COUNCIL IMPLEMENTING DECISION (EU) 2021/1777

of 5 October 2021

authorising Italy to apply reduced rates of taxation to gas oil used for heating purposes and to electricity supplied in the municipality of Campione d'Italia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity ([1]), and in particular Article 19 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By letter of 7 August 2020, Italy requested authorisation to apply, for the period from 1 January 2021 to 31 December 2026, reduced rates of taxation to gas oil used for heating purposes and to electricity, supplied in the municipality of Campione d'Italia pursuant to Article 19 of Directive 2003/96/EC. Italy provided additional information and clarifications in support of the request on 19 January 2021.

(2) The municipality of Campione d'Italia is an exclave of Italy in Switzerland with a very limited geographical scope and a small population. The area is mountainous, which limits urban development, industrial activities and its overall accessibility. Given its geographical location, its lack of access to the natural gas network and its severe climatic conditions, the costs of supplying energy products to Campione d'Italia are high, whether they are supplied from Switzerland or from Italy. Moreover, the entry of Campione d'Italia into the Union customs territory on 1 January 2020 led to an increase in energy costs for households and businesses. In addition, Campione d'Italia is experiencing a serious economic crisis, which was aggravated by the COVID-19 pandemic.

(3) In order to mitigate the high cost of energy in Campione d'Italia, taxation on certain energy products should be reduced.

(4) The requested measure has been reviewed by the Commission and been found not to distort competition or hinder the proper functioning of the internal market, and it cannot be considered incompatible with the Union's policy on the environment, energy and transport. The reduced taxation for both gas oil and electricity would remain equal to or higher than the minimum levels of taxation set out in Directive 2003/96/EC, and would partially offset the increased energy costs in the municipality of Campione d'Italia. The tax reduction is not cumulative with any other sorts of tax reduction.

(5) Italy should therefore be authorised to apply reduced taxation rates to gas oil used for heating purposes and to electricity supplied in the municipality of Campione d'Italia.

(6) In order to ensure that the objectives pursued by the derogating measure are achieved, in particular those of avoiding disruptive effects by the current economic, social and geographical circumstances of Campione d'Italia and of ensuring a level playing field through mitigation of the high energy costs, it is appropriate that this Decision apply from 1 January 2021. By providing for application as from a date prior to entry into force of the derogating measure, legitimate expectations of market operators and individuals are respected, as the derogating measure does not encroach upon their rights and obligations.

([1]) OJ L 283, 31.10.2003, p. 51.

(7) Each authorisation granted under Article 19(2) of Directive 2003/96/EC is to be strictly limited in time. In order to provide the municipality of Campione d'Italia with a sufficient degree of certainty, the authorisation should be granted for a period of six years. However, in order not to undermine future general developments of the existing legal framework, it is appropriate to provide that, should the Council, acting on the basis of Article 113 of the Treaty on the Functioning of the European Union, introduce a modified general system for the taxation of energy products to which this authorisation would not be adapted, this authorisation should cease to apply on the day on which those general rules become applicable.

(8) This Decision is without prejudice to the application of Union rules regarding State aid,

HAS ADOPTED THIS DECISION:

Article 1

Italy is authorised to apply reduced rates of taxation to gas oil used for heating purposes and to electricity supplied in the municipality of Campione d'Italia, provided that the minimum levels of taxation referred to in Articles 9 and 10 of Directive 2003/96/EC are observed.

Article 2

This Decision shall apply from 1 January 2021 until 31 December 2026.

However, should the Council, acting on the basis of Article 113 or any other relevant provision of the Treaty on the Functioning of the European Union, introduce a modified general system for the taxation of energy products to which the authorisation granted in Article 1 of this Decision would not be adapted, this Decision shall cease to apply on the day on which those general rules become applicable.

Article 3

This Decision is addressed to the Italian Republic.

Done at Luxembourg, 5 October 2021.

For the Council
The President
A. ŠIRCELJ