

State Aid: European Commission Orders Italy to Recover Illegal Aid in the Form of Real Estate Tax Exemption

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On 3 March 2023, the European Commission announced it had ordered Italy to recover illegal State aid granted to certain non-commercial entities in the form of an exemption from municipal tax on real estate (*imposta comunale sugli immobili*, ICI) (case number SA.20829).

In 2012, the European Commission conducted an in-depth investigation and found that the ICI exemption granted between 2006 and 2011 to non-commercial entities engaged in certain social activities of economic nature was incompatible with EU State aid rules. However, the European Commission did not order Italy to recover the aid from the relevant beneficiaries because the available databases did not allow for their identification. For details, see [State aid: European Commission opens investigation on preferential real estate tax regime for non-commercial entities in Italy \(13 October 2010\)](#) and [State aid: European Commission closes investigation on preferential real estate tax regime for non-commercial entities in Italy \(7 January 2013\)](#).

In 2018, the Court of Justice of the European Union (ECJ) partly annulled the European Commission decision, finding that it should have considered whether there were alternative methods for the recovery of the illegal State aid, even if only partial. For details, see [ECJ decision: Scuola Elementare Maria Montessori v Commission \(Joined Cases C622/16 P to C624/16 P\) – State aid; municipal real estate tax exemption \(6 November 2018\)](#).

The European Commission now acknowledged the existence of difficulties for the Italian authorities in identifying the relevant beneficiaries but concluded that those difficulties are insufficient to rule out the possibility of achieving at least a partial recovery of the illegal State aid granted. For example, Italy could use data from the declarations submitted under the new municipal tax on immovable property (*imposta municipale propria*, IMU) and complement it with other methods, including self-declarations.

On this basis, the European Commission ordered Italy to recover the illegal State aid granted, clarifying that recovery is not required when the aid is granted for non-economic activities or when it constitutes *de minimis* aid.

