

COMMISSION DECISION (EU) 2022/756**of 30 September 2021****on the measures SA.32014, SA.32015, SA.32016 (2011/C) (ex 2011/NN) implemented by Italy and the Region of Sardinia in favour of Saremar***(notified under document C(2021) 6990)***(Only the Italian text is authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(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 provision(s) cited above ⁽¹⁾ and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) On 6 August 1999, the Commission decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union ("TFEU") in respect of aid paid on the basis of the initial public service contracts ('the initial Conventions') to the six companies that formed the Tirrenia Group at the time ⁽²⁾.
- (2) During the investigation phase, the Italian authorities requested the Tirrenia Group case to be divided, so that priority could be given to reaching a final decision concerning only Tirrenia di Navigazione ('Tirrenia'). This request was motivated by the Italian authorities' plan to privatise the Group, beginning with Tirrenia, and their intention to speed up the process in relation to that company.
- (3) The Commission acceded to the Italian authorities' request, and by Commission Decision 2001/851/EC ⁽³⁾ it closed the procedure initiated in respect of the aid awarded to Tirrenia. The aid was declared compatible subject to certain commitments by the Italian authorities.
- (4) By Commission Decision 2005/163/EC ⁽⁴⁾ ('the 2004 Decision'), the Commission declared the compensation granted to the Tirrenia Group companies other than Tirrenia ⁽⁵⁾ to be partially compatible with the internal market, partially compatible conditional upon the respect of certain commitments by the Italian authorities, and partially incompatible with the internal market. The 2004 Decision was based on accounting data spanning from 1992 to 2001 and included conditions to ensure the compatibility of the compensation throughout the entire duration of the initial Conventions (i.e., until 2008).
- (5) By Judgment of 4 March 2009 in cases T-265/04, T-292/04 and T-504/04 ⁽⁶⁾ the General Court annulled the 2004 Decision.

⁽¹⁾ OJ C 28, 1.2.2012, p. 18 and OJ C 84, 22.3.2013, p. 58.

⁽²⁾ OJ C 306, 23.10.1999, p. 2. The former Tirrenia Group consisted of the companies Tirrenia di Navigazione S.p.A., Adriatica S.p.A., Caremar – Campania Regionale Marittima S.p.A., Saremar – Sardegna Regionale Marittima S.p.A., Siremar – Sicilia Regionale Marittima S.p.A., and Toremar – Toscana Regionale Marittima S.p.A.

⁽³⁾ Commission Decision 2001/851/EC of 21 June 2001 on the State aid awarded to the Tirrenia di Navigazione shipping company by Italy (OJ L 318, 4.12.2001, p. 9).

⁽⁴⁾ Commission Decision 2005/163/EC of 16 March 2004 on the State aid paid by Italy to the Adriatica, Caremar, Siremar, Saremar and Toremar shipping companies (Tirrenia Group) (OJ L 53, 26.2.2005, p. 29).

⁽⁵⁾ In particular: Adriatica, Caremar, Siremar, Saremar and Toremar.

⁽⁶⁾ Joined Cases T-265/04, T-292/04 and T-504/04 *Tirrenia di Navigazione v Commission*, ECLI:EU:T:2009:48.

- (6) On 5 October 2011, by Commission Decision C(2011)6961 (the '2011 Decision') ⁽⁷⁾, the Commission opened the formal investigation procedure in respect of various measures adopted by Italy in favour of the companies of the former Tirrenia Group. The investigation concerned, inter alia, the compensations granted to Saremar – Sardegna Regionale Marittima ('Saremar') for the operation of a number of maritime routes as of 1 January 2009 and a number of other measures granted to that company.
- (7) The 2011 Decision was published in the *Official Journal of the European Union*. The Commission invited interested parties to submit their comments on the measures under investigation.
- (8) On 7 November 2012, the Commission extended the investigation procedure, inter alia, in respect of certain support measures granted by the Region of Sardinia to Saremar. On 19 December 2012, the Commission adopted an amended version ⁽⁸⁾ of that Decision (Commission Decision C(2012) 9452, 'the 2012 Decision').
- (9) The 2012 Decision was published in the *Official Journal of the European Union* ⁽⁹⁾. The Commission invited interested parties to submit their comments on the measures under investigation.
- (10) By letter of 14 May 2013, the Region of Sardinia asked the Commission to separate the measures concerning Saremar from the formal investigation procedure opened by the 2011 and 2012 Decisions and to give priority to those measures, notably in view of the imminent privatisation of the company.
- (11) The Commission acceded to the Sardinian authorities' request and, by Commission Decision (EU) 2018/261 ⁽¹⁰⁾ ('the 2014 Decision'), it closed the formal investigation procedure in respect of certain measures granted by the Region of Sardinia in favour of Saremar. Of the five measures adopted by the Region of Sardinia in favour of Saremar, four were assessed in the 2014 Decision, with the exception being the 'Bonus Sardo – Vacanza' project (see recital 29 of this Decision).
- (12) Saremar and the Region of Sardinia launched actions for annulment of the 2014 Decision at the General Court. The General Court dismissed these actions by its Judgments of 6 April 2017 in cases T-219/14 ⁽¹¹⁾ and T-220/14 ⁽¹²⁾. Neither Saremar nor the Region of Sardinia lodged any appeals to those judgments, which are now final.
- (13) By Commission Decision (EU) 2020/1411 ⁽¹³⁾, the Commission concluded the investigation on the Tirrenia Group companies other than Tirrenia for the period 1992-2008. The Commission concluded that the aid granted for the provision of maritime cabotage transport services constituted existing aid, while the aid granted for the provision of international maritime transport services was compatible with the 2011 services of general economic interest ('SGEI') Framework (the '2011 SGEI Framework') ⁽¹⁴⁾.
- (14) By Commission Decision (EU) 2020/1412 ⁽¹⁵⁾, the Commission closed the formal investigation procedure as concerns the measures granted to Tirrenia and its acquirer CIN, for the period 2009-2020.

⁽⁷⁾ OJ C 28, 1.2.2012, p. 18.

⁽⁸⁾ All the amendments concerned measures in favour of Saremar.

⁽⁹⁾ OJ C 84, 22.3.2013, p. 58.

⁽¹⁰⁾ Commission Decision (EU) 2018/261 of 22 January 2014 on the measures SA.32014 (2011/C), SA.32015 (2011/C), SA.32016 (2011/C) implemented by the Region of Sardinia in favour of Saremar (notified under document C(2013) 9101) (OJ L 49, 22.2.2018, p. 22).

⁽¹¹⁾ Case T-219/14 *Regione autonoma della Sardegna v. Commission*, ECLI:EU:T:2017:266.

⁽¹²⁾ Case T-220/14 *Saremar v. Commission* ECLI:EU:T:2017:267.

⁽¹³⁾ Commission Decision (EU) 2020/1411 of 2 March 2020 on the State aid No C 64/99 (ex NN 68/99) implemented by Italy for the Adriatica, Caremar, Siremar, Saremar and Toremar shipping companies (Tirrenia Group) (OJ L 332, 12.10.2020, p. 1).

⁽¹⁴⁾ Communication from the Commission: European Framework for State aid in the form of public service compensation (OJ C 8, 11.1.2012, p. 15).

⁽¹⁵⁾ Commission Decision (EU) 2020/1412 of 2 March 2020 on the measures SA.32014, SA.32015, SA.32016 (11/C) (ex 11/NN) implemented by Italy for Tirrenia di Navigazione and its acquirer Compagnia Italiana di Navigazione (OJ L 332, 12.10.2020, p. 45).

- (15) By Commission Decision (EU) 2021/4268 ⁽¹⁶⁾ and Commission Decision (EU) 2021/4271 ⁽¹⁷⁾, the Commission closed the formal investigation procedure as concerns the measures granted to Siremar and Toremar and their acquirers, for the period from 2009 onwards.
- (16) This Decision only concerns measures in favour of Saremar identified in the 2011 Decision and the 2012 Decision that were not covered by the 2014 Decision, as explained in recitals 28 and 29. The Commission will address all the remaining measures subject to the 2011 Decision and the 2012 Decision, under the case numbers SA.32014, SA.32015 and SA.32016, in separate decisions. In particular, those remaining measures all concern other companies of the former Tirrenia Group (i.e. Caremar and Laziomar).

2. BACKGROUND AND DESCRIPTION OF THE MEASURES SUBJECT TO INVESTIGATION

2.1. Background

2.1.1. *The initial Conventions*

- (17) The Tirrenia Group was originally owned by the Italian State through the company Finanziaria per i Settori Industriale e dei Servizi S.p.A ('Fintecna') ⁽¹⁸⁾ and included six companies, namely Tirrenia, Adriatica, Caremar, Saremar, Siremar and Toremar. These companies provided maritime transport services under separate public service contracts concluded in 1991 with the Italian State, in force for 20 years between January 1989 and December 2008. Fintecna held 100 % of Tirrenia's share capital. Tirrenia wholly owned Adriatica, Caremar, Siremar, Saremar and Toremar (together, 'the regional companies'). Adriatica, which used to operate a number of routes between Italy and Albania, Croatia, Greece and Montenegro, merged with Tirrenia in 2004.
- (18) The purpose of the initial Conventions was to guarantee the regularity and reliability of a large number of maritime transport services, chiefly connecting mainland Italy with Sicily, Sardinia and other smaller Italian islands. To that effect, the Italian State granted financial support in the form of subsidies paid directly to each of the companies of the Tirrenia Group.
- (19) Saremar operated certain purely local cabotage connections between Sardinia and the islands to its north-east and south-west, and an international connection with Corsica, under the initial Convention with the State.

2.1.2. *The prolongation of the initial Conventions*

- (20) The initial Conventions, including the one applicable to Saremar, were prolonged three times.
- (21) Firstly, Article 26 of Decree Law No 207 of 30 December 2008, converted into Law No 14 of 27 February 2009, laid down the prolongation of the initial Conventions, which were initially due to expire on 31 December 2008, until 31 December 2009.
- (22) Secondly, Article 19ter of Decree Law No 135 of 25 September 2009 ('Decree Law 135/2009'), converted into Law No 166 of 20 November 2009 ('the 2009 Law'), laid down that, in view of the privatisation of the Tirrenia Group companies, the shareholding of the regional companies, excluding Siremar, would be transferred from the parent company Tirrenia as follows:
- (a) Caremar to the Region of Campania. Subsequently, the Region of Campania transferred the going concern operating the transport connections with the Pontino archipelago to the Region of Lazio (thereby establishing Laziomar) ⁽¹⁹⁾;
 - (b) Saremar to the Region of Sardinia;

⁽¹⁶⁾ Not yet published in the *Official Journal of the European Union*.

⁽¹⁷⁾ Not yet published in the *Official Journal of the European Union*.

⁽¹⁸⁾ Fintecna is wholly owned by the Ministry of Economy and Finance and is specialised in managing shareholding and privatisation processes, as well as dealing with projects to rationalise and restructure companies facing industrial, financial or organisational difficulties.

⁽¹⁹⁾ This transfer was formalised on 1 June 2011.

(c) Toremar to the Region of Tuscany.

- (23) The 2009 Law also specified that new Conventions would be agreed between the Italian State and Tirrenia and Siremar by 31 December 2009. Likewise, the regional services would be enshrined in new Public Service Contracts, to be agreed between Saremar, Toremar, and Caremar and the respective regional authorities by 31 December 2009 (Sardinia and Tuscany) and 28 February 2010 (Campania and Lazio). The new Conventions or Public Service Contracts would be put up for tender jointly with the companies themselves. The new owners of each of these companies would then sign the respective Convention or Public Service Contract ⁽²⁰⁾.
- (24) To that end, the 2009 Law further prolonged the initial Conventions, including the one applicable to Saremar, from 1 January 2010 until 30 September 2010.
- (25) Finally, Law No 163 of 1 October 2010 converting Decree-Law No 125 of 5 August 2010 (the '2010 Law') laid down the further prolongation of the initial Conventions, including the one applicable to Saremar, from 1 October 2010 until the completion of the privatisation processes of Tirrenia and Siremar.

2.1.3. The implementation of the 2014 Decision

- (26) By its 2014 Decision, the Commission declared two aid measures granted to Saremar incompatible with the internal market, while two other measures were found not to constitute State aid within the meaning of Article 107(1) TFEU. In this context, the Commission ordered the recovery of:
- (a) EUR 10 million compensation paid to Saremar for the operation of two additional routes linking Sardinia to the mainland;
- (b) a planned recapitalisation of EUR 6 099 961 (of which EUR 824 309,69 had already been paid to Saremar).
- (27) Italy has implemented the 2014 Decision, even if certain procedures remain pending at the time of adoption of this decision. In particular:
- (a) By letter of 10 April 2015, the Italian authorities reported that on 15 January 2015, the Tribunale di Cagliari had ruled that Saremar would be admitted to the *concordato preventivo* procedure. The procedure was aimed at selling all the assets of Saremar and satisfy the creditors' claims, with no continuation of business activities on the part of Saremar beyond a certain date (initially set for 31 December 2015). The State aid claims had been registered at the appropriate ranking and included recovery interest accrued until 1 July 2014, for EUR 11 131 231,60. The latter is the date when Saremar asked to be admitted to the *concordato preventivo* procedure that, according to Italian law, stops the accrual of interest ⁽²¹⁾;
- (b) By letter of 28 October 2015, the Italian authorities informed the Commission that the sale of Saremar's vessels and the assignment of the public service obligations operated by Saremar were to be tendered separately. They also sent the decree issued by the Tribunale di Cagliari on 22 July 2015 which validated the *concordato preventivo* (so called '*omologazione*') and informed the Commission that eight expressions of interest for Saremar's ships had been received. By letter of 21 January 2016, the Italian authorities confirmed that Saremar would keep operating only until 31 March 2016. They also reported that Saremar's ships had been sold to the company Delcoservizi Srl ('Delcoservizi'), with the actual transfer due by 30 April 2016, and that the procedure for awarding the public service contract was still ongoing, with two expressions of interest received;
- (c) By letter of 19 May 2016, the Italian authorities reported that the public service contract had been awarded to the company Delcomar Srl ('Delcomar'). Accordingly, on 31 March 2016, Saremar stopped operating any maritime transport connections, and as of 1 April 2016, Delcomar has been operating the public service. The Italian authorities also informed the Commission that after the transfer of Saremar's assets, which had also taken place on 31 March 2016, the Regional Council of Sardinia ordered the liquidation of Saremar by its Decision No 24/23 of 22 April 2016. In that decision, the Regional Council noted that as Saremar had ceased all activities on 31 March 2016, the company no longer served any purpose and had to be liquidated, and a new liquidator was appointed by the Region;

⁽²⁰⁾ Article 19-ter, paragraph 10 of Decree Law 135/2009.

⁽²¹⁾ See points 130 and 133 of the Commission Notice on the recovery of unlawful and incompatible State aid, C 247/1, 23 July 2019.

- (d) By letter of 20 July 2016, the Italian authorities informed the Commission that, based on the funds received from the liquidation of Saremar's assets and the schedule of liabilities, only EUR 4 452 226,42 could be assigned to the State aid claims (approximately 40 % of the amounts due). Moreover, they confirmed that Saremar was laying off its entire staff and that it would be erased from the companies register once its liquidation was completed, and that there were no connections of any kind between the seller (Saremar) and the buyer (Delcoservizi) of the assets. Finally, by letter of 17 July 2017, the Italian authorities provided evidence of payment of EUR 4 452 226,42 by the liquidators of Saremar to the Region.

2.2. Measures in scope of the 2011 and 2012 Decisions

- (28) The following measures have been subject to assessment in the formal investigation procedure opened by the 2011 and 2012 Decisions:
- (1) Compensation for the provision of SGEI under the prolongation of the initial Conventions (measure 1);
 - (2) Illegal prolongation of rescue aid to Tirrenia and Siremar (measure 2);
 - (3) The privatisation of the companies of the former Tirrenia Group ⁽²²⁾ (measure 3);
 - (4) Compensation paid for the operation of SGEI under the future Conventions/Public Service Contracts (measure 4);
 - (5) The berthing priority (measure 5);
 - (6) The measures laid down by the 2010 Law (measure 6);
 - (7) Five additional measures adopted by the Region of Sardinia in favour of Saremar (measure 7).
- (29) By its 2014 Decision, the Commission closed the formal investigation procedure as concerns four of the five measures adopted by the Region of Sardinia in favour of Saremar, referred to above as measure 7. However, it did not conclude on a fifth measure: the Bonus Sardo – Vacanza project ⁽²³⁾. Therefore, for Saremar, the Commission has not yet taken a position on the compatibility of measures 1, 3, 4, 5, 6 and the Bonus Sardo – Vacanza project with the internal market.

3. LIQUIDATION OF THE BENEFICIARY AND LACK OF ECONOMIC CONTINUITY

- (30) The Commission recalls that the system of *ex ante* scrutiny of new aid measures by the Commission provided in Article 108(3) TFEU is designed to avoid the granting of aid that is incompatible with the internal market ⁽²⁴⁾. As far as recovery of incompatible aid is concerned, the Court has consistently held that the Commission's power to order Member States to recover aid regarded by the Commission as being incompatible with the internal market is aimed at removing the distortion of competition caused by the competitive advantage which the recipient of the aid has enjoyed, thereby re-establishing the situation that existed before that aid was paid ⁽²⁵⁾. If a company cannot repay the aid, then the implementation of recovery requires the Member State concerned to bring about the liquidation of that company ⁽²⁶⁾, i.e. the cessation of its activities and the sale of its assets under market conditions.
- (31) In other words, the main goal of the system of State aid control is to prevent the granting of incompatible State aid. As a consequence, if competition in the internal market is distorted by the disbursement of unlawful and incompatible State aid, it needs to be ensured that the situation prior to that distortion of competition is restored, if necessary, through the liquidation of the beneficiary.

⁽²²⁾ This includes the deferred payment by CIN of part of the purchase price for its acquisition of the Tirrenia business branch and several alleged additional aid measures in the context of the privatisation of the Siremar business branch (e.g. counter-guarantee and capital increase by the State for Cdl).

⁽²³⁾ The 2014 Decision indicated that this project would be assessed in a separate decision.

⁽²⁴⁾ Judgment of the Court of Justice of 3 March 2020, *Vodafone Magyarország*, C-75/18, ECLI:EU:C:2020:139, paragraph 19.

⁽²⁵⁾ Judgment of the Court of Justice of 11 December 2012, *Commission v Spain* ('*Magefesa II*'), C-610/10, ECLI:EU:C:2012:781, paragraph 105.

⁽²⁶⁾ Judgment of the Court of Justice of 17 January 2018, *Commission v Greece* ('*United Textiles*'), C-363/16, ECLI:EU:C:2018:12, paragraph 36.

- (32) Against this background, the Commission notes that the still pending measures identified in recitals 28 and 29 refer to either Saremar, now in liquidation (measures 1 and the Bonus Sardo Vacanza), or to Saremar's successors after its privatisation (measures 3 and 4), or to both (measures 5 and 6). However, the privatisation of Saremar did not take place as it was described and preliminarily assessed in recitals 149 and 150, 238-246 and 305 and 306 of the 2012 Decision. Instead, Saremar was liquidated and its assets and the public service contract were tendered out under separate tenders.
- (33) Under Italian law ⁽²⁷⁾, once a company enters liquidation, its assets are sold and the proceeds from the sale are transferred to its creditors, according to the ranking of their claims in the schedule of liabilities. Against this background, the Commission must first establish whether continuing the investigation with respect to Saremar still serves any purpose. If this is not the case, then it must establish whether there may be economic continuity between Saremar and any other companies, based on the case law by the Court of Justice.
- (34) Regarding Saremar, the Commission first notes that, on 15 January 2015, following the 2014 Decision, Saremar entered into *concordato preventivo* and a liquidator was appointed. Under Italian law, the *concordato preventivo* is a procedure normally aiming at ensuring continuation of business activities. However, the Commission notes that in this case the company was admitted to a *concordato preventivo con cessione dei beni*, i.e. a liquidation procedure, agreed with the creditors, for the sale of the company's assets and the termination of its business, with only temporary continuation of activities. This procedure is supervised by a judge, who has to validate the agreement between the creditors. In this case, the Commission notes that on 22 July 2015, the Tribunale di Cagliari validated the agreement between the creditors of Saremar, with continuation of activities until 31 December 2015 (see recital 27). Therefore, the Commission considers that the chosen procedure already implied that, at the end of it, Saremar would exit the market.
- (35) Indeed, the Commission notes that Saremar ceased all its economic activities on 31 March 2016 (see recital 27), including its ferry services on routes operated on the basis of a public service contract. The public service contract was from then on entrusted to Delcomar. In parallel, its vessels were sold to the company Delcoservizi. After the sale of Saremar's assets, on 22 April 2016, the Regional Council of Sardinia ordered the liquidation of Saremar by its Decision No 24/23.
- (36) Additionally, Italy implemented the 2014 Decision correctly, albeit with a delay. The State aid claim of EUR 10 824 309,69, plus recovery interest, was duly registered in the schedule of liabilities of the company. Out of that amount, only approximately EUR 4,4 million could be paid to Italy after the sale of Saremar's assets. However, as the insolvency proceedings of Saremar lead to its liquidation and the company is no longer operating any activities ⁽²⁸⁾, the Commission provisionally closed the recovery procedure by letter of 13 September 2017, sent to Italy.
- (37) Based on the above, the Commission notes that Saremar has not operated any economic activity for over five years now, its assets have been sold, its staff laid off, and it will be erased from the company register once the liquidation procedure has been finalised. Any possible distortion of competition or effect on trade of the measures referred to in recitals 28 and 29 ended once Saremar ceased its activities. Moreover, already the recovery claim from the 2014 Decision was only partially satisfied (for approximately 40 % of the amount due, see recitals 27 and 36).
- (38) Against this background, the Commission notes that both objectives of State aid control and of recovery referred to above, i.e. to prevent the granting of incompatible State aid and to ensure that the situation prior to the distortion of competition caused by State aid incompatible with the internal market is restored, are already met. Indeed, Saremar is no longer an economic operator active on the market and is already in liquidation, and State aid claims could be satisfied only partially following the sale of Saremar's assets, due to insufficient funds. Therefore, continuing the investigation with respect to Saremar does not serve any purpose.

⁽²⁷⁾ Regio Decreto 16 marzo 1942, n. 267, as amended (so called '*Legge Fallimentare*').

⁽²⁸⁾ See point 129 of the Commission Notice on the recovery of unlawful and incompatible State aid, C 247/1, 23 July 2019.

- (39) Regarding the question of potential economic continuity between Saremar and its successors, according to the case-law, the following factors may be taken into account: the scope of the transfer (assets and liabilities, continuity of the workforce, bundled assets), the transfer price, the identity of the owners of the acquiring undertaking and of the original undertaking, the moment at which the transfer was carried out (after the start of the investigation, the initiation of the procedure or the final decision) and the economic logic of the transaction ⁽²⁹⁾.
- (40) Against this background, the Commission notes that, as part of the recovery procedure for the implementation of the 2014 Decision, it has already assessed whether the obligation to repay the aid granted to Saremar ought to be extended to other undertakings to which the beneficiary's assets or business may have been transferred. Indeed, in that recovery procedure the Commission accepted that the recovery obligation would be targeted at Saremar only, ruling out the existence of economic continuity with Delcomar or Delcoservizi (together, 'the successors'), for the following reasons:
- (a) the operation of ferry services on routes on the basis of a public service contract and the ships were assigned through two separate, transparent, public and non-discriminatory tenders;
 - (b) Saremar's workforce was laid off and only partly re-hired by the successors ⁽³⁰⁾;
 - (c) the successors are private operators, while Saremar is 100 % owned by the Region of Sardinia, hence no relation could be established between the seller and the buyer of the assets;
 - (d) the investment or bidding decisions by the successors are market decisions.
- (41) Since the provisional closure of the recovery case, no information has reached the Commission that could make it change its view on this matter. Therefore, based on the available information, economic continuity between Saremar and either Delcomar or Delcoservizi, or both, can be ruled out. The Commission will still follow up the liquidation of Saremar until its erasure from the trade registry. Only this will allow it to definitively close the recovery procedure for the 2014 Decision ⁽³¹⁾.
- (42) In this context, given the liquidation of Saremar and the absence of economic continuity with its successors, the formal investigation procedure on the still outstanding measures granted in favour of Saremar or its successors, initiated under the first subparagraph of Article 108(2) TFEU, no longer serves any purpose.
- (43) This Decision does not concern or prejudice any other issues covered by the 2011 Decision and the 2012 Decision ⁽³²⁾ or brought to the attention of the Commission by interested parties in the course of the investigation opened under those Decisions,

HAS ADOPTED THIS DECISION:

Article 1

The proceeding initiated under the first subparagraph of Article 108(2) TFEU on 5 October 2011 and extended on 19 December 2012 in respect of Saremar and its successors is hereby terminated.

Article 2

This Decision is addressed to the Italian Republic.

⁽²⁹⁾ Case T-121/15 *Fortischem a.s. v. Commission*, ECLI:EU:T:2019:684, paragraph 208.

⁽³⁰⁾ Based on the information available to the Commission, less than 20 % of Saremar's workforce would have been re-hired by Delcomar.

⁽³¹⁾ See points 136 to 140 of the Commission Notice on the recovery of unlawful and incompatible State aid, C 247/1, 23 July 2019.

⁽³²⁾ See recitals 6 and 8 of this Decision.

Done at Brussels, 30 September 2021.

For the Commission
Margrethe VESTAGER
Member of the Commission
