

CNEL
ITALIAN NATIONAL ECONOMIC AND LABOUR COUNCIL

Decree-Law No 83 of 22 June 2012 on
"Urgent measures for growth in Italy"

Comments and proposals

Assembly
19 July 2012

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Background to document

This "Comments and proposals" document has been drawn up by the CNEL in accordance with Article 10 of Law No 936/1986 on the "Rules governing the National economic and labour council".

The document was prepared by the CNEL's Committee on economic policies and the competitiveness of the production system (I) during its meetings on 5 and 10 July 2012.

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The rapporteur was Giorgio Macciotta.

A Introduction

1. For some time now, Italy's economic growth rate has been totally inadequate for meeting the country's needs. This has sparked a crisis in many production sectors and, particularly since 2009, an acute employment crisis. Intervention to stimulate growth through both structural changes and appropriate allocations of resources has thus become vital. However, this has not been possible because the current crisis has coincided with other problems stemming from the overarching financial crisis, the deterioration in Italy's public finances and the constraints arising from EU policies fixated on achieving balanced budgets by means of purely financial oversight. The absence of common economic and fiscal policies has left room for speculation that could not be justified by the actual fiscal position of the various countries. Recent decisions taken by the European Council, while not easing the requirement for fiscal rigour, have set out measures aimed at countering such financial speculation and contributing via EU resources to fostering growth policies. It is to be hoped that the technical issues are dealt with quickly and that the new decisions become effective immediately. But pending this desirable development at European level, it would also be useful, on the domestic front, to rethink the traditional procedure for verifying budgetary coverage used by the RGS [Italian State general accounting office], and reconsider the notion of "lack of coverage resulting from a revenue shortfall" which does not take account of revenue deriving from investments that would not occur in the absence of an incentive by means of targeted tax exemptions. A change in this regard would create more scope for growth policies.

Operating within the above constraints, Decree-Law No 83 of 22 June 2012 (Urgent measures for growth in Italy) does not constitute an adequate response to the requirement for intervention in pursuit of growth prompted by the crisis in Italy, even though it may benefit from being positioned within a public policy context marked by certain elements of overall organisational and financial innovation:

- in terms of the organisation of the public "machine", it ties in with a policy aimed at recovering flexibility and simplifying procedures with a view to improving the efficiency of the various departments, and achieving both savings and a better service to the public and to business – inter alia, by reviving constructive dialogue with staff organisations;
- in terms of managing the budget of the State and of the whole public administration, it forms part of a drive for transparency and efficiency which, on the one hand, involves a periodic spending review as a permanent feature, replacing the purely incremental approach that had hitherto characterised the framing of public budgets and, on the other hand, has started a process of re-absorption of the huge commercial debt, which will lead to greater liquidity in companies.

In this situation, which cannot be changed overnight, consideration must be given to the delicate issue of the resources that are clearly vital to reversing the tendency towards stagnation that has marked the Italian economy for some years, but which, in the context of the "rules on spending that safeguard fiscal rigour and enable the long-term reduction of the government-debt-to-GDP ratio, in line with the public finance objectives", must primarily be arrived at through better use of human resources and the mobilisation of the financial resources currently available.

As part of a more efficient use of the financial resources available, it is important to assess not only those measures that result in direct disbursement, but also those that, through better use of tax measures, help remove the bottlenecks hindering the internal market in terms of both investment (facilitating the flow of capital towards businesses) and consumption (relieving the growing pressure on pay and pensions).

In a similar vein, it is necessary to assess the coherence of the proposed measures (and not just those included in this decree-law) in the knowledge that none of these measures individually can significantly alter the macroeconomic situation but that taken together, inter alia as a result of the change of attitude that they can engender among the various public and private economic operators, they can help alter current trends.

2. Decree-Law 83/2012 contains a raft of measures, which can be grouped according to their function for the purposes of assessment. Set out below are summaries of the main sets of measures, along with proposals to complement those measures; this is followed by details of the content of the individual provisions.

a) **Self-financing of companies and incentivising their cooperation.**

This is a set of measures which should facilitate the recovery in a sector with considerable countercyclical potential. The measures contained in the decree on simplifications, the possibility of low-cost self-financing, and on stimulating demand could play a positive role. As is well known, however, all of the infrastructural measures come up against the problem of territorial and/or environmental compatibility, which means that, in order to ensure that the investment really materialises and that the works are completed on time, it is crucial to have the relevant institutions and communities on board. The incentives provided for should thus be complemented by suitable procedures for achieving institutional and social consensus. Finally, while appreciating the countercyclical significance of raising the percentage of deductibility for the costs of ordinary building renovation, we would highlight the inconsistency with other provisions in the same decree of reducing the deductions provided for renovations aimed at energy saving. The deduction percentage of 55% for this type of work should thus be confirmed (considering the expenditure self-financed by the increased tax revenues expected from such investments and the greater traceability of payments relating thereto, which would not result in the absence of incentives). Alternatively, consideration should be given to not limiting the duration of this incentive to 30 June 2013, and making it structural.

b) The identification of unused resources with a view to harnessing them more effectively, and the use of tax incentives

In relation to these provisions, which, even in the case of only limited reprogramming of unused resources, could trigger disputes and local resistance to their more rational use, either territorial or sectoral, it might be appropriate – in order to minimise disputes and maximise and speed up the identification of unused resources – that, in addition to the involvement of the state-regional conference and the confirmation of the traditional distribution between the different under-exploited areas of the country (85% to the South, 15% to the Centre and North), the regions concerned also be given the further guarantee that their region will be allocated an amount equal to that recovered with their cooperation (as also stipulated specifically for the resources referred to in paragraph 3 of Article 31), and that those identified without such cooperation are returned to an undivided fund. Strict deadlines should be set by which the funds allocated are to be used. As regards maximising flexibility in the use of resources, including in relation to available incentives, it could be useful to introduce an article summarising the criteria that should govern this, or, and perhaps better still, bearing in mind that co-financing is hoped for, to define transparent procedures involving the participation of all stakeholders for determining the level and conditions of the incentives concerned.

c) Encouraging higher education, research, the employment of better qualified staff in production processes and the use of research

The limited availability of resources to this end indicated in the decree could be less cause for concern if accompanied by two additions. The first could be the inclusion within the text of a provision aimed at gearing the reprogramming of resources allocated for productive and infrastructural investment towards launching a complete overhaul of our production model that would strengthen the requirement for a better quality workforce. The second, external to the text of this decree, would be to exclude the areas of training and research not from the processes of restructuring of expenditure but from the expenditure cuts.

d) The simplification of procedures and the drafting of clearer rules governing both relations between businesses and the public administration and disputes that arise, with substantive and procedural measures in the area of justice

In addition to the comments set out in section E below in relation to the individual articles on these matters, two general points should be made here. Firstly, it needs to be made explicit that the introduction of self-certification and ex post checks ties in with more stringent arrangements for checks and controls which, while explicitly provided for (Article 25) should be better coordinated and targeted. Secondly, it should be ensured that the process of reforming the public administration at all levels does not overlook the need for the conscientious cooperation of public service staff through the immediate activation of the protocol signed by the public service minister, the representatives of regional and local institutions and trade unions.

B Self-financing of companies, infrastructural measures, incentivising cooperation, use of tax incentives

1. A first set of provisions ensures, inter alia through targeted use of tax measures, companies' access to direct funding on the market based on an assessment of the validity of their investment programmes, promotes cooperation between companies and encourages the channelling of private resources, particularly towards infrastructure and construction. Specifically:

- as regards the self-financing of SMEs, the provisions here are aimed at encouraging the issuance of particular kinds of bonds (commercial paper), with particular guarantees (regarding balance sheets, assistance in the issuing phase and circulation) with the aim of recovering for SMEs a share of the assets under management by large institutional investors (Article 32);
- as regards the financing of infrastructure (with direct access to the financial market), the provisions here open up the possibility for firms engaged in public infrastructure funding programmes to acquire private resources through the issuance of securities with a tax regime similar to those for government bonds (Article 1), extend tax exemptions to encourage projects undertaken through forms of public-private partnership, and also entail specific corrections to measures relating to the port sector (Article 2);
- as regards cooperation between companies, the provisions here extend the share of motorway works to be contracted out by the motorway operators, opening up the market to SMEs, completing and improving the provisions of the liberalisation decree, bringing about an immediate countercyclical effect and ultimately reducing the de facto monopoly of the largest companies (Article 4); the provisions also facilitate the conclusion of network contracts, validating written contracts that are digitally signed (Article 45);
- as regards housing construction, the provisions here introduce changes to the VAT rules on properties unsold within five years of construction, replacing a tax regime that penalises the construction companies and discourages the placing of the unsold properties on the rental market (Article 9); the provisions also harmonise (for works carried out up until 30 June 2013) the tax deduction percentage applicable to building renovation works (at 50%), increasing the maximum limit (up to EUR 96 000 per property) (Article 11).

C Mobilising resources

2. A second set of measures is aimed at recovering unused resources to foster specific investment programmes in the area of urban development and in specific production sectors. Specifically:

- with regard to urban development, the provisions allow local authorities holding tax credits – deriving from their dividends from municipal utilities converted into SpA limited companies – to allocate them, even excessively in respect of the normal fiscal discipline, "exclusively to the delivery of infrastructure necessary for improving public services, in line with the objectives set under the internal stability pact" (Article 6); another provision reorganises the resources deriving from a series of cuts into a "National plan for cities" involving shovel-ready projects and the substantial "involvement of public and private operators and funding", and aimed at "improving the quality of urban life and the social and environmental fabric" (Article 12);

- with regard to developing production, the provisions include the "financing of programmes and actions with a significant impact on the national competitiveness of the production system" through the "Fund for sustainable growth" which, in addition to the resources of the Fund referred to in Article 14 of Law No 46/1982, uses those not yet committed for area contracts, under Article 2(203) of Law No 662/1996 (Article 23); there is also a provision to devise action plans for "situations of severe industrial crisis, ... which, following an application for recognition by the region concerned, have regard to specific areas subject to economic recession and job losses of national significance" (Article 27); the provisions here also seek to speed up the procedures for establishing industrial innovation projects under "Industria 2015" (Article 28) and projects under Law No 488/92 (Article 30) and under a series of other laws designed to support cooperatives and SMEs (Article 31);
- the measures also include adjusting the criteria for granting subsidised energy prices so that this is no longer "on the basis of the amount of energy consumed" but rather "in line with parameters on the impact of the purchase cost of energy on the productive value of the company". These criteria encourage innovation and enhance Italy's competitiveness in a particularly sensitive sector for Italy's trade balance (Article 39).

D Training and research

3. The decree gives particular attention to the issues of training, research and encouraging the up-skilling of staff within the production process. Specific measures here include:

- the establishment of a Fund for sustainable growth (Article 23) tying in with the "Measures for the development of youth employment in the green economy"(Article 57);
- a tax credit to promote the permanent recruitment by companies of "highly-skilled profiles" (Article 24);
- a review of the rules governing the Fund for investment in scientific and technological research, redefining the entities eligible, the types and instruments of intervention, as well as the implementation and assessment procedures (Articles 60-62).

E Reorganising the public administration, simplifying procedures, and measures in the area of justice

4. Designed to help create more favourable conditions for development, this set of measures is aimed at reorganising entire sections of the public administration with the most direct impact on businesses and reforming the delicate area of civil justice whose malfunctioning has for some time been one of the reasons for Italy's difficulties in attracting foreign investment.

- one set of provisions here aims to instil certainty and transparency into the conduct of the public administration through mandatory recourse to the *Conferenza di servizi preliminare* [decision-making mechanism across different parts of the administration], whose decisions become binding

and prevent administrations with authorisation powers from requesting the amendment of projects that have already been approved (Article 3); this ties in with the provisions on public procurement (Articles 1-2); the provisions on the simplification of construction works go in the same direction (Article 13);

- consistent with the principle of ex post controls, further provisions here introduce more pervasive checks on actions benefiting from (procedural and/or financial) supports and incentives (Article 25);
- Of particular significance here are two innovations regarding the dissemination of digital systems in Italy (Articles 19-22).

> The first is the establishment of the *Agenzia per l'Italia Digitale* [Digital Italy agency] (whose structure and operating procedures will be detailed in a subsequent decree), with the task of "coordinating the policies and strategies for the dissemination of new technologies and ensuring the full interoperability of the public administration's information systems, in accordance with EU standards". It is also tasked with rationalising public spending in this area, coordinating the work of both government departments and local administrations. The new agency absorbs the previous bodies with similar roles (DigitPA – the department for the digitisation of the public administration, under the supervision of the prime minister, and the Agency for the dissemination of technology for innovation). This decision is aimed at overcoming the main limitation of the current digitisation of the public administration, namely the general lack of interoperability between the different systems, not only between the centre and local authorities, but even within each of these two parts. It is difficult to achieve interoperability between systems that have developed over time with different architectures and languages. Thus, if the new agency takes over this task, this will contribute in no small measure to improving not only the public digital systems, but also the very functioning of the entire public administration. It is to be hoped that the work done in recent years, in particular, but not only, by DigitPA is not undone.

> The second innovation is aimed at making the internet the primary instrument for ensuring the transparency of public expenditure, requiring all sections of the administration to publish on the internet "data and information relating to payments exceeding EUR 1 000 made for any reason whatsoever to businesses or other economic entities". Amounts not published on the internet cannot be paid out and administrations that fail to comply with this rule are to assume full responsibility for this. The internet is set to become the main instrument for public scrutiny of payments to third parties. This is certainly a considerable step forward. However, it will take some time for all of the administrations to comply, and it should be noted that in the case of large amounts of information, such as that which will definitely be published, in order for the data to be correctly interpreted, appropriate reading keys will need to be provided (Article 18).

- with a view to the Italian economy's penetration of and protection on the international market, the decree includes provisions that reorganise its presence abroad in general (ICE [Italian Institute for Foreign Trade]) and with specific reference to the tourism sector (ENIT [Italian State Tourist Board]) (Article 41); there are similar objectives behind the provisions restructuring the Italian "internationalisation consortia" (Article 42), redefining their mission, enlarging their composition (to include not only SMEs but also public and private bodies, and large banks and companies), and extending their scope to companies involved not only in production but also in services and the commercial sector; another important provision defines the scope of the power to impose

sanctions with regard to "Made in Italy" (Article 43);

- a set of coordinated measures in the area of justice seek to reduce litigation through the introduction of an appeals filter (Article 54), the inclusion of an assessment of the conduct of the parties during the determination of compensation for excessive length of proceedings (Article 55), and revamping the training of the judiciary by scrapping the idea of establishing additional training schools on the basis of territorial criteria (Article 56);
- further provisions in the area of justice amend the bankruptcy law to favour the continuity of productive activity (Article 33); measures here also reform the rules governing companies placed under administration (Articles 49-50); also important are measures easing the constraints on setting up an "srl" limited liability company by lowering age-limit requirements (Article 44).