

Italian Recovery and Resilience Plan and the Protection of EU Financial Interests – Enhancing the Criminal Justice System in the Age of Structural Reforms

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Article

ABSTRACT

“Reform commitments in the Italian Recovery and Resilience Plan modernize the criminal justice system and increase the effectiveness and efficiency of criminal protection against EU fraud, in line with constitutional rights and guarantees.”

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After long months of deadlock due to the coronavirus pandemic, the time has come to make use of valuable resources and valuable possibilities. All necessary energies and means must be invested to ensure that support for national economies from European and national funds do not lead to the undue enrichment of a few. Perpetrators of organized crime are attracted by easily available sources of wealth and money. We can neither allow the EU's recovery funds to end up in the wrong hands nor permit illegal interests that thwart this extraordinary opportunity for a new beginning. More than ever, it is necessary to develop coherent projects and reforms, which should also include initiatives aimed at making the application of criminal law more rational and more efficient.

From this perspective, the European Public Prosecutor's Office (EPPO) plays a fundamental role, because it is an essential tool to combat financial crime, tax fraud, and all forms of misuse of European funds. In various European forums, I have already expressed my appreciation for the progress already made by the EPPO with regard to the nearly completed recruitment of staff, the signing of bilateral agreements with other European Union bodies, the initiatives taken regarding judicial cooperation with third countries and, above all, the results already achieved since June 2021 with the launch of investigations into criminal acts that have caused an estimated loss of more than €4 billion to the Union budget.

Italy's commitment to the effective operation of the EPPO was manifested with the approval and entry into force of Legislative Decree no. 9 of 2 February 2021 and subsequent legislative acts adjusting domestic legislation to the EPPO Regulation. I am confident that the virtuous and loyal cooperation between the European Delegated Prosecutors and the national judicial and law enforcement authorities will benefit the effectiveness of their respective actions and the results achieved.

Effective criminal protection also needs a speedy and efficient (criminal justice) process, which the reform recently approved by the Italian parliament, Law no. 134 of 27 September 2021, ensures by making essential improvements in this regard. A number of reform measures serve this purpose, which are intended to apply at every stage of criminal procedure – from the beginning of the investigation, to the trial phase, and even to the stage of appeal. In particular, the provisions on “bar to prosecution for having exceeded the maximum duration of appeal proceedings” are intended to strengthen the guarantee of a reasonable length of trial. Other significant improvements concern pecuniary penalties, the particular tenuousness of the fact (*de minimis* offence provision), probation, restorative justice as well as a series of measures aimed at promoting digitalization. In addition to regulatory measures, organisational improvements have also been made, such as the investment in the Trial Office (Ufficio per il Processo), which has more than 16,000 employees and constitutes a major innovation in the way justice is organised.

I would like to mention that this reform effort is part of the commitment made with the approval of the Italian Recovery and Resilience Plan. While it is true that national recovery and resilience plans are indeed all about reform, the inclusion of the criminal justice chapter in the “structural” or “contextual” reforms signals a direction aimed at consolidating the results that can be accomplished with the extraordinary resources from the Recovery and Resilience Fund, above and beyond the time horizon marked by the National resilience and recovery plan. In short, reform commitments in the Italian Recovery and Resilience Plan are sure to modernize the criminal justice system and increase the effectiveness and efficiency of criminal protection against EU fraud, in line with constitutional rights and guarantees.

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