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Commission requires Italy to put an end to tax exemptions for ports

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The European Commission has required Italy to abolish the corporate tax exemptions granted to its ports, in order to align its tax regime with EU State aid rules. Profits earned by port authorities from economic activities must be taxed under normal national corporate tax laws to avoid distortions of competition. Today's decision results from the Commission's inquiries into the taxation of ports in Member States.

Commissioner Margrethe Vestager, in charge of competition policy, said: "EU competition rules recognise the relevance of ports for economic growth and regional development, allowing Member States to invest in them. At the same time, to preserve competition, the Commission needs to ensure that, if port authorities generate profits from economic activities, they are taxed in the same way as other companies. Today's decision for Italy – as previously for the Netherlands, Belgium and France – makes clear that unjustified corporate tax exemptions for ports distort the level playing field and fair competition. They must be removed."

In Italy, port authorities are fully exempt from corporate income tax. In January 2019, the Commission invited Italy to adapt its legislation in order to ensure that ports would pay corporate tax on profits from economic activities in the same way as other companies in Italy, in line with EU State aid rules.

In [November 2019](#) the Commission opened an in-depth investigation to assess whether or not its initial concerns as regards the compatibility of the tax exemptions

for Italian ports with EU State aid rules were confirmed.

Having concluded its assessment, the Commission considers that the corporate tax exemption granted to Italian ports provides them with a selective advantage, in breach of EU State aid rules. In particular, the tax exemption does not pursue a clear objective of public interest, such as the promotion of mobility or multimodal transport. The tax savings generated can be used by the port authorities to fund any type of activity or to subsidise the prices charged by the ports to customers, to the detriment of competitors and fair competition.

The Commission decision makes clear that if port authorities generate profits from economic activities these should be taxed under the normal national tax laws to avoid distortions of competition.

The dialogue between the Commission and the Italian authorities is ongoing. Italy now has to take the necessary steps to remove the tax exemption in order to ensure that, from 1 January 2022, all ports are subject to the same corporate taxation rules as other companies. Italy and the Commission will continue their constructive exchanges on the matter.

Since the corporate tax exemption for ports already existed before the Treaty entered into force in Italy in 1958, this measure is considered as “existing aid”. Therefore, today’s decision does not impose any obligations on Italy to recover corporate tax that was not paid in the past.

Background

Ports in different Member States compete with each other and the Commission is committed to ensuring a level playing field in this important economic sector. Port authorities carry out both non-economic and economic activities:

- Non-economic activities, such as maritime traffic control and safety or anti-pollution surveillance, typically fall within the competence of public authorities. Such public remit activities fall outside the scope of EU State aid control.
- The commercial operation of port infrastructure, such as providing paid access to the port, on the other hand constitutes an economic activity. EU State aid rules apply to these activities.

A corporate tax exemption for ports that earn profits from economic activities provides them with a competitive advantage when they operate on the internal market and therefore involves State aid, which may not be compatible with EU rules.

Removing unjustified tax advantages does not mean that ports can no longer receive State support. Member States have many possibilities to support ports in line with EU

State aid rules, for example to achieve EU transport objectives or to put in place necessary infrastructure investments that would not have been possible without public aid. In this regard, in [May 2017](#), the Commission simplified the rules for public investment in ports. In particular, the Commission extended the scope of its [General Block Exemption Regulation](#) to non-problematic investment in ports. As a result, Member States can now invest up to €150 million in seaports and up to €50 million in inland ports with full legal certainty and without prior verification by the Commission. The Regulation allows public authorities, for example, to cover the costs of dredging in ports and access waterways. Furthermore, EU rules enable Member States to compensate ports for the cost of undertaking public service tasks (so called “services of general economic interest”). The Commission continues to assess the functioning and taxation of ports in Member States to ensure fair competition in the EU port sector.

The inquiries in the taxation of ports in Member States, started by the Commission in 2013, showed that most Member States subject their ports’ economic activities to the normal corporate tax regime. In [January 2016](#), the Commission required the Netherlands to put an end to the corporate income tax exemption granted to the Dutch public seaports. In [July 2017](#), the Commission required France and Belgium to put an end to the corporate income tax exemption granted to the French and Belgian ports. These decisions were upheld by the General Court in cases [T-160/16](#) (Netherlands), [T-673/17](#), [T-674/17](#) and [T-696/17](#) (Belgium) and [T-747/17](#), [T-754/17](#) (France).

In 2019, Spain agreed to amend its corporate income tax legislation to bring it in line with EU State aid rules. Spanish ports are subject to the normal corporate income tax rules as from 2020.

The non-confidential version of the decision will be made available under the case number [SA.38399](#) in the [State Aid Register](#) on the Commission’s [competition website](#) once any confidentiality issues have been resolved.

(European Commission)