

STATE AID AND THE COVID-19 TEMPORARY FRAMEWORK

Abstract

The European Commission has conceived the COVID-19 Temporary Framework as an extraordinary tool/instrument for Member States. It allows the implementation of a variety of temporary State aid without needing pre-authorization from the EU. As known, under normal circumstances, the European Union would never approve of that kind of aid, as Article 107 of the “Treaty on the Functioning of the EU” prohibit their adoption.

The purpose of the COVID-19 Temporary Framework appears intuitive by its definition and focuses on specific measures; on the other hand, what the Italian Government wants to achieve with the fulfilment that has the same name, is still not as clear.

This article aims to describe the Temporary Framework's development as the EU intended it and to understand what it really meant to the Italian Government. A word pun caused the misunderstanding as the Italian Government named the self-tax-return as the Framework itself.

SUMMARY: 1. State aid before COVID-19 pandemic; 2. Time frame; 3. Response of the Italian Government to the pandemic; 4. COVID-19 Temporary Framework: the difference between European and Italian versions; 5. What to expect for the next future

1. State aid before COVID-19 pandemic

The pre-Covid 19 European Union regulation on State aid measures provides a clear definition of what the European Commission considers State Aid. This definition is based on article 107 of TFEU and can be summarised as follow:

«A company that receives government support gains an advantage over its competitors. Therefore, the Treaty generally prohibits State aid unless reasons of general economic development justify it.

To ensure that this prohibition is enforced and exemptions equally applied across the EU, the European Commission is in charge of confirming that State aid complies with EU rules»¹.

With this definition, we understand that the purpose of the European Union is to ensure that an advantage granted by a specific Member State to a company or a business and received in the form of State aid, not an alteration of the market. In this case, there is no difference wheatear the State that provided the assistance is the residence or another EU Member State. Moreover, article 107 states that « [...] any aid granted by a Member State or through State's resources in any form whatsoever, which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods, shall in so far as it affects trade between the Member States, be incompatible with the internal market».

Still, in article 107, the European Union provides us with a list of what is allowed and what is considered compatible with the previous statement. We will not analyse the whole of article 107 itself, but it can be summarized as follows:

- all State aid is allowed if they refund damages caused by natural or exceptional occurrences and also State aid that is intended to remedy a severe disturbance in the economy;
- the first kind of aid does not need to be approved beforehand by the European Commission as they have a compensating nature; the latter needs to be previously authorised by the Commission as they interfere with the economic system.
- to be allowed, the aid must have a social nature; they have to promote economic development as well as the execution of an important project of common European interest or remedy a severe disturbance in the economy of a Member State.².

Because of those classifications, it can be assumed that, in general, the EU forbids State aid with the exception of those granted by the national administration or by national law. Therefore, we can easily state that European legislation allows only aid oriented to achieve what is usually defined as a “common interest.”

The indication stated in article 107 can be considered as a severe set of values given to the Member States to work with. The last two years have placed the entire world in a pandemic outbreak. For that reason, the EU decided to relax some of those restrictions, adopting a set of amendments that led to

¹ [State Aid Overview](#), European Commission, Competition Policy, State Aid

² Consolidated version of the Treaty on the Functioning of the European Union - Part 3: Union policies and internal actions - Title VII: Common rules on competition, taxation and approximation of laws - Chapter 1: Rules on competition - Section 2: Aids granted by States - Article 107 (ex article 87 TEC), Official Journal 115, 09/05/2008 P.0091-0092

a more flexible Temporary Framework (the COVID-19 Temporary Framework), in which the Member States can benefit from new flexibility in the State Aid matter. The purpose is to sustain the economy during the COVID-19 pandemic scenario. These exceptional and temporary measures allow Member States to grant all taxpayers/companies/businesses of every kind and dimension the liquidity needed to remain active and preserve economic activity during and after the COVID-19 emergency. Solvent or less solvent companies can face a sudden shortage or lack of liquidity. Those State aids have been recognised as of “Common Interest” as required by the EU rules.

As formally asserted by the European Commission Executive Vice-President, Margrethe Vestager, since the beginning of the pandemic “[...]the COVID-19 Temporary Framework on State aid enabled Member States to provide timely, targeted and proportionate support to businesses in need, while preserving the Market and maintaining conditions applicable to everyone. It also allowed Member States to act quickly and effectively, helping the companies hit by the crisis, while ensuring that support remained limited to those in actual need³”.

These aids ensure businesses retain the means to keep operations or temporarily freeze their activity without implications for long-term growth prospects. The COVID-19 Temporary Framework complemented the many other possibilities already available to Member States in line with State aid rules. It was set out in the Communication on a coordinated economic response to the coronavirus outbreak of 13 March 2020.

As we can read from the statement of the EU on its official website, in the years 2020 and 2021, the Commission adopted around 1350 decisions in the scenario of the Coronavirus pandemic. More than 980 national measures notified by Member States have been approved, for an estimated total amount of approved State aid of nearly 3.2 trillion euros. It is not yet possible to announce a neat amount. Most Member States are still agreeing on new aids within this context as the exiting phase-out, and transition plan has not changed, including the possibility for Member States to provide specific investment and solvency support measures until 31 December 2022 and 31 December 2023, respectively⁴.

It is possible to assume that all authorised aids have been classified as necessary and proportionate to respond to the outbreak. Obviously, there is a difference between the amount of the aid notified by the Member States and approved by the Commission and the aid actually supplied. Based on data

³ [State aid: Commission will phase out State aid COVID Temporary Framework, 12 May 2022](#)

⁴ [European Commission official website, State aid action](#)

provided by Member States, in the period between mid-march 2020 and the end of June 2021, of the over 3 trillion euros in aid approved, around 730 billion euros were distributed.

This means that the national aid plans requested the EU to approve more euros than the amount granted to citizens, businesses, and taxpayers. Therefore, the question could be, *“How is it possible to estimate the impact of State aid given during the COVID-19 pandemic without knowing its actual entity?”*

2. Time frame

Trying to give a time collocation to the COVID-19 Temporary Framework, it is possible to track the first step with the adoption of the Act by the European Commission on March 19, 2020, under the purpose to allow a variety of State aid measures that otherwise would have been considered incompatible with the European Commission State Aid regulation.

From a time perspective, the first amendment to this act was approved on April 03, 2020, to increase possibilities for public support of research, testing and manufacturing of essential or fundamental products to fight the coronavirus outbreak, protect jobs and support the economy further.

On May 8, 2020, the Commission adopted a second amendment extending the scope of the COVID-19 Temporary Framework to include recapitalization and subordinated debt measures.

On June 29, 2020, the Commission adopted a third amendment extending the scope of the COVID-19 Temporary Framework again to support micro, small and start-up companies further and incentivize private investments.

On October 13, 2020, the Commission extended the COVID-19 Temporary Framework until June 30, 2021, with the only exception of recapitalisation measures that could be granted until September 30, 2021. By this amendment, the Commission also enabled Member States to cover part of the undercover fixed costs of companies affected by the crisis (fourth amendment).

On January 28, 2021, the Commission adopted a fifth amendment extending the scope of the COVID Temporary Framework by increasing the ceiling set out in it and by allowing, until the end of 2022, the conversion of specific repayable instruments onto direct grants.

On November 18, 2021, the Commission deferred the COVID-19 Temporary Framework until June 30, 2022. It introduced two new measures to create direct incentives for forward-looking private investment and solvency support measures for an additional limited period.

Hence, the chronology of the COVID-19 Temporary Framework has been as follows:

- March 19, 2020 – implementation of the Act;
- April 03, 2020 – first amendment (to increase possibilities for public support to research, testing and production of products relevant to fight the coronavirus outbreak, to protect jobs and to further support the economy)⁵;
- May 08, 2020 – second amendment (to enable recapitalization and subordinated debt measures)⁶;
- June 26, 2020 – third amendment (to further support micro, small and startup companies and to incentivise private investments)⁷;
- October 13, 2020 – fourth amendment (to enable aid recovering part of the uncovered fixed costs of companies affected by the crisis)⁸;
- January 28, 2021 – fifth amendment (to expand the scope of the Temporary Framework by increasing the ceilings set out in it and by allowing the conversion of certain repayable instruments into direct grants until the end of the year)⁹;
- November 18, 2021 – sixth (and last) amendment (to introduce two new measures to create direct incentives for forward looking private investment and solvency support measures, for additional limited period)¹⁰.

Member States could use all components of the COVID-19 Temporary Framework until 30 June 2022. After that date, Member States may still convert loans into limited amounts of aid in direct grants, applying the conditions of the COVID-19 Temporary Framework in their national schemes. Such a conversion may be used under strict conditions to write off loans or parts of them to benefit borrowers, not in a position to repay. Member States may also equally have in place schemes that

⁵ [Document 52020XC0404\(01\), 2020/C 112 I/01](#)

⁶ [Document 5252XC0513\(01\), 2020/C 164/03](#)

⁷ [Document 5252XC0702\(01\), 2020/C 218/03](#)

⁸ [Document 52020XC1013\(03\), 2020/C 340 I/01](#)

⁹ [Document 52021XC0201\(01\), 2021/C 34/06](#)

¹⁰ [Document 52021XC1124\(01\), 2021/C 473/01](#)

allow refinancing loans. Furthermore, investment support towards a sustainable recovery will be possible until December 31, 2022, and solvency support until December 31, 2023.

The 2022 – 2023 timetable can be summarized as follows:

June 30, 2022	➔	Main sections of the Temporary Framework (liquidity measures, R&D, COVID production...)
December 31, 2022	➔	Investment support (section 3.13)
June 30, 2023	➔	Options for conversion and loan restructuring
December 31, 2023	➔	Solvency support (section 3.14)

3. Response of the Italian Government to the pandemic

The European Commission has stated that to facilitate the preparation of State aid notifications by Member States and their assessment by the Commission, it is desirable to establish a compulsory notification form that should be as comprehensive as possible¹¹. That notification will be part of the EU Temporary Framework, which will monitor what measures the Member States decided to approve, as we now know. These notifications will not be submitted to the EU using the standard national income tax return. National institutions will collect all data, as the National Registry for State Aid, within those common forms and then submit to the EU just like it has already been done annually for the report on all existing aid schemes or individuals granted outside an approved aid scheme in respect of which no specific reporting obligations have been imposed in a conditional decision¹².

Therefore, the Italian Government (like the other EU Member States) must collect those data to respond to this European mandate. All Italian State Aid beneficiaries are providing (they have time until the next tax return) a detailed list of all the grants received within the last two years as stated by article 1 of the Law Decree of December 11, 2021, of the Ministry of Economy and Finance.

The European Commission Regulation No 794/2004 states that these notifications have to comprehend everything that the companies have declared and more in general by all taxpayers (some aid has been granted locally, even to people not included in the business, by the local Regional

¹¹ Commission Regulation (EC) No 794/2004 of 21 April 2004 - implementing Council Regulation (EC) no 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty

¹² Article 21 of Regulation (EC) No 659/1999

Administration and not by the Revenue Agency). That should indicate not only the grant received but also the exceeded amount of aid received and, eventually, the amount they already returned or intended to pay back within the fiscal year, in addition to legal interests. Therefore, the European Commission is really asking the taxpayers to report in an accurate and comprehensive way all State aid received from their own Government to allow the latter to provide an adequate answer to the European Commission.

As we have seen, on November 18, 2021, the European Commission approved the sixth amendment to the COVID-19 Temporary Framework for State aid. This amendment states that well-targeted public support is needed to ensure sufficient liquidity remains available in the markets to contain the damage inflicted on healthcare undertakings and businesses and to preserve the continuity of economic activity during and after the COVID-19 outbreak. The sixth amendment also entered an extension of the deadline for the presentation of the COVID-19 Temporary Framework up to June 30, 2022. This is the new deadline by which Member States may support the development of certain economic activities or economic areas. At the same time, the Commission will keep controlling the development of the COVID-19 pandemic and any other economic risks. For example, Section 4 of the sixth amendment is clarified that Member States must upload the relevant information about each aid above 100.000 euros granted under the Communication, and above 10.000 euros in the primary agriculture and fishery sectors, on the comprehensive State aid website or Commission's IT tool (in Italy we have the RNA – Registro Nazionale degli aiuti di Stato – National State Aid), within 12 months from the time of granting. In addition, Member States must submit annual reports to the Commission, and by June 30, 2022, they must provide the Commission with a list of measures put in place based on EU previously approved schemes (RAN).

Then it is possible to affirm that the European Commission is asking to receive an update on what has been granted by the Member State to verify the required conditions to dispense. State aid has been met as laid down in the Commission Decision.

Focusing now on the Italian national experience, it emerged that the Italian Government decided to face the outbreak, issuing non-repayable grants (hereinafter referred to as CFP – Contributo a fondo perduto).

On May 19, 2020, the first CFP was approved in Law Decree No.34, named Raising Decree. The last CFP, in order of time, can be requested from November 21, 2022, and has been named CFP restaurant, bar and other sectors in difficulty. In between, so many CFPs have been approved that, if we decide to count them, we will find at least another 13 of them:

- 1- CFP Raising Decree – *Decreto Rilancio*¹³ (96.382.599 euros dispensed);
- 2- CFP for historical centres – *Contributo centri storici*¹⁴ (45.505.709 euros dispensed);
- 3- CFP for rentals – *Contributo affitti*¹⁵;
- 4- CFP Recovery Decree and Second Recovery Decree – *Decreto ristori e ristori bis*¹⁶(220.601.309 euros dispensed);
- 5- CFP Sustain Decree and Second Sustain Decree – *Decreto sostegni e sostegni bis*¹⁷(10.454.218.850 euros dispensed);
- 6- CFP Second Sustain Decree, seasonal activities – *Decreto sostegni bis, attività stagionali*¹⁸(615.314.578 euros dispensed);
- 7- CFP for historical centres with religious shrines – *Contributo centri storici con santuari religiosi*¹⁹;
- 8- CFP for incomes and feed of 2019 between 10 and 15 million EUR – *Contributo per ricavi e compensi per il 2019 compresi tra 10 e 15 milioni di euro*²⁰(162.834.319 euros dispensed);
- 9- CFP for start-up companies – *Contributi per le start-up*²¹ (2.394.000 euros dispensed);
- 10- CFP for closed activities – *Contributo per attività economiche chiuse*²²(80.082.788 euros dispensed);
- 11- Equalization CFP – *Contributo perequativo*²³(2.863.205.783 euros dispensed);

¹³ Law Decree 34/2020 article 25

¹⁴ Law Decree 104/2020 article 59

¹⁵ Law Decree 137/2020 article 9 quarter

¹⁶ Law Decree 137/2020 article 1, 1 bis and 1 ter

¹⁷ Law Decree 41/2020 article 1 and Law Decree 73/2020 article 1 part 1-3

¹⁸ Law Decree 73/2021 article 1 part 5-15

¹⁹ Law Decree 104/2020

²⁰ Law Decree 73/2021 article 1 paragraph 30 bis

²¹ Law Decree 41/2021 article 1 ter

²² Law Decree 73/2021 article 2

²³ Law Decree 73/2021 article 1 paragraph 16-27

- 12- CFP for collective catering services – *Contributo per servizi di ristorazione collettiva*²⁴;
- 13- CFP for night clubs and ballrooms – *Contributo per discoteche e sale da ballo*²⁵;
- 14- CFP for wedding, entertainment and ceremonies organization – *Contributo per wedding intrattenimento e organizzazione di cerimonie e dell'HO.RE.CA*²⁶;
- 15- CFP for restaurant, bar and other sector in difficulty – *Contributo per ristorante, bar e altri settori in difficoltà*²⁷.

So far, we have a total quota of 15 CFPs, paid just by the Tax Revenue Agency within three years. From the first CFP to the fifth one (the most significant part of the Italian CFP plan), about 22 billion euros have been dispensed to more than 7.2 million taxpayers.

Following is shown a chart of Italian CPF for the year 2021, reporting the number of taxpayers who have requested them and the amount that has been distributed. It is divided by region and type (no data are available yet for the last two CFPs released in order of time because the Revenue Agency was still receiving requests up to December 6, 2022).

Regioni	Numero di soggetti beneficiari	Totale contributi erogati	art. 25 D.L. 34/2020	art. 59 D.L. 104/2020	art. 59 D.L. 104/2020 - santuari	art. 60 comma 7-sexies D.L. 104/2020	art.1. 1 bis, 1-ter D.L. 137/2020	art.2 D.L. 172/2020	*art. 1 D.L. 41/2021 e art. 1 commi da 1 a 3 D.L. 73/2021	*art. 1-ter D.L. 41/2021	*art. 1 commi da 5 a 15 D.L. 73/2021	*art. 1 comma 30-bis D.L. 73/2021	*art. 1 commi da 16 a 27 D.L. 73/2021	art. 6 Decreto MINISTERO TURISMO 24/08/2021	art. 2 D.L. 73/2021 e art. 11 D.L. 105/2021
ABRUZZO	51.377	279.378.544€	1.613.882€	62.994€	3.612€	17.064€	4.591.340€	14.478.695€	206.976.092€	63.000€	11.213.128€	894.529€	35.806.998€	1.693.000€	1.964.210€
BASILICATA	19.943	108.546.532€	1.066.122€	321.707€	8.928€	18.416€	1.458.431€	5.096.350€	78.347.298€	25.000€	3.462.044€	190.802€	16.800.358€	1.116.000€	635.076€
CALABRIA	64.056	297.777.258€	2.951.644€	114.066€	1.730€	92.302€	5.662.684€	13.864.084€	223.900.047€	98.000€	8.689.553€	690.174€	37.231.136€	2.739.000€	1.742.838€
CAMPANIA	200.684	1.259.045.717€	5.543.669€	4.338.362€	1.471.001€	18.586€	18.813.649€	50.664.766€	955.535.805€	293.000€	37.286.441€	10.085.646€	153.143.677€	14.288.000€	7.563.115€
EMILIA-ROMAGNA	175.980	1.258.814.413€	11.107.606€	2.024.397€	209.307€	194.020€	15.579.155€	54.705.191€	800.809.386€	161.000€	54.215.385€	14.271.534€	286.611.426€	12.965.000€	5.961.006€
FRIULI-VENEZIA GIULIA	38.073	252.432.021€	2.552.461€	16.274€	9.011€	41.508€	3.239.084€	14.506.692€	159.361.940€	35.000€	10.453.452€	1.871.639€	56.385.113€	2.463.000€	1.496.847€
LAZIO	227.294	1.617.317.622€	6.397.229€	10.883.502€	1.310.042€	14.418€	23.440.622€	68.382.316€	1.181.389.496€	226.000€	51.797.837€	14.405.060€	233.035.373€	18.046.000€	7.989.717€
LIGURIA	59.306	358.895.981€	3.097.030€	1.051.065€	210.819€	59.532€	5.389.084€	23.329.413€	237.926.624€	35.000€	11.928.155€	1.464.291€	67.249.435€	5.219.000€	1.936.533€
LOMBARDIA	384.119	3.171.267.365€	17.097.055€	8.878.097€	260.651€	591.140€	56.218.079€	108.916.167€	2.064.125.630€	290.000€	116.209.005€	50.193.453€	715.249.407€	18.643.000€	14.595.681€
MARCHE	63.096	395.062.421€	2.385.427€	111.135€	5.744€	26.123€	4.786.082€	17.857.034€	268.366.676€	68.000€	18.242.572€	3.830.090€	74.865.429€	2.197.000€	2.321.109€
MOLISE	12.114	56.280.281€	544.149€	36.134€	516€	1.277€	1.002.196€	2.767.335€	41.098.492€	21.000€	2.148.144€	-€	8.108.911€	220.000€	332.127€
PIEMONTE	158.849	983.722.157€	6.823.967€	2.712.630€	18.739€	161.540€	16.324.746€	42.419.904€	655.057.648€	146.000€	40.020.580€	6.562.898€	201.945.787€	5.945.000€	5.582.718€
PUGLIA	139.588	741.228.846€	4.756.185€	227.809€	70.578€	10.976€	7.285.095€	34.366.598€	564.156.883€	202.000€	29.061.572€	4.650.833€	85.758.302€	5.882.000€	4.800.015€
SARDEGNA	53.137	295.613.419€	1.463.087€	530.919€	13.979€	44.441€	2.658.737€	17.081.409€	218.097.766€	99.000€	7.739.213€	1.307.158€	39.693.677€	5.315.000€	1.569.033€
SICILIA	155.262	798.609.766€	5.015.041€	2.762.422€	254.696€	131.054€	7.149.048€	36.480.425€	597.649.930€	242.000€	25.745.358€	3.477.265€	106.851.843€	7.511.000€	5.339.684€
TOSCANA	163.770	1.245.521.274€	8.974.930€	5.122.504€	255.546€	171.052€	18.759.567€	53.095.482€	840.994.578€	128.000€	43.513.003€	19.182.753€	233.846.878€	16.139.000€	5.337.981€
TRENTINO-ALTO ADIGE	57.056	485.703.399€	3.497.821€	234.307€	3.715€	1.636.269€	7.550.105€	15.842.073€	237.574.211€	40.000€	63.414.732€	8.381.329€	130.533.897€	13.971.000€	3.023.940€
UMBRIA	34.624	210.735.601€	1.202.671€	75.199€	438.497€	9.215€	3.266.940€	10.749.749€	144.373.197€	34.000€	9.569.251€	1.796.362€	35.591.419€	2.242.000€	1.387.101€
VALLE D'AOSTA	6.395	45.640.666€	359.934€	12.521€	-€	3.641€	1.642.511€	2.590.759€	23.683.559€	4.000€	6.218.550€	447.779€	9.514.929€	985.000€	177.483€
VENETO	187.010	1.483.497.511€	9.920.963€	3.986.423€	199.193€	75.238€	14.873.917€	60.428.525€	953.271.469€	184.000€	63.855.011€	19.130.724€	333.646.474€	17.608.000€	6.317.574€
Regione multipla**	847	4.491.961€	11.726€	3.242€	7.154€	-€	910.318€	151.491€	1.522.123€	-€	531.593€	-€	1.335.314€	10.000€	9.000€
Totale complessivo	2.252.580	15.349.582.754€	96.382.599€	43.505.709€	4.753.458€	3.317.812€	220.601.390€	647.774.468€	10.454.218.850€	2.394.000€	615.314.578€	162.834.319€	2.863.205.783€	155.197.000€	80.082.788€

Avvertenze

I dati tengono conto delle rinunce presentate fino alla data di aggiornamento che hanno annullato il credito precedentemente concesso

* I dati si riferiscono al contributo erogato sia come accreditato su conto corrente che sotto forma di credito di imposta

** Soggetti con domicilio fiscale variato nel tempo

Dati Aggiornati al 21 giugno 2022

²⁴ Law Decree 72/2021 article 43 bis

²⁵ Law Decree 4/2022 article 1 paragraph 1

²⁶ As for the CFPs that were not detailed, data is still not available

²⁷ Law Decree 73/2021 article 1 ter paragraph 2bis

There is no doubt that this severe health emergency that occurred to citizens and companies has been a major shock and that immediate action was required about the economic impact of the COVID-19 pandemic. Well-targeted public support was needed to ensure that sufficient liquidity remained available in the markets to preserve the continuity of economic activity during and after the COVID-19 outbreak. It is now requested by the EU to report what the Italian Government has granted to each taxpayer or company, and, in this situation, the Temporary Framework finds its place.

At least, this is what we can assume is happening.

Not everyone in Italy understands that the CFP protocol has been conceived because the COVID-19 Temporary Framework allowed it. It is common to consider that the Government has decided on its own to respond to the outbreak to grant aid. There is a lack of understanding of the decisional hierarchy behind that. The frame is much more complex than it looks and has a specific meaning, while the lack of attention sometimes creates misunderstanding about the final goal. That misleading information led many Italian taxpayers to believe that the CFPs would be granted yearly (until the end of time possible). Someone is also counting on using them as some kind of paycheck from the Government instead of the necessary liquidity accorded to save their primary business.

On the contrary, wisdom can lead to understanding that the connotation of CFP is nothing like that.

The Italian Revenue Agency – *Agenzia delle Entrate*, is the public Authority that has been in charge of dispensing the more significant amount of CFPs, but not the only one. Now it also has the mandate of receiving the Temporary Framework self-tax return. Therefore, one could ask, “What is the meaning of that?”. The main answer that could be given is that the Agency did not keep track of all CFPs granted or CFPs have not been correctly controlled when they were approved.

Nevertheless, that would be just an easy conjecture.

What at first appears to be a redundant fulfillment has, in reality, a specific purpose. The CFPs that have to be included in the Italian version of the COVID-19 Temporary Framework are, in fact, to be considered as net of any payback for incorrect CFPs or CFPs required to a greater extent of that one due and of any other CFP supplied by other Public Bodies as stated by the government. The last ones are not included in what has been called the Umbrella Regime - *Regime Ombrello*, the Italian Temporary Framework model. That is a template or a self-tax-return in which the taxpayer/company declares to have the fiscal requirement as required by law in section 3.1 and 3.2 of the State Aid prevision. From this perspective is more understandable the meaning of a request that covers two and a half fiscal years.

Analysing the self-tax-return deeper in detail, there is a list of 29 possible types of contributions that were available to be requested (of course, possessing the correct requirements). Furthermore, the Ministerial Instructions state that the maximum amount of all grants cannot exceed 11.8 million Euros for Section 3.1 and Section 3.2.

The filling of those self-tax-returns will provide the requested data. That will allow the registration in the National State Aid Registry, as requested by the European Commission (the Revenue Agency will collect the data and provide them to the National State Aid Registry, as well as all other institutions that have granted aid in the same period).

It can be objected that the pre-Covid EU regulation on State Aid was already available in 2008. Perhaps the Italian legislator could have better and more precisely determined this aid net from the beginning. Still, the post-factum consideration in such a particular context would not be helpful to our purpose.

4. COVID-19 Temporary Framework: differences between European and Italian version

The European Commission, approving the COVID-19 Temporary Framework, has placed a general amendment to the ordinary regulation for State aid. To assess the results of every State aid granted from 2020 to 2022/23, the Commission has asked the Member States to report every measure granted and its specific amount. So it can be retrieved from a Communication also named “Temporary Framework” in the COVID-19 Temporary Framework, in which the Member States will report, as mentioned before, all data about State aid granted since March 2020.

To do that, the European Commission has even published different orientation models or guidelines to assist Member States in drafting their national Recovery and Resilience Plans – RRP, so that they can comply with relevant EU States' aid rules and follow all States' aid procedures²⁸. All aid measures of the Temporary Framework can be gathered together with the aid granted by the "de Minimis" regulation as long as the rules related to cumulating are respected.

²⁸ Practical guidance to Member States for a swift treatment of State aid notifications in the framework of the Recovery and Resilience Facility

In December 2022, the European Commission examined all communication sections and, if necessary, considered further explanations on specific economic points according to the international situation's evolution.

The Italian Government adopted the EU Instructions on the COVID-19 Temporary Framework, and, as the Commission did, it has also decided to designate the self-declaration “Temporary Framework.” So far, nothing unusual, but gathering the Italian version of the communication requires a little more effort than expected, both for the Temporary Framework and the self-declaration.

We have to acknowledge that the request for CFPs has never been easy. Since the first one both Revenue Agency and taxpayers have been involved in something that was still in continuous update and development, so the aid application form was not easy to access, and neither was the granting.

This happened for mainly two reasons:

- For the short period in which they should have been paid (the Revenue Agency had limited time to put in place the request form, analyze them and pay the CFPs);
- For the controls that have necessarily been added, as some cheaters have been taking advantage even on this occasion.

Countless CFPs have been requested based on the wrong elements²⁹ and so most of them have been reimbursed to the administration (even this process was not easy to do as there is still a lot of confusion on how to do it). This pattern has been repeated at least 14 times from May 2020 to December 2022³⁰.

The main problem was not the application itself but the fact that in the Italian economic scenario, it is easy to find many “exceptions to the law” or “boundary cases” that can be considered normal after all.³¹

Consequently, a standard taxpayer had no such problem accessing CPF, but all the other ones who are, in fact, the more considerable percentage of Italian Companies did. With no regard to those who have made fraudulent use of aid, but just concerning the “normal” cases, professionals can easily find

²⁹ Mostly for misunderstanding of requirements or for the changing of them after a certain date. For example the update of the ATECO code (which is the identification number of the performed activity, relevant for VAT purposes) has been a huge source of problem because most of the businesses. It was implemented in 2007 but most of subjects forgot to change it, so that kind of application form for CFP were rejected for lack of requirement.

³⁰ Non-repayable grants: the application to fix up mistakes, Fiscooggi, October 12, 2020

³¹ As boundary-cases for example, is possible to quote all those businesses that have headquarter and local operative site located in different region of Italy. In most cases, the local requirement had consent access to non-repayable grant only for just one site located in that particular region (at that moment Italy was divided in white, green, yellow, orange and red region according to the COVID infection).

themselves in difficulty understanding if they meet CFP requirements. A great help has come from the Multi-Channel Assistance Centres (offices of the Revenue Agency that also provide fiscal information), either by phone or email. A significant problem, though, has been brought to the surface: *why is the abnormal the new normal in Italian economic law? Why do certified professional accountants and public service consultancy offices also have so many issues assisting their clients with this feature?*

If the Italian economic situation had been healthy, the pandemic breakout would probably have had a very different impact on its economy. Therefore, this issue can serve as a major crossroad to start or rethink the internal economy.

To this point, it is understandable why filling the temporary framework was highly complicated. The Agency itself could not possibly manage it independently using the information already acquired because they are not always complete and would probably contain some inaccuracies anyway.

5. What to expect for the next future

It has been discussed that the European Commission authorised Member States to grant State aid as an exception to article 107 TFEU, approving the «Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak Act (COM-2020/C 91 I/01)».

The COVID-19 Temporary Framework has been amended six times, and in the last amendment, the Commission approved two final measures to lead the Member States toward the end of the pandemic:

1. Investment Support, until December 31, 2022 – REPowerEU Plan³²;
2. Solvency Support, until December 31, 2023.

In addition, the sixth amendment launched the review of the non-emergency discipline on State aid, effective for the new programming period 2021-2027. Lastly, the EU authorised new exceptional support instruments following the recent geopolitical developments after the invasion of Ukraine, with specific reference to the increase in energy costs. The Temporary Framework was therefore

³² REPowerEU is a plan to rapidly reduce dependence on Russian fossil fuels and fast-forward the green transition. More specific information can be retrieved in the European Press Corner of the European Commission available on: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_3131

extended and integrated retroactively from February 01, 2022, to December 31, 2022, to include the implementation of actions in the form of State aid for the development of renewable energy³³.

Although the COVID-19 Temporary Framework has technically introduced this new part of the plan, it is clear now that it will lead to an entirely new plan of action, and, for this reason, we will not go into details of the REPowerEU Plan in this paper³⁴.

The European Commission has shown great sensibility and proactivity in reaction to a pandemic situation no one expected in 2020. It has also demonstrated how it is always possible to react quickly to improve something while keeping the final goal in sight.

COVID-19 has been and still is a severe virus that affected everyone's life. It has proved that none of us was prepared to face a catastrophe of those proportions. There was a lack of cooperation within Member States at the beginning of the pandemic that persists even now, as the EU is still affected by the outbreak and is also facing the invasion of Ukraine. All these unexpected events had a significant impact on the international economy.

There is no doubt that a lot has been done. Still, a lot more will need to be done, using the recent experience to improve the economic situation of all States, European or not, and to repair all the damages that made the recurrent use of State aid so practical and essential.

The REPowerEU Plan has had a great start, based on this experience, and will face one the biggest challenge of the century.

³³ Chamber of Deputies, State aid in the current COVID epidemic: the new EU framework, 27.07.2022

³⁴ The European Commission adopted a document, "Response to the increase in energy prices: a package of member intervention and support measures." This document highlighted the possibility for States to help those who are most at risk of paying their energy bills, as well as to take targeted support measures to help industries, following the state aid framework, by not distorting competition or interfering with the EU ETS. In the subsequent REPowerEU Communication (COM 2022 108 final) of March 8, 2021, the Commission announced a new and autonomous framework for the crisis, the aim of which is to address the lack of liquidity faced by temporary companies or those affected by the severe disturbance of the Russian economy caused by the military aggression against Ukraine. There is no doubt that a lot has been done. Still, a lot more will need to be done, using the recent experience to improve the economic situation of all States, European or not, and to repair all the damages that made the recurrent use of State aid so practical and essential. The REPowerEU Plan has had a great start, based on this experience, and will face one the biggest challenge of the century.