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## Is Italy's RRF plan working, or is it just another waste of money?

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Reforms are a critical condition for EU countries to gain access to the Recovery and Resilience Facility (RRF) funds. Investments, the other component, beyond reforms, of the RRF, can generally raise output growth but cannot alone cure Europe's growth malaise: this requires reforms, something especially true in the case of Italy, the largest recipient of RRF funds.

Were Italy to fail in implementation of these reforms, the argument for repeating the use of EU common debt – for areas such as EU Defense, (as suggested by president Macron and others), the Green Transition, or the reconstruction of Ukraine – would run into insuperable opposition. Evidence of Italy's progress in adopting the reforms, agreed as part of the RRF, is for this reason important.

A recent Communication of the European Commission<sup>2</sup> observes that “the most notable success of the RRF so far is the coherent sequencing between reforms and investments and a results-based approach that is pivotal to the programme's effectiveness.” The results-based approach, organised into milestones and targets, incentivises methodical planning and facilitates more efficient implementation, since milestones and targets represent concrete steps towards the implementation of each measure.

The RRF – Italy's programme in particular – doesn't always have a good press. For example, regarding reforms, Tony Barber (FT May 11, 2024<sup>3</sup>) expresses considerable doubts about the ability of the RRF to improve on the unimpressive record of earlier EU initiatives, such as the Lisbon Agenda of 2000, which have been unable to reverse a pattern of “excessive regulation, not enough competition, insufficient incentives to innovate and invest.” Tito Boeri and Roberto Perotti, in a recent book<sup>4</sup>, argue, based on scant evidence, that the Italian programme is a historic failure: bringing no reforms and a waste of resources. Italy is investing, thanks to the RRF, an amount close to 12% of the country's 2020 GDP, financed in part by low interest loans, and in part by EU grants. It is by far the largest portion of the RRF programme. If Boeri and Perotti were right, their evidence (recently echoed by Luis Garicano<sup>5</sup>) would provide a decisive argument against repeating the RRF.

1 The views in this paper are those of the author and do not represent the position of the Senate of the Italian Republic.

2 “Strengthening the EU through ambitious reforms and investments”, February 2024

3 <https://www.ft.com/content/87def656-bf42-46ca-b383-9a447cfc804>

4 “La Grande Abbuffata”, Milan, Feltrinelli, 2023.

5 <https://twitter.com/lugaricano/status/1781318626303197314>

This is not the place for a detailed analysis of the Italian RRF programme, which, it is worth noting, has only reached the halfway mark: Italy has so far received 102 billion euro out of a total of almost 200 billion euro and the implementation period runs until June 2026. We focus on reforms, and on a handful of examples that show how the Italian RRF programme is addressing some of Italy's weakest spots and has kicked off the implementation of some reforms. Results in some areas – from the delays in civil and criminal Court cases, to public procurement, to water distribution and competition in the energy sector – have been surprisingly fast. In most areas reforms are still being implemented and final judgement should wait. However, all reform in such areas requires, as happened with the judiciary, clear political ownership, even beyond the RRF period, to break entrenched interests.

Overall, the examples we show document, in our view, the disruptive role that the RRF can play, and is playing in kick-starting long-delayed reforms.

We start with the Italian justice system, renowned worldwide for its eternal decision-making time and considered one of the main obstacles to the country's growth. We will also explain how RRF reforms are changing Italy's public procurement processes – one of the reasons for Italy sluggish realisation of public investment – reforming the integrated water services, and introducing competition in energy distribution.

### REFORM OF THE JUDICIARY TO ADDRESS DELAYS IN COURT CASES

The RRF reform of Italy's judicial system addresses civil, criminal, administrative, and tax justice, with targets referring to all levels of judgement, from the lower courts to the Supreme Court of Cassation. We limit our analysis to the targets related to civil and criminal justice, excluding administrative and tax justice. It is civil justice which has the greatest impact in terms of potential growth.

These judiciary reforms correspond to three RRF 'milestones': 1) approval of enabling legislation (December 2021), 2) implementation of all delegated acts (December 2022), and 3) approval of all regulations and secondary sources (June 2023). All three milestones have been met: legislation has been put in place, along with specific procedural measures, to limit the incentives to bring disputes to court and to shorten the courts' decision time.

Once milestones have been met, the disbursement of RRF funds is conditional on the attainment of pre-set targets: *a*) final targets, to be reached by the end of the programme (June 2026) and *b*) intermediate targets, which allow monitoring of the programme during its implementation (December 2024).

Along with the reforms specified in the milestones, the RRF includes some investments supporting organisational measures, specifically: *a*) digitalisation of the document flow; *b*) massive increase in human resources, particularly the *Ufficio del processo*, a new unit composed of junior lawyers, who assist the work of judges, and have been assigned to judicial offices to reduce the backlog.

Judiciary targets are built considering two main indicators: *the backlog of cases* (only for civil justice) and *the disposition time*.<sup>6</sup> The backlog measures the accumulation of pending cases; the disposition time provides an estimate of the number of days needed to exhaust the entire stock of pending cases.

*Backlog (only for civil justice):*

- Intermediate target (December '24): 95% reduction of civil proceedings pending as of 31/12/2019 and registered up to 31/12/2016 for 1st level Courts, and up to 31/12/2017 for the Courts of Appeal.

<sup>6</sup> Following the classification proposed by the European Commission for the Efficiency of Justice (Cepej) and implemented by the European Commission in the EU Justice Scoreboard.

- Final target (June 2026): 90% reduction of civil proceedings pending on 31/12/2022, registered from 01/01/2017 to 31/12/2022 at the 1st level Courts and from 01/01/2018 to 31/12/2022 at the Courts of Appeal.<sup>7</sup>

*Disposition time:*

- Civil Justice, final target (June 2026): reduce the disposition time by 40% relative to 2019 for all civil and commercial cases.
- Criminal Justice, final target (June 2026): reduce the disposition time by 25% relative to 2019 of all instances of criminal cases.

### WHERE DOES ITALY STAND?

Table 1, reproduced from the Ministry of Justice RRF report for Dec 2023, shows a significant reduction in the backlog relating, in particular, to the 2024 target for the Courts of Appeal, which had already been achieved a year ahead of the target date. Having cleared the first backlog, these courts can now concentrate on dealing with the second group of proceedings, in order to achieve the final target.

**Table 1 Judicial cases backlog and disposition time: RRF targets and results**

	RRF Instalment	Level court	RRF targets	Ministry of justice - monitoring at 31/12/2023
<b>Intermediate target</b>	31/12/2024	Civil - 1st level Courts	95% reduction of civil proceedings pending as at 31/12/2019 and registered until 31/12/2016	-85%
		Civil - Courts of Appeal	95% reduction of civil proceedings pending as at 31/12/2019 and registered until 31/12/2017	-97%
<b>Final target</b>	30/06/2026	Civil - 1st level Courts	90% reduction of civil proceedings pending on 31/12/2022, registered from 01/01/2017 to 31/12/2022	-50%
		Civil - Courts of Appeal	90% reduction of civil proceedings pending on 31/12/2022, registered from 01/01/2018 to 31/12/2022	-43%
<b>Final target</b>	30/06/2026	Civil - all levels	Reduce the disposition time by 40% of all instances of civil and commercial litigious cases compared to 2019	-17.4%
		Criminal	Reduce the disposition time by 25% of all instances of criminal cases compared to 2019	-25%

Source: Italian Ministry of Justice, Dec 2023, RRF report

The Ministry of Justice RRF report also registers a gradual progress in achieving the final target: the disposition of proceedings registered since 2017 (2018 for Courts of Appeal) and pending as of December 2022: -50% for Tribunals and -43% for Courts of Appeal, compared to the 90% reduction expected at the end of the Plan (June 2026).

A similar reduction is registered for the disposition time of civil justice (- 17,4% in Dec 2023), almost halfway towards the achievement of the final target (- 40%).

<sup>7</sup> The older stock of civil proceedings – those registered until 2016 (2017 for Courts of Appeal) and pending as December 2019 (337.740 proceedings in the Tribunals; 98.371 in the Courts of Appeal) – constitute a backlog because they have exceeded the reasonable duration terms set by law and must be reduced by 95% by 2024 (intermediate target). Another group of proceedings (those registered from January 2017 (2018 for Courts of Appeal) up to 2022 and still open on December 2022 (1.197.786 in the Tribunals; 179.306 in the Courts of Appeal) are likely to become a backlog if not settled and must reach the final 90% reduction target by June 2026.

For criminal justice, the results are striking. The reduction is observable in all phases of the judgment: -27.0% in the Court, -22.3% in the Court of Appeal and -33.8% in the Court of Cassation, with an average reduction of 25%. Two and a half years ahead of the target date, the final target has already been achieved.

In conclusion, the civil justice intermediate target for December 2024 is already very close to being fully achieved. As for the final targets, with two and a half years left to complete the programme (out of a total time of four and a half years) the civil justice system is halfway towards reaching its final targets and the criminal justice system has already reached them.

Reforms of civil and criminal procedures, the massive strengthening of human resources and the digitalisation of the document flow are behind these results. In her inauguration speech for the 2024 Judicial Year, the first president of the Court of Cassation, Margherita Cassano, commented, "These results are the product of the organic reform intervention of 2022", and concluded, "These data are indicative of a changed cultural sensitivity of the Judiciary". Such a change is the best result that the RRF could deliver.

### THE PUBLIC PROCUREMENT REFORM

The reform of public procurement is another key RRF reform aimed at a sector in which Italy performs poorly compared with other European countries. The main objectives of this reform are to simplify public procurement rules, increase legal certainty for businesses, and accelerate the award of public contracts, while maintaining procedural guarantees in terms of transparency and equal treatment. They will also reduce the margin for corruption.

One of the most important objectives of the reform is to limit the fragmentation of procurement stations. ANAC (the National Anti-Corruption Authority), in announcing the new qualification guidelines for procurement stations, mentions (March 2022) 36,000 stations and over 100,000 pending centres. When the new qualification system entered into force, the Authority wrote that 26,000 stations were theoretically active. On the OpenANAC database there are 40,000 procurement stations with 'active' status. In the years 2018-2022, more than 13,000 procurement stations have concluded at least one contract for work over 40,000 euro; and about 6,500 have concluded a contract for work over 500,000, the threshold for compulsory qualification. Although it is hard to appraise these numbers - because, so far, individual entities (a university department or a single municipality) have each been able to create their own procurement station - it clearly points to a system where the benefits from professional, centralised purchases were not a concern.

Reduction of procurement stations has been an objective of every single government since the 1994 'Merloni Law' and was explicitly foreseen by the 2016 Procurement Code, but never implemented because of the opposition of those entities (mostly municipalities) that would lose their administrative independence. This is a good example of how the RRF can leave a permanently improved capacity in the country.

The RRF reform defines criteria for a reduction in procurement stations by setting requirements that allow separation of public bodies considered able to contract, from those that are not and must delegate their expenditure to other bodies or remain below a euro threshold of works or supplies. Selection is delegated to ANAC which evaluates applications on the basis of experience and administrative capacity and places the various agencies into a multi-level qualification system.

The new qualification system differentiates the requirements between public works and supplies, and by the euro amount of the procurement (setting 3 levels). The new rules allow for some procurement stations to be qualified with reservation: this means they are granted extra time (till the end of the current year) to complete the qualification; until then they are allowed to operate.

## WHERE DOES ITALY STAND?

The new evaluation system came into force on 1 July 2023, when ANAC made a dedicated IT tool available. The latest available report (31 March 2024) highlights that 5,472 stations have completed the application. Of these, 9% were entities acting under the public procurement code but did not belong to the general government, hence were not subject to qualification (such as RFI or ENI), and almost 10% were qualified with reservation; the remaining were subject to the ANAC scrutiny: 68% qualified and almost 13% did not (Table 2). To these, we must add those qualified by law, just over 100 entities (Consp, Invitalia, Difesa Servizi, et al). A reduction to around 4,800 is a step towards changing Italy's public procurement system.

Limiting the analysis to qualification for public works, the distribution by qualification levels (L1-L2-L3) and type (contracting authorities and central purchasing bodies, stations that carry out tenders on behalf of non-qualified administrations) is represented in Table 3. Only 22% qualify for the third, lowest, level (up to 1 million euro), and 16% for the second level (up to 5.54 million euro), while most applications, 62%, concern qualification for the higher level (no limits for the amount of procurement). Of these, more than 84% represent a contracting authority, the remaining 16% represent a central purchasing body. Of the latter, none is qualified for the lower level and almost 90% are qualified for the highest one. The new qualification system strengthens competence as most qualified administrations have the ability to carry out auctions of any amount.

Of the 6,500 contracting stations having concluded a contract for work over 500.000 euro in the period 2018-2022, about 2,654 have qualified in the new system and 47 are qualified by law.

**Table 2** New qualification system - results (public works&supplies)

	<b>Applications</b>	<b>%</b>
Not subject to qualification	519	9.3%
Qualified with reserve	514	9.7%
Qualified	3.797	68.1%
Non qualified	715	12.8%
<b>Total applications</b>	<b>5.572</b>	

Source: ANAC Report - 31/03/2024

The aggregation process has started. The 533 central purchasing bodies (works and supplies) have declared themselves to represent 8,630 affiliated administrations (Table 4). On average each central purchasing body has 16 affiliates, but the distribution is strongly concentrated on the largest central purchasing bodies (> 12 affiliates) which cover 75% of the affiliated administrations.

The RRF requires the government to provide by the end of the current year an impact assessment of the qualification reform. The assessment will be the occasion to evaluate if the ANAC qualification criteria are effectively selecting competence in the conduct of tenders and in the execution of contracts, and the ability of qualified contracting bodies to effectively satisfy the needs of those who have not qualified. For this to be possible, a profound administrative reorganisation must be encouraged, with human and financial resources reallocated to centralised structures. Furthermore, innovative contractual instruments must be fully exploited, such as the Accordi Quadro, which tested very positively within RRF tenders.

**Table 3** New qualification system (public works) - distribution by level and type

	Contracting Authorities	Central Purchasing Bodies	Total	%
L1 - no limits	1.487	440	1.927	62%
L2 - up to 5.5 million	454	55	509	16%
L3 - up to 1 million	675	0	675	22%
<b>Total</b>	<b>2.616</b>	<b>495</b>	<b>3.111</b>	
	84%	16%	5.572	

ANAC Report - 31/03/2024

**Table 4** New qualification system - Central purchasing bodies and affiliated administrations (public works&supplies)

	Central Purchasing Bodies	%	Affiliated entities	%
≤ 3	1.487	31%	326	4%
3 < X ≤ 6	128	24%	620	7%
6 < X ≤ 12	127	24%	1.173	14%
< 12	114	21%	6.511	75%
<b>Total</b>	<b>533</b>		<b>8.630</b>	

ANAC Report - 31/03/2024

### THE INTEGRATED WATER SERVICES REFORM

An important RRF reform concerns Integrated Water Services. This is another good example of RRF integration between investments and reforms. The aim of the reform is to reduce fragmentation of the sector, where excessive fragmentation hinders an efficient use of water resources and, in some parts of the country, has never allowed an adequate level of investment. Water service is often still managed directly by municipalities, even relatively small ones, which are usually without adequate resources or professional skills to perform this function.

The reform has been accompanied by changes designed to establish an adequate pricing policy and to set incentives for good management.

Integrated water service has been mandatory in Italian legislation since 1994 (the Galli law, confirmed in 2006 by the Environmental Code). However, despite the provision for substitutive powers to be centrally exercised, in many areas of the country it had not been possible (until the RRF) even to start the aggregation process.

The Italian water-governing system is complex and multilayered. Each Region assigns the management of water to territorial areas (ATOs), which can correspond to the entire region or parts of it. Each municipality must join an ATO and participate in its governance. Each ATO defines a Water Plan for its area, sets the tariffs, and chooses the single operator, via tender or direct in-house assignment. This transition to the unique operator is often politically difficult because it requires the collaboration

of all municipalities in the ATO. The main difficulty is that this process reduces the autonomy of individual municipalities, including the politically attractive task of appointing the managers of the local water service.

In 2021, as the RRF came into effect, four particularly problematic regions – Campania, Calabria, Molise and Sicily – signed an MoU which sets objectives in terms of creating Local Water Management Authorities, reducing the number of operators and achieving economies of scale in view of the definition of unique operators. The new legislation, adopted in 2022 to implement the reform, sets deadlines for the choice of a single operator and strengthens the substitutive powers against non-compliant administrations, i.e. the transfer of decision-making power to the President of the Region, and were this not to work, to the office of the Prime Minister.

### WHERE DOES ITALY STAND?

As underlined in the European Commission preliminary assessment for the disbursement of the third RRF tranche, at the end of 2022, award of water services to a single operator had already occurred in all ATOs except six: three in the Campania region (Irpino, Napoli Nord, and Sannita) and three in Sicily (Messina, Siracusa, and Trapani). In those cases, substitutive powers have been triggered.

Calabria, the most striking example, has created a single operator (ARRICAL) which will absorb (with limited exclusions, consistent with the law) the services of the municipalities that still have direct management. According to the Bluebook 2023, published by Utilitatis, 96% of the Calabrian municipalities managed the water service directly, covering 89% of the regional population.

The February 2024 report by ARERA (the regulator) notices that the positive results obtained during the first phase of the RRF are being followed by others of opposite nature, with the persistence of territorial governance bodies not aligned with the reference framework and with possible critical issues in the assignment to single operators. Despite that, Irpino, Messina and Siracusa have moved to the single operator, while difficulties are still registered for two ATO in Campania (Napoli Nord and Sannita) and one in Sicily (Trapani). Two of them have decided to create a public-private company to manage the service, with the selection through auction of the private partner. For the third one, the Prime Minister sent a warning letter preparatory to the exercise of the higher level of the substitutive powers.

In conclusion, the RRF started a process that had been on hold for years and which today has a good chance of being completed, permanently modifying the structure of the water sector in those parts of the country which record serious deficiencies in terms of quality and efficiency of the service. Completing the process, however, still requires additional political support, as the last remaining non-compliant ATOs are often the most difficult ones to bring in line.

### Competition Reform: phasing out regulated prices in the electricity sector

The 2022 competition law – an RRF milestone – includes the liberalisation of gas and electricity sectors by gradually phasing out the regime of regulated tariffs for micro-enterprises and households, thus aligning these sectors with other enterprises which have already been moved to the free market. The end of the regime of regulated tariffs had been legislated for in Italy in 2017 but never fully implemented.

Since the introduction of the legislation, the size of the regulated market has shrunk over the years (from 49% to 31% for household; from 19% to 5% for BT and other uses), with ENEL in a clearly dominant position (Tables 5a and 5b).

Under the 2022 reform, ARERA, the sector regulator, will allocate (with contracts lasting 3 years) customers who have not yet chosen a supplier in the free market to operators selected on the basis of competitive procedures. In this way the regulated system will be substituted by a gradual protection regime, and, in a given timeframe,

all users will move to free markets. To guarantee competition during the transition, a ceiling has been legislated for the auctions, setting a maximum market share that each supplier can win (35% for micro enterprises, 30% for households).

**Table 5a Electricity operators' market share: regulated market household**

Operators	2019	2020	2021	2022
<b>A2A</b>	1.41%	1.17%	1.04%	0.91%
<b>Acea</b>	2.39%	2.03%	1.91%	1.77%
<b>AGSM AIM S.P.A</b>			0.11%	0.08%
<b>AGSM VERONA</b>	0.09%			
<b>Alperia</b>	0.21%	0.16%	0.17%	0.18%
<b>ALTRI GRUPPI</b>	0.70%	0.51%	0.46%	0.34%
<b>C.V.A.</b>	0.09%	0.07%		
<b>Dolomiti Energia</b>	0.36%	0.32%	0.33%	0.30%
<b>ENEL</b>	43.19%	37.73%	34.23%	26.94%
<b>Estra</b>			0.04%	0.03%
<b>HERA</b>	0.37%	0.26%	0.17%	0.22%
<b>IREN</b>	0.48%	0.44%	0.37%	0.35%
<b>Sorgenia</b>	0.00%			
<b>Total</b>	<b>49.28%</b>	<b>42.70%</b>	<b>8.630</b>	<b>31.10%</b>

**Table 5b Electricity operators' market share: regulated market BT and other uses**

Operators (regulated)	2019	2020	2021	2022
<b>A2A</b>	0.66%	0.59%	0.34%	0.16%
<b>Acea</b>	1.31%	0.93%	0.65%	0.42%
<b>AGSM AIM S.P.A</b>			0.04%	0.02%
<b>AGSM VERONA</b>	0.03%			
<b>Alperia</b>	0.14%	0.12%	0.09%	0.05%
<b>ALTRI GRUPPI</b>	0.49%	0.30%	0.18%	0.09%
<b>C.V.A.</b>	0.03%	0.03%		
<b>Dolomiti Energia</b>	0.07%	0.06%	0.04%	0.03%
<b>ENEL</b>	15.52%	13.44%	8.17%	4.39%
<b>HERA</b>	0.16%	0.11%	0.05%	0.05%
<b>IREN</b>	0.26%	0.23%	0.13%	0.09%
<b>Sorgenia</b>	0.00%			
<b>Total</b>	<b>18.68%</b>	<b>15.80%</b>	<b>9.69%</b>	<b>5.29%</b>



## WHERE DOES ITALY STAND?

In November 2022 (for microenterprises) and January 2024 (for consumers), ARERA carried out the tenders. Now consumers, through a dedicated search engine, can compare and choose offers within the electricity and natural gas retail markets in a transparent way.

Within the electricity market, the tender procedures in the auctions for household supply, aimed at phasing out regulated prices, concluded with all areas assigned to seven operators. The transition from the regulated prices to the gradual protection regime – which will happen on July 1, 2024 – will, under current conditions, lead to an overall saving for each access point of approximately 130 euro per year, in relation to the marketing component, with a saving that would be worth more than 20% of the total bill (ARERA, Parliamentary Hearing, February 2024).

The January 2024 ARERA monitoring report (published at the end of February) highlighted that simulations based on the offers for electricity in the free market and available on the ARERA portal, show that 10% of free market contracts lead to a lower cost than the regulated price one, both for households and enterprises.

Moreover, the outcomes of the competitive procedures have partly redesigned the map of suppliers for domestic electricity customers in the country (Table 6).

**Table 6 Electricity operators: household market share before and after the auctions**

	<b>Market share % BEFORE</b>	<b>Market share % AFTER</b>
<b>Enel Energia</b>	56.7%	48.0%
<b>Eni Plenitude</b>	8.7%	8.7%
<b>A2A Energia</b>	3.6%	3.9%
<b>Acea Energia</b>	3.1%	2.0%
<b>Iren Mercato S.p.A.</b>	3.1%	2.8%
<b>Hera Comm</b>	2.9%	7.3%
<b>Edison Energia</b>	2.3%	4.6%

Source: ARERA - testimony at the Chamber of deputies 4/3/2024

Due to limits imposed in the auctions, Enel, the former state monopoly company has reduced its share of domestic customers served throughout the retail electricity market (both protected and free), falling to 48% market share (compared to the pre-auction market share of 56.7%). Hera, having almost tripled the number of domestic customers served, becomes the third market operator by number of PODs, with a market share very close to Eni Plenitude.

As mentioned above, the transition to a free market for electricity had been legislated for since 2017, but the process was repeatedly slowed down, mostly because of the reluctance of vested interests. The table above documents a significant success for the RRF in mitigating such interests.

## CONCLUSIONS

In conclusion, the RRF created a discontinuity, kicking off, at least in the case of Italy, a reform process which had stalled because of entrenched interests. The fact that the measures we described – in the judiciary, in public procurement and in competition – only three years since the programme started, are working, is a sign of

their effectiveness. Political resolve and support, however, remain essential because these results have to be confirmed and could be dissolved with the same speed they have been introduced.

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