



## State aid: Commission concludes in-depth investigation on support to Italy's largest steelmaker ILVA S.p.A. in A.S. and orders recovery on two measures that involved illegal State aid

Brussels, 21 December 2017

**The European Commission has completed its in-depth investigation of support measures to steelmaker ILVA S.p.A. It has concluded that two loans granted by Italy in 2015 to support ILVA involved illegal State aid. Italy must now recover this undue benefit of about €84 million from ILVA.**

**The Commission found that a number of other support measures were not State aid.**

This State aid decision does not interfere with the implementation of essential environmental measures to tackle pollution at the ILVA premises in Taranto. It also does not interfere with the sales process of ILVA assets, in relation to which a separate Commission investigation is ongoing under EU merger rules.

Commissioner Margrethe **Vestager**, in charge of competition policy, said "*The best guarantee for a sustainable future of steel production in the Taranto region is the sale of ILVA's assets at market terms – it cannot rely on artificial State support. Our investigation found that two public measures gave ILVA an undue advantage to finance its current operations. This does not change the fact that, in the right hands, ILVA has a sustainable future. As the sales process run by the Italian government showed, there were several potential bidders ready to invest in ILVA's future and upgrade the site in line with environmental standards.*

*When the Commission opened the investigation, we made clear that our State aid probe will not stand in the way of or slow down the urgent environmental clean-up works in the Taranto Region. This essential de-pollution work should continue without any delay to protect the health of Taranto's inhabitants."*

ILVA entered into insolvency proceedings (Amministrazione Straordinaria – A.S.) in March 2015. EU State aid rules only allow fostering the long-term competitiveness and efficiency of steel manufacturing but not the support of manufacturers in financial difficulties. These rules have been consistently applied in a number of EU Member States.

In 2014 and 2015, the Commission received four complaints from market competitors alleging that ILVA received illegal State aid. The Commission then [opened a formal State aid investigation](#) in January 2016 into five support measures granted to ILVA by the Italian Government.

The Commission's investigation has confirmed that **two of the five measures gave ILVA an undue advantage**, in breach of EU State aid rules. Italy granted this support to ILVA in 2015, around the time the company entered into insolvency proceedings:

- In particular, this concerns the pricing conditions of a State guarantee on a €400 million loan and a €300 million public loan. These served to finance ILVA's liquidity needs for its commercial activity and not any environmental clean-up costs. Both were granted on terms below market conditions and placed ILVA in a better situation than other EU steelmakers, which have to finance their operations and restructure at their own expense.
- ILVA, as the beneficiary of the public funds guaranteed or disbursed by Italy, now needs to repay approximately €84 million of aid (interest excluded), i.e. the difference between the terms of the loan and guarantee in favour of ILVA and appropriate market terms. Furthermore, the terms of the loan and guarantee will have to be adjusted to the appropriate market terms for the future.

The responsibility to repay illegal aid remains with ILVA and would not affect any future buyer of ILVA assets, provided there is economic discontinuity between ILVA and the entity under new ownership. This assessment will be finalised once the merger review process has been concluded.

The Commission also investigated **three other support measures** but concluded that they do not qualify as State aid, because they are either in line with market conditions, not imputable to the Italian State, or because they do not involve public money. This is in particular the case for more than €1.1

billion funds transferred from ILVA's owners to the company in June 2017, and which are earmarked to remedy serious environmental shortcomings of the operation of the Taranto plant.

Today's State aid decision does not affect the outcome of the distinct and ongoing [infringement proceedings](#) by the Commission under EU environmental law. It also does not affect the [investigation of the acquisition of ILVA's assets by ArcelorMittal InvestCo](#), on which the Commission will take a separate decision under EU merger rules.

### **Sale of ILVA assets and merger control**

Already before ILVA entered into insolvency proceedings in March 2015, it has been run by three government-appointed extraordinary commissioners mandated to operate, sell and liquidate the company and its assets.

ILVA is a significant producer of flat carbon steel with major production assets in Italy. The ILVA steel plant in Taranto, in particular, is the EU's largest single-site integrated steel plant. Given ILVA's strategic importance in the steel sector, the process attracted interest from various investors.

On the basis of information available, the sale process of ILVA's assets was conducted in an open, fair and transparent manner. The process resulted in several bids for ILVA's assets. The merger review process of the successful bidder is ongoing.

In June 2017, Italy decided to award most of ILVA's assets to ArcelorMittal InvestCo, a consortium led by ArcelorMittal, which is the world's leading manufacturer of steel in terms of capacity. The Commission continues to [investigate the proposed acquisition](#) under EU merger control rules and cannot prejudge the outcome of this separate investigation at this stage. The current deadline for the Commission to take a decision is 4 April 2018.

### **Environmental and public health concerns in the area of Taranto**

ILVA has failed to comply with environmental standards for many years, leading to serious environmental and public health problems in the Taranto area. Since 2013 the Commission has been pursuing infringement proceedings against Italy for failure to ensure that ILVA complies with EU legislation on environmental standards.

This means that the Commission is closely following whether environmental requirements are respected. The Commission continues to insist that the clean-up works urgently needed to safeguard the health of the neighbouring population and environment, as agreed in 2016-2017 with the Italian authorities, should suffer no delay.

Given the urgency, already the Commission's 2016 opening decision as well as today's decision provide safeguards and clarity allowing Italy to proceed with such clean-up measures. Today's decision is also without prejudice to the application of the polluter pays principle.

In the context of its State aid investigation and throughout the sale process, the Commission has worked closely with the Italian authorities to ensure that in the future the plant will be commercially viable, offer sustainable jobs and respect the environment, without undue advantages from State resources. The bids received in the sale process demonstrate that there is ample interest for market investors to modernise the plant and improve its environmental record, whereas the illegal State aid has merely served to keep the company afloat without improving the plant's economic and environmental conditions.

Looking ahead, it will be essential that the new environmental plan of the prospective buyers complies with applicable EU law, in particular the Industrial Emissions Directive. In the meantime, sufficient funds – free of State aid – have been made and remain available to ILVA for clean-up works urgently needed to safeguard the health of the neighbouring population and environment.

### **Background on State aid rules**

Public interventions in companies that carry out economic activities can be considered free of State aid within the meaning of the EU rules when they are on terms that a private player operating under market conditions would have accepted (the market economy operator principle). If this principle is not respected, the public intervention constitutes State aid because it gives an economic advantage to the beneficiary that its competitors do not have.

As a matter of principle, EU State aid rules require that illegal State aid is recovered in order to remove the distortion of competition created by the aid. There are no fines under EU State aid rules and recovery does not penalise the company in question. It simply restores equal treatment with other

companies.

The non-confidential version of today's decisions will be made available under the case number [SA.38613](#) in the [State Aid Register](#) on the Commission's [Competition website](#) once any confidentiality issues have been resolved. New publications of State aid decisions on the internet and in the Official Journal are listed in the [State Aid Weekly e-News](#).

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