COMMISSION DECISION

of 20 October 2004

on the aid scheme implemented by Italy for firms investing in municipalities seriously affected by natural disasters in 2002

(notified under document number C(2004) 3893)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2005/315/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1] and having regard to their comments,

Whereas:

I. PROCEDURE

(1) On 6 and 29 March 2003 the Commission received two complaints concerning the prolongation of Law No 383 of 18 October 2001 in certain municipalities in Italy seriously affected by natural disasters in 2002.

(2) On 20 March 2003 the Commission asked the Italian authorities for information on the extension. After requesting on 2 and 21 May 2003 that the deadline for replying be extended, the Italian authorities replied on 10 June 2003. A second letter from the Italian authorities reached the Commission on 4 July 2003.

(3) As the aid scheme entered into force before receiving the preliminary approval of the Commission under Articles 87 *et seq*. of the Treaty, the aid scheme was entered in the register of non-notified aid under number NN 58/03.

(4) By letter of 17 September 2003, the Commission informed Italy of its decision to initiate the procedure under Article 88(2) of the Treaty in respect of the measure in question. The case was registered under number N 57/2003. The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* [2] and interested parties were invited to submit their comments.

(5) By letter of 23 October 2003, the Italian authorities asked for an extension of the deadline for submitting their comments. By letters of 5 November and 16 December 2003, the Commission respectively agreed to the request and sent a reminder.

(6) Italy sent its comments by letter of 18 February 2004, received on 23 February, and by letter of 10 September 2004, received on 15 September. No comments were received from interested third parties.

II. DETAILED DESCRIPTION OF THE AID SCHEME

Legal basis

(7) Article 5(e) of Decree-Law No 282 of 24 December 2002, converted into statute by Law No 27 of 21 February 2003, prolongs the benefits provided for in Article 4(1) of Law No 383 of 18 October 2001 solely for firms investing in municipalities seriously affected by natural disasters in 2002. It was clarified by the Italian Economics and Finance Ministry in Revenue Agency Circular No 43/E of 31 July 2003. The municipalities concerned are those located in the areas defined in:

— the Prime Ministerial Decree of 29 October 2002 laying down provisions relating to the declaration of a state of emergency in respect of the serious effects caused by the eruption of Mount Etna and the earthquakes in the province of Catania,

— the Prime Ministerial Decree of 31 October 2002 laying down provisions relating to the declaration of a state of emergency in respect of the serious earthquakes on 31 October 2002 in the province of Campobasso,

[1] OJ C 42, 18.2.2004, p. 5.

[2] See footnote 1.

— the Prime Ministerial Decree of 8 November 2002 laying down provisions relating to the declaration of a state of emergency caused by the earthquakes of 31 October 2002 in the province of Foggia,

— the Prime Ministerial Decree of 29 November 2002 on the provisions relating to the declarations of a state of emergency caused by the exceptional weather (flooding and mudslides) in Liguria, Lombardy, Piedmont, Veneto, Friuli-Venezia Giulia and Emilia-Romagna.

(8) It was also necessary in the municipalities in question to issue evacuation orders or orders banning traffic on the main access routes into the municipalities.

(9) The Commission learnt from press articles that a list of the municipalities affected by the exceptional weather in Liguria, Lombardy, Piedmont, Veneto, Friuli-Venezia Giulia and Emilia-Romagna was drawn up by the Prime Ministerial Order of 28 May 2003, published in Italian Official Gazette No 126 of 3 June 2003.

(10) The measure prolonging Law No 383 of 18 October 2001 entered into force on 23 February 2003, the day following publication of Law No 27 of 21 February 2003 in Ordinary Supplement No 29 to Italian Official Gazette No 44 of 22 February 2003.

Objective

(11) The scheme is designed to promote investment in the areas affected by the natural disasters listed in the Prime Ministerial Decrees referred to in paragraph 7.

Recipients

(12) Any firm in any sector that has invested in the municipalities affected by the natural disasters is eligible. Revenue Agency Circular No 43/E of 31 July 2003 specifies that the scheme is designed to promote investments by firms which, because of the serious difficulties caused by the natural disasters in the municipalities in which they are located, have directly or indirectly suffered financial damage. It also states that such damage is deemed to have affected most of the firms in a given municipality only if:

— the number of buildings affected by the evacuation orders is such as to have a negative effect on the economy of the entire municipality,

— the orders banning traffic affects all the main access routes into the municipality.

According to the Circular in question, in the other cases the aid is intended only for firms located on the access routes or in the buildings concerned by the abovementioned measures.

Form and intensity of the aid

(13) The measure in question prolongs Law No 383 of 18 October 2001 until the second tax year following that in progress on 25 October 2001 and is confined to investments made up to 31 July 2003. Under the Law, the part of the investments carried out after 1 July 2001 and corresponding to 50 % of the investments exceeding the average level of investment in the preceding five years can be offset against taxation of the income of firms and the self-employed. Calculation of the average level does not include investments made in the year in which investment was highest. In the case of real estate investment, the extension applies to investments made up until the third tax year following the one taking in 25 October 2001 and no later than 31 July 2004.

Objective of the scheme

(14) The scheme is designed to promote investment in new industrial plants and new buildings, extensions, renovating and modernising existing establishments, in completing suspended work and in purchasing new equipment.

III. DECISION TO INITIATE THE PROCEDURE UNDER ARTICLE 88(2) OF THE TREATY

(15) In the decision to initiate the formal investigation procedure (hereinafter the decision to initiate the procedure), the measure in question was examined to check whether it could be exempted under Article 87(2)(b) as aid intended to make good the damage caused by natural disasters or exceptional occurrences.

(16) The Commission also considered whether the measure qualifies for the derogations in Article 87(3)(a) and/or (c) of the Treaty pursuant to the guidelines on national regional aid [3], to Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises [4] (SMEs) and to the rules laid down in the Community guidelines on State aid in the agriculture sector [5] and to the rules laid down in the guidelines for the examination of State aid to fisheries and aquaculture [6].

[3] OJ C 74, 10.3.1998, p. 9.
[4] OJ L 10, 13.1.2001, p. 33. Regulation as last amended by Regulation (EC) No 364/2004 (OJ L 63, 28.2.2004, p. 22).
[5] OJ C 28, 1.2.2000, p. 2.
[6] OJ C 19, 20.1.2001, p. 7.

Analysis of the measure as aid to make good the damage caused by natural disasters

(17) As regards the derogation under Article 87(2)(b) of the Treaty, the Commission expressed doubts when initiating the procedure as to whether the aid was intended solely to make good the damage caused by the natural disasters in question, to the exclusion of any overcompensation for damage at the level of individual recipients. It was unable therefore to authorise the measure as aid to make good the damage caused by the natural disasters or any other exceptional occurrences.

(18) The Italian authorities did not quantify the direct material damage caused by the natural disasters. They explained that the scheme is based on a macroeconomic concept of damage, justifying this approach by the impossibility of quantifying damage at the level of each firm without slowing down the procedure and making it ineffective.

(19) Thus, in its decision initiating the procedure, the Commission considered that the information provided by the Italian authorities did not suggest that the measure under examination was, by virtue of its nature and operational arrangements, designed to make good damage caused by the natural disasters. It was unable to conclude from the operational arrangements that:

— the aid recipient is a firm that has suffered damage,

— the damage was caused exclusively by the natural disasters listed in one of the Prime Ministerial decrees referred to in paragraph 7,

— the aid for the firm is confined solely to making good the damage caused by the natural disasters, to the exclusion of any overcompensation for the damage incurred by an individual recipient. The non-existence of a link between the aid and the damage suffered by the firm can also be demonstrated by the fact that, in view of the operational arrangements for the scheme in question, a firm that has suffered damage as a result of the natural disasters might not qualify for the scheme. A firm that carries out an investment geared solely to making good the damage caused by the natural disasters in question might not qualify for the aid if the value of the investment is lower than the average for the investments made in the preceding five years. What is more, a firm that carries out an investment geared solely to making good the damage caused by such natural disasters but records losses in the current year might not qualify either for the scheme in the same year.

Analysis of the measure as investment aid

(20) As regards the admissibility of the derogations in Article 87(3)(a) and/or (c) of the Treaty, the Commission considered in its decision initiating the procedure whether the measure could qualify for exemption as investment aid.

(21) As regards the derogations, the Commission first expressed doubts as to whether the aid available under the scheme is granted solely in areas eligible for regional aid under the Italian regional aid map for the period 2000 to 2006. It also doubted whether:

— the concept of investment defined in the scheme is that provided for in point 4.4 of the guidelines on national regional aid and in Article 2(c) of Regulation (EC) No 70/2001,

— the aid intensity under the scheme, which should be calculated by reference to all the items of expenditure making up the standard base, as defined in point 4.5 of the guidelines on national regional aid and in Article 4(5) of Regulation (EC) No 70/2001, complied with the regional ceilings specified in the Italian regional aid map for the period 2000 to 2006 or the aid intensities laid down in Article 4(2) of Regulation (EC) No 70/2001 for SMEs,

— the rules on the cumulation of aid in points 4.18 to 4.21 of the guidelines for national regional aid and in Article 8 of Regulation (EC) No 70/2001 had been complied with,

— the principle of the necessity of aid referred to in point 4.2 of the guidelines on national regional aid and in Article 7 of Regulation (EC) No 70/2001 had been met,

— in order to ensure that the productive investment aided is viable and sound, the recipient's contribution to its financing is a least 25 %, as provided for in point 4.2 of the guidelines on national regional aid and in Article 4(3) of Regulation (EC) No 70/2001,

— the rules laid down in the Community guidelines on State aid in the agriculture sector and in the guidelines for the examination of State aid to fisheries and aquaculture had been complied with.

IV. COMMENTS RECEIVED FROM ITALY

(22) In its reply to the decision initiating the procedure, Italy sent further information together with its comments, the main points of which are summarised below.

Comments on the analysis of the measure as aid to make good the damage caused by natural disasters

(23) The Italian authorities pointed out that the territory concerned by the measure comprises the municipalities listed in the Prime Ministerial Decrees of 29 October, 31 October and 8 November 2002. Under Article 1 of the Decree of 29 October 2002, aid was to be granted solely in the municipalities affected by flooding and in which evacuation orders or orders banning traffic on the main access routes had been issued. The municipalities were listed in Prime Ministerial Order No 3290.

(24) As regards the doubts as to whether the aid recipients were firms that had suffered damage and whether such damage had been caused exclusively by a natural disaster, the Italian authorities replied that damage was deemed to have affected most of the taxpayers in a given municipality only if:

— the number of buildings affected by the evacuation orders was such as to have a negative effect on the economy of the entire municipality,

— the orders banning traffic affected all the main access routes into the municipality.

(25) The Italian authorities therefore concluded that the main aid recipients were indeed firms that had suffered damage and whose place of business was located along the roads or in the buildings affected by the abovementioned evacuation orders.

(26) Furthermore, as regards the link between damage suffered and aid granted, the Italian authorities considered that the Treaty did not rule out the possibility of taking account of the overall damage in a given area. The scheme was based on a macroeconomic concept of damage level as the demands of efficiency and speed did not allow the damage to each firm to be assessed individually. The Italian authorities therefore used macroeconomic data to demonstrate that the budget allocated to the scheme was much smaller than the extent of the damage.

(27) The Italian authorities also pointed out that, in several cases, the Commission had authorised aid to assist the recovery of a particular sector or to offset more indirect forms of damage.

(28) They confirmed by letter of 10 September 2004 that the measure was based on a macroeconomic approach, although firms would be asked to present certificates or statements in order to verify the actual damage suffered by each recipient. The tax authorities could subsequently carry out the necessary checks. The certificates would have to contain evidence that the firm was entitled to receive aid on account of its location in an eligible area. The firms would also have to certify that the aid did not exceed the damage suffered and that there was no overcompensation.

Comments on the measure as investment aid

(29) As regards the analysis of the compatibility of the aid with the derogations in Article 87(3)(a) and/or (c) of the Treaty carried out in the manner described in paragraph 16 of this Decision, the Italian authorities commented only that the areas concerned by the measure had been identified directly and exclusively by reference to the natural disasters.

(30) They pointed out that the compatibility of the aid should be assessed in the light of Article 87(2)(b) of the Treaty, i.e. as aid intended to make good the damage caused by natural disasters or exceptional occurrences.

(31) By letter of 10 September 2004, the Italian authorities also commented that the aid should be regarded as compatible with the common market by virtue of that derogation and that this therefore obviated the need to conduct a further analysis in the light of other derogations or guidelines.

V. ASSESSMENT

Aid element of the measure

(32) In order to assess whether the measures provided for in the scheme constitute aid within the meaning of Article 87(1) of the Treaty, it is necessary to determine whether they confer an advantage on the recipient, whether the advantage is conferred by the State, whether the measures in question affect competition and whether they are liable to affect intra-Community trade.

(33) The first requirement for the applicability of Article 87(1) of the Treaty is the possibility that the scheme confers an advantage on certain specific recipients. It must therefore be determined whether the recipients enjoy an economic advantage they would not have obtained under normal market conditions or whether they avoid costs which would normally have been borne by the firm's financial resources, and whether this advantage is conferred on a specific category of firm. The possibility of setting off part of the investment against tax confers an economic advantage on the recipients since their taxable income and hence the amount of tax on that income are reduced compared with what the firm would normally have had to pay. In addition, the aid is available to such firms as operate and, in particular, invest in specific areas of Italy and favours them since it is not granted to firms outside those areas.

(34) The second requirement for the applicability of Article 87 is that the aid must be granted by the State or through State resources. In the present case, the use of State resources takes the form of revenue forgone by the public authorities: the reduction in income tax reduces the tax revenue accruing to the State.

(35) The third and fourth requirements for the applicability of Article 87(1) of the Treaty are that the aid distorts or threatens to distort competition and that it be liable to affect trade between Member Sates. In the present case, the measures threaten to distort competition by strengthening the financial position and freedom of action of the recipient firms compared with competitors who do not qualify. If that effect makes itself felt in intra-Community trade, then trade between Member States is affected. In particular, such measures distort competition and affect trade between Member States if the recipients export part of their production to other Member States; by analogy, if they do not export, domestic output is favoured because firms in other Member States then have less chance of exporting their products to the Italian market ([7]). The same is true when a Member State grants aid to firms operating in the service and distribution industries ([8]).

(36) Accordingly, the measures under examination are, in principle, prohibited by Article 87(1) and can be regarded as compatible with the common market only if they qualify for one of the derogations laid down in the Treaty.

(37) The Commission considers, however, that aid granted under the scheme does not constitute State aid if the conditions laid down by Commission Regulation (EC) No 69/2001 ([9]) or the *de minimis* rules in force when the aid was granted are met.

Unlawfulness of the scheme

(38) In view of the fact that the measures have already entered into force, the Commission regrets that the Italian authorities have not fulfilled their obligation to notify the scheme in accordance with Article 88(3) of the Treaty.

Compatibility of the measures with the common market

(39) Having concluded that the measures in question constitute aid within the meaning of Article 87(1) of the Treaty, the Commission must consider whether the aid is compatible with the common market within the meaning of Article 87(2) and (3) of the Treaty.

(40) As regards the applicability of the derogations provided for in the Treaty, the Commission takes the view that the aid does not qualify for the derogation in Article 87(2)(a) as it is not aid having a social character or aid covered by Article 87(2)(c). For obvious reasons, the derogations in Article 87(3)(b) and (d) are not applicable either.

(41) As regards the applicability of the derogations in Article 87(3)(a) and (c), the Commission refers to the doubts it expressed in this connection in its decision initiating the procedure and takes note of the statements made by the Italian authorities under the procedure to the effect that the aid in question is not aimed at any of the objectives covered by these provisions. The Member State concerned did not provide the necessary information to enable the Commission to assess the compatibility of the scheme in the light of these derogations and it is therefore not possible to assess the scheme from this standpoint in the present Decision. This finding is without prejudice to the possibility that aid granted under the scheme may be declared compatible following an individual examination or may be covered by the exemption regulations.

(42) The Commission considered whether the measures could qualify for the derogation in Article 87(2)(b) as aid to make good the damage caused by natural disasters or exceptional occurrences. It should be noted that Italy, in the course of the procedure, stressed that this was the purpose of the aid.

([7]) Judgment of the European Court of Justice of 13 July 1988 in Case 102/87 *French Republic* v *Commission of the European Communities (SEB)* [1988] ECR 4067, paragraph 19.

([8]) Judgment of the European Court of Justice of 7 March 2002 in Case C-310/99 *Italian Republic* v *Commission of the European Communities* [2002] ECR I-2289, paragraph 85.

([9]) OJ L 10, 13.1.2001, p. 30.

Aid to make good the damage caused by natural disasters

(43) Article 87(2)(b) of the Treaty provides that aid may be granted to make good damage caused by natural disasters or exceptional occurrences. The Commission has consistently taken the view that volcanic eruptions, earthquakes, flooding and landslides constitute natural disasters within the meaning of that Article.

(44) Under the scheme in question, aid is granted to make good the damage suffered by firms as a result of the natural disasters that affected several areas in Italy. The disasters and the areas concerned were specified and defined in administrative instruments.

(45) As the Italian authorities also confirmed in their letter of 10 September 2004, the measure is based on a macroeconomic approach. However, according to the Treaty itself and in line with the Commission's standard practice, there must be a clear and direct link between the event that caused the damage and the State aid intended to remedy it. The link must be established at the level of each firm and not at the macroeconomic level ([10]).

(46) As regards more indirect forms of damage, the Commission communication to the European Parliament and the Council concerning the European Community response to the flooding in Austria, Germany and several applicant countries states that '*as regards compensation for more indirect forms of damage caused by the floods, e.g., production delays because of electricity cuts, difficulties in delivering products due to blockage of certain transport routes, where a clear causal link between the damage and the flood can be established, full compensation is possible*' ([11]). However, in view of the macroeconomic approach taken by the measure implemented by the Italian authorities, it is not possible to identify a clear causal link between the damage for which compensation is available and the natural disasters. Even as regards indirect damage, the link must be established at the level of each firm and not at the macroeconomic level.

(47) In the present case, the scheme benefits all firms carrying out investments in excess of a certain threshold established according to the average in preceding years in the municipalities identified by the Italian authorities, some of which are very large, heavily populated and characterised by a very significant level of economic activity (e.g. Milan, Turin, Genoa). It is clear that many aid recipients did not suffer direct damage, and there is no definite proof of indirect damage. There is no evidence either that any damage was caused solely by the natural disasters referred to by the Italian authorities.

(48) The aid mechanism and the amount granted to each recipient bear no relation to the damage actually suffered but depend on the volume of investments carried out in a given period, the volume of investments in preceding years and the existence of a taxable income. Under such conditions, even if the recipient suffered damage caused by the natural disasters at issue, the amount of aid may exceed the amount of damage.

(49) It must therefore be concluded that the formal investigation procedure has not allayed the Commission's doubts and that the scheme in question constitutes aid which is incompatible with the common market.

(50) In their letter of 10 September 2004, the Italian authorities stated, however, that they would ask the firms for certificates or statements so that they could ascertain the actual damage suffered by each firm and subsequently carry out any checks necessary.

(51) It cannot be ruled out that, in certain specific cases, the aid granted under the scheme satisfies the conditions for being regarded as compatible with the common market. The Italian authorities may therefore check each recipient firm in order to verify the existence of a clear and direct link between the natural disasters in question and the State aid intended to make good the damage. This must make it possible to rule out with certainty any overcompensation for damage suffered by individual firms.

(52) In order to rule out any overcompensation, the Italian authorities must require insurance payments to recipients to be deducted from the aid granted to them. They must also ensure there is no cumulation of aid under the scheme in question with aid under other measures in order to avoid any overcompensation for damage.

([10]) See, for example, State aid cases N 629/02, N 545/02, N 429/01, NN 62/2000, N 770/99 and NN 87/99. Even in the case referred to by the Italian authorities, namely case N 92/2000, the Commission identified a link at the level of the economic operators.

([11]) Document COM(2002) 481 final of 28.8.2002, p. 9.

(53) This Decision concerns the scheme as such and must be enforced forthwith, in particular through recovery of aid granted unlawfully and declared incompatible with the common market. The Commission notes that a negative decision on an aid scheme does not prejudge the possibility that certain aid granted under the same scheme need not be regarded as State aid or may be considered compatible with the common market owing to its particular characteristics (e.g. because the individual grant is covered by the *de minimis* rules or because aid is granted under a decision declaring the aid compatible or under an exemption regulation).

VI. **CONCLUSION**

(54) The Commission finds that Italy has unlawfully implemented the aid in question in breach of Article 88(3) of the Treaty.

(55) On the basis of its assessment, the Commission finds that the scheme in question is incompatible with the common market since it does not satisfy the necessary conditions for exemption as aid to make good the damage caused by natural disasters or exceptional occurrences under Article 87(2)(b), the only derogation claimed by Italy.

(56) Article 14 of Council Regulation (EC) No 659/99 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty [12] provides that, where negative decisions are taken in cases of unlawful aid, the Commission is to decide that the Member State concerned must take all necessary measures to recover the aid from the beneficiary. The Commission is not to require recovery of the aid if this would be contrary to a general principle of Community law. Recovery in the present case is not contrary to any principle. The Commission also notes that neither the Italian authorities nor the recipients have invoked such principles.

(57) Italy must take all necessary measures to recover the aid from the recipients, with the exception of individual cases which, in accordance with paragraphs 50, 51 and 52 of this Decision, satisfy the conditions for compatibility with the common market under the derogation in Article 87(2)(b) of the Treaty. To that end, Italy must require the aid recipients to repay the aid within two months of notification of this Decision. The aid to be recovered must include interest calculated in accordance with 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 [13].

Italy must send to the Commission an appropriate form reporting progress in recovering the aid, must draw up a list of the recipients concerned by the recovery and must specify clearly the actual measures taken to effect immediate and effective recovery of the aid. In addition, it must, within two months of the notification of this Decision, send the documents proving that recovery of the unlawful and incompatible aid from the recipients is under way (e.g. circulars, recovery orders issued, etc.),

HAS ADOPTED THIS DECISION:

Article 1

The scheme for granting State aid to firms that carried out investments in the municipalities affected by natural disasters in 2002 and listed in Article 5(e) of Decree-Law No 282 of 24 December 2002, which was converted into Law No 27 of 21 February 2003 and prolongs for certain firms the benefits provided for in Article 4(1) of Law No 383 of 18 October 2001, was unlawfully implemented by Italy in breach of Article 88(3) of the Treaty and is incompatible with the common market, without prejudice to Article 3.

Article 2

Italy shall withdraw the aid scheme referred to in Article 1 in so far as it is continuing to produce effects.

Article 3

Individual aid grants under the scheme referred to in Article 1 shall be compatible with the common market within the meaning of Article 87(2)(b) of the Treaty to the extent that they do not exceed the net value of the damage actually suffered by each of the recipients as a result of the natural disasters referred to in Article 5(e) of Decree-Law No 282 of 24 December 2002, with account being taken of insurance payments or of amounts received under other measures.

Article 4

Individual aid grants under the scheme referred to in Article 1 that do not meet the conditions set out in Article 3 shall be incompatible with the common market.

Article 5

1. Italy shall take all necessary measures to recover from the recipients the aid referred to in Article 4.

2. Italy shall suspend all aid payments from the date of notification of this Decision.

[12] OJ L 83, 27.3.1999, p. 1. Regulation as amended by 2003 Act of Accession.
[13] OJ L 140, 30.4.2004, p. 1.

3. Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective enforcement of this Decision.

4. The aid to be recovered shall include interest from the date on which it was at the disposal of the recipients until the date of its recovery.

5. Interest shall be calculated on the basis of the provisions of Chapter V of Regulation (EC) No 794/2004.

6. Italy shall order all the recipients of the aid referred to in Article 4 to repay, within two months of the date of notification of this Decision, the aid unlawfully granted plus interest.

Article 6

Within two months of the date of notification of this Decision, Italy shall inform the Commission of the measures taken to comply herewith by completing the questionnaire attached to this Decision. In particular, it shall, by the same deadline, send to the Commission all the documents demonstrating that it has initiated the procedures for recovering the unlawful aid from the recipients.

Article 7

This Decision is addressed to the Italian Republic.

Done at Brussels, 20 October 2004.

For the Commission

Mario MONTI

Member of the Commission