

# National recovery and resilience plan in Italy: Updates on Bankruptcy Law



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**The Covid-19 pandemic has affected the Italian economy more than other European countries. In fact, in 2020, the gross domestic product decreased by 8.9%, compared to a decrease across the European Union of 6.2%. Italy was hit first and hardest by the health crisis.**

The first local closures were ordered in February 2020 and, in March, Italy was the first country in the European Union to impose a general lockdown. This situation had fallen on an already vulnerable country from an economic, social and environmental point of view.

The pandemic and the consequent economic crisis prompted the European Union to formulate a response aimed at giving support to individual member States with the creation and launching of the “Next Generation EU Program” in July 2020. In this context, the National Recovery and Resilience Plan (PNRR) must be considered, as this represents the preparation by the Italian Government to illustrate to the European Commission how Italy intends to invest the funds allocated under its programme.

The plan was created following the guidelines issued by the European Commission and is based on three main pillars: digitization and innovation, ecological transition and social inclusion. With reference to the bankruptcy area, the slowness in implementing some reforms is identified as a limitation to Italy’s growth potential in PNRR. In particular, a response has come through changes to the Insolvency Code pursuant to Legislative Decree no. 14 of 2019, including:

- The implementation of the

EU Directive on Restructuring and Insolvency;

- The revision of out-of-court settlement agreements to incentivize parties to make greater use of them;
- The strengthening of alert mechanisms;
- The specialization of judicial officers and competent administrative authorities for insolvency proceedings; and
- The implementation of the digitization of procedures through the creation of a special online platform.

Through this, the legislator has intervened on various fronts: for example, regulating the institute of negotiated composition for the solution of company crises and introducing provisions on the national electronic platform and on the specialization of magistrates delegated to insolvency proceedings.

One of the most significant interventions is the one carried out via Legislative Decree no. 83 of 2022, which makes numerous amendments to the Insolvency Code, further implementing the Directive concerning preventive restructuring frameworks, bankruptcy discharge and disqualifications and measures aimed at increasing the effectiveness of those procedures.

The main objective of the intervention was to ensure that “healthy” businesses and entrepreneurs in financial difficulty have access to effective national preventive restructuring frameworks allowing continued operation. Also, that insolvent or over-indebted, but honest, entrepreneurs benefit from a second chance through debt discharge after a reasonable period of time and, finally, to achieve greater effectiveness of restructuring, insolvency and

discharge procedures in terms of duration.

To achieve this result, the Directive has identified three areas of intervention that Legislative Decree no. 83 of 2022 governs, in particular:

- Preventive restructuring frameworks for a debtor in financial difficulty, seeking to prevent insolvency where a likelihood of this exists;
- Procedures leading to the discharge of debts incurred by the insolvent entrepreneur; and
- Measures to increase the efficiency of restructuring, insolvency and debt relief procedures.

In our opinion, an overall judgment on the Insolvency Code (as amended) to date would be premature, as it will be necessary for a suitable period of time to pass for the new provisions to be applied and the first jurisprudential guidelines and practice to emerge.

However, what can certainly be said is that the new Insolvency Code undoubtedly represents a novelty in that it takes on the age-old problem of the late emergence of the crisis and the critical issues that have emerged in the matter of negotiated solutions to crisis, trying to tackle these problems in a non-invasive and cumbersome way. ■



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