will be an integral part of the Commission’s assessment of the scheme.
- (202) In view of the envisaged budget, the scheme will be subject to an *ex post* evaluation. In this context, the Commission required the submission of an

⁴⁷ Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

⁴⁸ See judgment of the Court of First Instance of 13 September 1995, *TWD v Commission*, T-244/93 and T-486/93, ECLI: EU:T:1995:160, paragraph 56. See also Communication from the Commission — Commission Notice on the recovery of unlawful and incompatible State aid (OJ C 247, 23.7.2019, p. 1).

evaluation plan, which the Italian authorities submitted in the context of the notification as an integral part of it.

- (203) The Commission considers that the notified evaluation plan contains all the necessary elements: the objectives of the measure to be evaluated, including the evaluation questions, the result indicators, the envisaged methodology to conduct the evaluation and the proposed timing of the evaluation including the date of submission of the final evaluation report (see Section 2.10).
- (204) The Commission notes that:
- (a) The scope of the evaluation is defined in an appropriate way. It comprises a list of evaluation questions with matched result indicators. Moreover, the evaluation plan explains the main methods that will be used in order to identify the impacts of the measure;
 - (b) The Italian authorities committed, in accordance with the Commission requirements, that the evaluation be conducted according to the notified evaluation plan by an independent evaluation body in accordance with the criteria laid down in the evaluation plan;
 - (c) The proposed modalities for the publication of the evaluation results are adequate to ensure transparency;
 - (d) The commitment made by Italy to submit to the Commission an interim report by the end of 2024 and a final evaluation report nine months before the expiry of the scheme. The Commission notes that the evaluation method might be further fine-tuned in common accord between the Italian authorities and the Commission, and it will be described in the interim report.
- (205) The Commission notes that Italy shall communicate to the Commission any difficulty that could significantly affect the agreed evaluation in order to work out possible solutions.
- (206) Moreover, the Commission notes that the measure will be suspended if the final evaluation report were not submitted in good time and sufficient quality.

3.2.6. Conclusion on the compatibility of the measure

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

4. AUTHENTIC LANGUAGE

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

5. CONCLUSION

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) of the Treaty on the Functioning of the European Union.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President