

Newsletter BETKOSOL n. 3/2022

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Last updates

→ the BETKOSOL project comes to an end!

To conclude, the project team organized the final conference on 26 and 27 May 2022. The conference recording is now online.

Visit the website [here](#).

→ To remember its beginning, available online the Report of the Kick-off Online Meeting 28 January 2021.

Visit the website [here](#).

→ To remember its ongoing meetings, see the seminars organized in the Autumn 2021 [here](#) and [here](#).

→ All the project's outputs are available [here](#).

Among the most recent updates, the deliverables 6 and 7 were uploaded. They concern the Final recommendations Report and the Policy Brief.

In the next months, more updates will be available on the website. In fact, several papers have been submitted to international peer review journals.

→ On 5th of July the BETKOSOL research group presented some outputs of the project during the ICON-S conference (see [here](#)).

Flash news

→ Short news about the final conference

On May 26 and 27 2022 the final conference of the *Better Knowledge for Better Solutions* (BETKOSOL) research project, coordinated by Prof. Aldo Sandulli and funded by the European Hercule III program, was held at Luiss Guido Carli in Rome. The conference focused on the protection of the financial interests of the European Union and was attended by more than 30 authoritative speakers, including members of the BETKOSOL research project. Initial greetings were given by the Pro-Rector for Research, Prof. Stefano Manzocchi, and the Director of the Legal Department, Prof. Antonio Punzi. Speakers in the discussions were, among others, Luiss Prof. Sergio Fabbrini, Cristina Fasone, Antonino Gullo, Bernardo Giorgio Mattarella, Nicola Lupo, Aldo Sandulli, and Marta Simoncini, as well as leading Italian and European academics and experts.

Upstream, the speakers reflected on the new fiscal policies of the European Union and the future scenarios opened up by the recent Next Generation Eu experience, as well as the role of rule of law as an instrument for the defense of financial interests that are now "constitutionalized." Downstream, the focus of the conference shifted to competences and dialogue among the actors involved in the protection of financial interests. At the European level, the speakers' reflections focused especially on the European anti-fraud office and the European public prosecutor's office, which became operational only a year ago. At the national level members of the BETKOSOL research project focused on the administrative and criminal protection of the Union's financial interests in four member states under study, namely Belgium, Germany, Italy and Poland.

The conference, which was also enriched by the direct participation of representatives of the European and national authorities under consideration, allowed for a variety of insights regarding an institutional path yet to be written in European and national fora.

→ At the end of the project, the Polish recovery plan is approved

The European Commission announced on 1 June that it had approved the National Recovery Plan for Poland, which was confirmed in Warsaw the following day by Ursula von der Leyen. The Polish National Recovery Plan was officially approved on 17 June at a meeting of EU finance ministers in Luxembourg. It is a key step towards the disbursement by the EU of €23.9 billion in grants and €11.5 billion in loans under the Recovery Fund. This financing will enable Poland to foster its economic recovery from the COVID-19 pandemic and finance the green and digital transitions (see more [here](#)).

It is noteworthy that the European Commission did not adopt the Polish NRP unanimously, with two commissioners against it and a few others expressing their concern about the lack of clarity regarding the conditions placed on the Polish authorities with the restoration of the rule of law. Among other things, the European Commission noted that the Polish NRP "contains milestones related to important aspects of the independence of the judiciary which are of particular importance for improving the investment climate and creating the conditions for effective implementation" and that "Poland must demonstrate that these milestones have been achieved before any disbursements under the Recovery Fund can be made" (see [here](#)).

The first condition, the abolition of the Disciplinary Chamber, has been met by the enactment of the amendment to the Supreme Court Act. Although doubts may arise as to whether the activities of the Chamber of Professional Responsibility established in its place will not be a continuation of its predecessor. Although the abolition of the Disciplinary Chamber can also be 'pulled up' under the second condition, i.e. the reform of the disciplinary system of judges guaranteeing independence, this may not be enough when there remain disciplinary ombudsmen appointed by the Minister of Justice, the so-called 'muzzle law' and judgments of the Constitutional Tribunal

prohibiting the enforcement of judgments of European courts. The parliamentary version of the law is also far from fulfilling the third condition, i.e. the reinstatement of judges who have been sidelined by rulings of a non-recognised chamber of the Supreme Court. The European Commission expected this to be dealt with in the law, and the one passed by the Sejm only allows these judges to apply to the new chamber for reinstatement (see [here](#))

As reported by the European Commission, the National Recovery Plan stipulates that Poland must implement reforms concerning the judiciary by the end of June. This will open the way for its application for money in July.

→ Public contracts: legislative delegation to the Italian Government to adapt Italian legislation to European law

Pursuant to the recent Law no. 78 of 21 June 2022, the Italian Government is empowered to adopt, within six months, one or more legislative decrees regulating public contracts, also with a view to adapting it to European law and to the principles expressed in the case-law of the Constitutional Court and of higher (domestic and supranational) courts, and to rationalise, reorganise and simplify the existing rules on public works contracts, services and supplies, as well as in order to avoid the initiation of infringement proceedings by the European Commission.

Legislative decrees must be adopted in accordance with certain guiding principles and criteria, including:

- revision of the competences of the National Anti-Corruption Authority in the field of public contracts, in order to strengthen its supervisory functions in the sector and support to procuring entities;
- the possibility of subdividing contracts into lots on the basis of qualitative or quantitative criteria, with a view to encouraging the participation of micro and small enterprises, of awarding criteria for business combinations;
- simplification of the rules applicable to public contracts for works, services and supplies below the thresholds of European importance, in compliance with the principles of publicity, transparency, competitiveness, rotation and non-discrimination, proportionality, cost-effectiveness and impartiality of proceedings and the specificity of contracts in the field of cultural goods;
- simplification of procedures for investment in green and digital technologies, innovation and research and social innovation; provision for measures to ensure compliance with the criteria of energy and environmental responsibility in the award of public contracts and concession contracts;
- provision for the right of procuring stations to reserve the right to participate in procurement and concession procedures to economic operators whose main purpose is the social and professional integration of persons with disabilities or disadvantaged persons;
- promoting, in compliance with existing European law, the use by contracting entities of supplies in which the proportion of

products originating in third countries making up the offer is not a majority of the total value of the products; provision, in the case of supplies from non-EU countries, for measures to ensure compliance with minimum environmental criteria and workers' rights, also with a view to ensuring fair competition with European economic operators;

- the prohibition of free provision of professional activities, except in exceptional cases and with adequate justification;

- reduction and certainty of the timing of tendering procedures, the conclusion of contracts and the execution of contracts, including through digitisation and computerisation of procedures;

- a strong incentive to use flexible procedures, such as competitive dialogue, innovation partnership, procedures for the award of framework agreements and competitive procedures with negotiation, for the conclusion of complex and long-term public contracts, ensuring compliance with the principles of transparency and competitiveness;

- a ban on the extension of concession contracts, without prejudice to European principles of in-house providing.

→ The partnership agreements under the ESIF: clashing with the RRF?

As known, EU Cohesion Policy contributes to strengthening economic, social and territorial cohesion in the European Union. It aims to correct imbalances between countries and regions. It delivers on the Union's political priorities, especially the green and digital transition. In a comparison between 2014-2020 and 2021-2027 funding periods, 11 thematic objectives (TO), with many investment priorities, were established for the former, while 5 policy objectives, breaking sectoral silos, have been identified for the latter. Among the novelties, while in the past a specific TO (11) was identified for enhancing institutional capacity of public authorities and stakeholders and efficient public administration, now the capacity building and cooperation with partners is achieved within and outside MS as horizontal actions.

For what concerns partnership agreements, they have been already signed in 10 countries (Greece, Germany, Lithuania, Austria, Finland, Czechia, Denmark, Sweden, France and Netherlands) and mainly in the last three months. Comparing to the past, they appear to be shorter and more concise (see [here](#)).

Even more recently (July 1st, 2022), Poland has become the eleventh country to sign its Partnership Agreement for the 2021-2027 funding period (see [here](#)).

In Italy, after the submission of the first final draft in January 2022, Italy notified the revised version in June 2022, following the observations of the European Commission (see [here](#)).

Some experts are starting to comment the clash between the RRF and the ESIF, with a negative impact on the latter. It has been affirmed that: "The scope and priorities of the RRF overlap to a

significant extent with cohesion policy despite fundamental differences in the delivery mode of the two: the RRF is in essence a spatially blind and top-down instrument" ([here](#); see also [here](#)). Additionally, the RRF implementation seems to have delayed the starting of the new ESIF funding cycle ([here](#)).

→ Monitoring data on the implementation of national recovery plans

The Recovery and Resilience Facility (RRF) entered into force in February 2021 to mitigate the economic and social impact of the Covid-19 pandemic. It is the cornerstone of Next Generation EU, an unprecedented EU recovery instrument to help repair the immediate economic and social damage of the coronavirus pandemic and will disburse up to € 723.8 billion (in current prices) in grants and loans to EU Member States. Member States will use the funds provided by the RRF to implement ambitious reforms and investments to make their economies and societies more sustainable, resilient and prepared for the green and digital transitions (see [here](#)).

It is of interest to follow how the implementation of the Recovery and Resilience Facility (RRF) and the national recovery and resilience plans is progressing. For these reason, could be useful to analyze the data of the Recovery and Resilience Scoreboard (see [here](#)). It is first and foremost a tool to transparently display available information on the implementation of the RRF to European citizens. Recovery and Resilience Scoreboard is also used to prepare the Commission's annual reports on the implementation of the RRF and the review report to the European Parliament and the Council. The Recovery and Resilience Scoreboard contains two types of information:

- Data collected by the Commission on the RRF implementation in the context of monitoring the implementation of the plans. The data collected by the Commission consists essentially of data reported by Member States on the fulfilment of milestones and targets, and of information on the disbursements. All the data displayed on the Scoreboard is based on 24 plans endorsed so far by the Commission and the Council. Figures will be updated as more plans are endorsed.

- Data collected by the Member States on the common indicators: The common indicators provide data on the implementation of the whole Facility by showing progress of specific actions common to all or most of the plans. Member States report on the common indicators twice a year by 28 February and 31 August. The first reporting on the common indicators took place in February 2022.