

First 100 days of Italian COVID-19 policy: which (new) security and economy (?)

Federica Cristani, Institute of International Relations in Prague, Czech Republic¹

Abstract

Italy was the first in Europe which suffered from the outbreak of the Covid-19 pandemic, with around 90.000 estimated victims only in the first 100 days. This paper offers an overview of the development of the Italian state of emergency in the first months of the pandemic. Firstly, the paper enquires the concept of state of emergency, as well as the surveillance and security mechanisms and the relevant national regulations that were in place in the pre-pandemic period; then, it highlights how the Italian government have managed the COVID-19 pandemic and the emergency measures that have been adopted in the first 100 days of the pandemic. A special focus will be devoted to the new concerns on the right to privacy that the emergency measures have brought in. Since the COVID-19 pandemic have had a grave impact also on the national economy, the second part of the paper will be devoted to the analysis of the pre-COVID-19 economic situation and the comparison with the rising protectionism that have characterized the relevant economic measures since the outbreak of the pandemic.

1. Introduction

Prior to the pandemic, the image of Italy in the grip of a pandemic always seemed very unlikely. Pandemics or epidemic was something that Italians only visioned in history books and novels¹. Like all over the world the pandemic hit fast and hard. Italy was the first in Europe which suffered the first impact of the Covid -19. In the first 100 days, there were 90,000 estimated victims and more than half of the Italian population was locked in their houses for 69 days.

This Chapter offers an overview of the Italian state of emergency and the economic changes occurred during the first 100 days of the pandemic.

2. Surveillance and security in Italy

2.1 Pre-COVID-19 surveillance and security mechanism: the Italian civil protection system

Italy has always been exposed to a wide range of natural hazards. Accordingly, it has developed a quite robust civil protection system, characterized by an integrated governance mechanism and reliance on volunteer organisations (OECD, 2010a).

The civil protection system in Italy includes several actors at central, regional, provincial, and municipal levels of government, acting in concert with private actors such as volunteer organisations and the scientific research community. The Civil Protection Department, a structure of the Presidency

¹ This is an excerpt of the Chapter “First 100 days of Italian COVID-19 policy: A new image for democracy, security, education and the economy in Italy” by Elisa Gibellino e Federica Cristani, prepared for the edited book by Aleksandar Stojanovic, Christina Mosalagae, Luisa Scarcella, *The First 100 Days of COVID* (Springer, forthcoming).

of the Council of Ministers, supervises the execution of emergency measures through the National Civil Protection Service (NCPS) - established with Law no. 225 of 1992 - which guarantees the coordination across the different actors (Civil Protection Department, 2022a).

Decree Law no. 59 of 15 May 2012 gave authority to the Council of Ministers to take action upon the outbreak of an extraordinary emergency situation, with the possibility to issue a "Declaration of state of emergency". The duration of the state of emergency - as established by Law no. 119 of 15 October 2013 - cannot exceed 180 days and can be extended up to an additional 180 days, with a further decision of the Council of Ministers. During the emergency situation, interventions were implemented through the orders issued by the Head of the Civil Protection Department (Civil Protection Department, 2022b). On the other hand, co-ordination for the whole civil protection system is undertaken by the NCPS, which, among others, defines and implements intervention and action procedures and elaborates the exceptional regulations that are needed to conduct the emergency interventions (OECD, 2010b).

Outside of the state of emergency situation, the daily activities of the Civil Protection Department include monitoring, surveillance and emergency management for potentially risky events, as well as the development of policies for preparedness and prevention. The new Civil Protection Code issued with Legislative Decree n. 1 of 2 January 2018 has then reinforced the role of the NCPS, by enriching it with new tasks and responsibilities, including the development and organization of national plans for risk scenarios and promotion of activities of risk forecasting and prevention (Civil Protection Department, 2022b).

The civil protection system also works in coordination with the National Fire Brigades, the Armed Forces, the Police Forces, the scientific community, the National Health Service structures, the organized civil protection volunteer service and the Italian Red Cross.

A key feature of the Italian civil protection system (especially when compared to other national systems), is the highly mobile force of volunteer organisations: "tens of thousands of volunteers could be mobilized to support professionals in emergency response, relief and recovery activities within just a few days" (OECD, 2010a).

However, as a relevant OECD report highlighted, the system "need[ed] to increase damage reduction efforts and better implement prevention policies" (OECD, 2010a). The report also highlighted that emergency management was underdeveloped in some (more remote) municipalities (OECD, 2010a).

2.2 Surveillance and security in a post pandemic age: more concerns on the right to privacy

Since the declaration of the state of emergency by the Council of Ministers on 31 January 2020 for the COVID-19 pandemic, the Italian government and regional administrations have adopted several emergency measures. In particular, we can identify three phases of the emergency: phase 1, where the complete lockdown on the national territory was progressively introduced; and phase 2 and 3, where such restrictions have been progressively eased. Compliance to such measures has been ensured with a mass informative campaign, coupled with the introduction of specific administrative sanctions in case of non-compliance, as outlined further below.

The government introduced the relevant emergency measures by means of legislative decrees (legislative acts adopted in case of urgency, effective immediately but required to be confirmed by the Parliament in 60 days), which have been implemented by decrees of the president of the council of ministers and orders of the governors of the regions and majors - administrative acts with immediate effect; regions were allowed to adopt more restrictive measures if required by the particular state of

emergency (Ramajoli, 2020). The Ministry of health has issued orders and circulars re-defining the application of the measures, coupled with orders of the Department of Civil Protection. Also the ISS (Istituto Superiore di Sanità - National Institute of Health, the main Italian research institute in public health), has constantly monitored the national emergency situation and advised the government in the different phases (IMF, 2020; Servizio Studi della Camera dei Deputati, 2020b).

In particular, the following measures were adopted: during phase 1 (which started at the end of January, with the declaration of the state of emergency, and lasted until 3 May 2020), progressive lockdown measures, first in the North of Italy, then all over the national territory were introduced, which included restriction of movement across the national territory (and within the regional and municipal territory of residence) and to/from abroad, closure of all schools and universities, closure of all commercial (with exception of groceries and pharmacies), productive, cultural and sports activities. At the regional and municipal level, more restrictive measures were progressively introduced, e.g. in Lombardia (the region with the highest number of cases and deaths at the beginning of the pandemic). Phase 2 (which lasted from 4 May 2020 to 2 June 2020) witnessed a progressive easing of restrictive measures: movement across regions was limited to essential activities related such as work, health issues or in case of urgency, while movement within the region of residence was allowed to visit close relatives, access public parks (except for playgrounds), practice individual training, attend funerals and access cemeteries and buy takeaway food, while all schools and universities remained closed. During this period, most primary and secondary productive sectors and most retail shops, businesses and customer services were allowed to resume their activity, following national COVID-19 safety protocols (e.g. use of thermoscanners). At the regional level, the competent governmental and health authorities adopted *ad hoc* health security rules for those sectors that were resuming their activities. In phase 3 (which started on 3 June 2020), sports and cultural activities were progressively resumed, travelling across regions in Italy and abroad to/from EU countries were allowed again. At the regional level, regional orders were issued with the aim to limit and control movements between regions. During all three phases, social distancing (1 meter) and the use of facemasks, gloves and sanitary detergent in closed spaces that were accessible to the public (e.g. shops/businesses; public offices; public transport) have always been mandatory.

What has been the reaction to such measures by the society? After the early phase of the emergency, where compliance with emergency rules was quite low, daily press conferences of majors, governors of regions and the president of the council of ministers (also via social media tools, like Facebook) constantly insisted on the necessity to comply with the emergency rules - supported by the #iorestoacasa (“I stay at home”) campaign, promoted by the government (Ministero della Salute, 2020a; Scaramuzzino, 2020). The president of the council of ministries always insisted on the gravity of the situation (“there is no time left [...] we have to give up something for the good of Italy, and we have to do it now”, Ministero della salute, 2020d)

On 25 March 2020, the Legislative decree No. 19 was issued, which provided for administrative pecuniary sanctions (between 400 to 3000 EUR) for breach of compliance of the emergency measures included in ministerial decrees, regional and municipal orders. With the introduction of fines for the breach of compliance of the emergency measures, the level of compliance increased, though with few cases of resistances (Ludovico, 2020), as outlined by the regular data compiled by the Ministry of Interior (Ministero dell’Interno, 2020), according to which, by the end of June 2020, on 68.302 controls in Italy, 47 fines were issued (Ministero dell’Interno, 2020). We can recall that in Italy, the Chief of the Department of Civil Protection is in charge of coordinating all emergency measures; he can demand some coordination tasks to the structures of the National service of civil protection (Servizio nazionale della protezione civile), and to public entities and/or private actors - also

derogating to the rules of public procurement (Presidenza del Consiglio dei Ministri, 2020). On the other hand, at the local level, the prefects (prefetti) - the State's representatives in the provinces – oversee the compliance with emergency measures, with the support of the local (an eventually military) police force. (Servizio Studi della Camera dei Deputati, 2020a). Overall, we can affirm that compliance with the emergency measures has been quite high, as highlighted also by some scientific studies (e.g. Briscese et al., 2020).

Emergency measures were constantly coupled with the constant symptom monitoring of the population: the Ministry of Health activated the National Surveillance System, a monitoring system on epidemiological data, coordinated by ISS (ISS, 2020a); citizens' health status was also monitored at the regional level – e.g. in Lombardia, with the "LOM Alert" App (Regione Lombardia, 2020c). Moreover, massive test screening were conducted: at the national level, the Department of Civil Protection overseen the distribution and implementation of tests on the national territory (Dipartimento della Protezione Civile, 2020); at the local level, Regions (which are responsible for health services' delivery) performed nasopharyngeal and serological tests on different rates, even though, particularly at the beginning, experienced a severe lack of testing material and capacity (Fattore et al., 2020).

During the above mentioned three phases, a number of surveillance techniques were progressively implemented: first, a massive use of thermoscanner was introduced in public spaces (e.g. offices, shops, airports, ports, hospitals), and some regions made it mandatory (e.g. Regione Lombardia, 2020a). Second, *ad hoc* tracking mobile application(s) had been developed and implemented, like the "Immuni" App, developed by the Italian company Bending Spoons in coordination with the Ministry of Innovation and Ministry of Health. The App has been free of charge and without any obligation for its use; it uses the Bluetooth technology (Biddle, 2020; Zinzocchi, 2020b) to register in an anonymous way the codes from the devices it is closed to (Pennisi, 2020b). Moreover, other mobile applications had been development, e.g. "Protetti" and "SM_COVID19" (NoiOpen Community, 2020; SoftMining, 2020), notwithstanding the concerns of the Italian Data Protection Authority, which has warned against the "proliferation of [...such] initiatives [...], which are hardly compatible with the current legal framework of reference" (Garante per la protezione dei dati personali, 2020b). Mobile surveillance techniques included also the use of cell phones: suffice to briefly recall that in March 2020, Vodafone produced an aggregated and anonymous heat map for Lombardia that visualized population movements (Vodafone, 2020).

Some regions and municipalities also released local mobile applications to monitor the spread of COVID and citizens are invited to cooperate: for example, in Lombardia, citizens could fill in health questionnaire (in anonymous way) through the "AllertALOM" App, and data were sent to health authorities (Regione Lombardia, 2020c). Another telling example comes from the municipality of Rescaldina (in the province of Milan), where the "1SAFE" App allowed citizens to report situations where the measures were not respected (Comune di Rescaldina, 2020).

The use of mobile applications during the pandemic situation raised some privacy issues. In this respect, based on the favorable opinion from the Data Protection Authority (Garante per la protezione dei dati personali, 2020b), Legislative decree No. 28 of 30 April 2020, which regulates the use of the "Immuni" App, also addresses the relevant privacy issues, in accordance with the existing regulation (Legislative Decree 101/2018, transposing the EU regulation on data protection): the app is not mandatory (Article 6(4)) and uses a decentralized system of collecting data in an anonymized way - which does not include personal data including sensitive data (Article 6(2b); Ministero dell'Innovazione, 2020). Even though such characteristics helps in preserving the right to privacy,

some questions remained still unanswered; for example, Legislative Decree 28/2020 does not specify how many subjects/entities will have access to the data collected by the app; another possible issue concerns the anonymization of data: since anonymized data can be combined with other data to re-identify individuals (Thompson and Warzel, 2019; Harrison, 2020), it would be necessary for the government clearly prohibit the practice of “re-combination” of anonymized data. Article 6(2d) of Legislative Decree 28/2020 states that the Ministry of Health will ensure that “adequate measure [will be taken] to avoid the risk of re-indentification of the owners of the data that have been pseudonymised”; however, it does not expressly prohibit the re-identification practice, and does not refer to anonymized data. Moreover, the government has not specified which cybersecurity safeguards will be adopted in order to mitigate the risk of security and data breaches (Pennisi, 2020a). Another important question is whether the “Immuni” App will be the only mobile application in Italy or whether it will be operative together with the other mobile applications that have been being developed (and partly implemented). These mobile applications use different data storage systems (for example, the SM_COVID19 allows the use of geo-location data collected through the GPS system, which has been expressly excluded by Article 6(2c) of Legislative Decree 28/2020); the use of such applications may pose some problems with respect to the right to privacy and data protection of the users. As already recalled, to date, the Data Protection Authority has simply warned against the proliferation of different initiatives similar to the “Immuni” App and it remains to be seen whether the governmental authorities will take some decisions in this respect.

Other privacy concerns have been raised on the way personal data are processed in health care sector, clinical trials and medical research, or by public and private employers or by schools: the relevant legislative decrees allow the processing of personal data to the extent it is useful to monitor the spread of COVID-19, with the supervision of the Data Protection Authority (Garante per la protezione dei dati personali, 2020a).

3. Challenges to the Italian economy

3.1 Pre-COVID-19 situation: privatization processes from the 90s

Italy is described as the "third-largest economy in the euro zone [with...] exceptionally high public debt and structural impediments to growth [which] have rendered it vulnerable to scrutiny by financial markets" (CIA, 2022). Italy is the second largest manufacturer in Europe and stands in the top five list of manufacturers in the world (Ministry of Economic Development, 2022).

In Italy, economic development is quite different according to the regions of reference: while northern regions are more developed and host many industries and private companies, southern regions tend to be less-developed, with a higher rate of unemployment. Overall, the strengths of the Italian economy are its metallurgical and engineering industries, along with the chemical sector and textiles, while it generally lacks raw materials and energy sources. Additionally, the services sector, particularly tourism, is also very relevant (Britannica, 2022).

Until the beginning of the 1990s, the Italy had a long tradition of state ownership. Then, starting from 1993, a wide privatization program began, which was mainly aimed at fiscal stabilization as a prerequisite to join the European Monetary Union (Barucci and Pierobon, 2007). The objectives of the privatization program were well explained in a document drafted by a Committee of independent experts appointed by the Ministry of Economy and presented before the Parliament on November 1992, the Green Book on the Participations of State (*Libro Verde sulle Partecipazioni dello Stato*). According to the Green Book, the main objectives of the privatization were (1) to enhance the competitiveness of the economic system, (2) to promote financial development in the market, and (3)

to foster the internationalization of the national companies – with the inclusion of foreign investors (Bortolotti, 2005).

The privatization process included several steps. First, the government considered the immediate divestiture of State banks, in order to allow a more competitive financial sector, which would promote economic growth. During this phase, privatized banks tended to develop a set of investment banking services which were used as input in the privatization of nonfinancial firms. Second, the governments opted for public offers of shares, which were moderately underpriced in order to foster the participation of domestic investors. Third, the government introduced golden shares mechanisms in a small number of companies that it considered as being strategic for the national economy; such mechanisms were aimed to maintain (partial) public control in privatized companies, which would in turn allow the preservation of the relevant public interests (Bortolotti, 2005).

This process was implemented through major legislative regulations, which included privatization laws, which established rules, responsibilities, and procedures to regulate the practical implementation of the privatization process (e.g. Law No. 359 of 5 August 1992 and Law n. 474 of 30 July 1994) as well as new competition regulatory framework that would avoid competition distortions and new rules for regulating corporate governance – with the aim to improve the legal protection of minority investors – (e.g. Law 281 of 14 July 1995 and Legislative Decree 58 of 24 February 1998) and new rules for the financial sector (e.g. Law 218 of 30 July 1990) (Bortolotti, 2005).

Nowadays, the private sector is mostly characterized by a multitude of small companies, with businesses with fewer than 50 employees representing more than half of total firms (Barucci and Pierobon, 2007).

3.2 Post COVID-19 situation: protectionism on the rise?

The above mentioned emergency measures adopted by the Italian government had a grave impact on the Italian economy. In order to mitigate the negative effects of the pandemic measures, the government adopted a number of extraordinary containment measures that were aimed to support the national economy.

In particular, the three major regulatory interventions by the Government were the following: (1) Decree Law no. 18 of 17 March 2020 (so-called “*Decreto Cura Italia*”/Cure Decree); (2) Decree Law no. 23 of 8 April 2020 (so-called “*Decreto Liquidità*”/Liquidity Decree); and (3) Decree Law 19 May 2020 no. 34 (so-called “*Decreto Rilancio*”/Raise Decree). The relevant measures that have been adopted included different forms of financial support to companies: Decree Law no. 18 of 17 March 2020 (Cure Decree) provided mainly for financial support measures for small-medium enterprises (SMEs), which were allowed to ask banks or other financial institutions to postpone/suspend the repayment of loans (until 30 September 2020); Decree Law no. 23 of April 8, 2020 (Liquidity Decree) included measures that facilitated access to credit and tax obligations for businesses. Lastly, Decree Law 19 May 2020 no. 34 (Raise Decree), targeted both families and businesses, with a view to strengthen the Italian economy; in particular, it foresees the creation of a special fund, the so-called *Patrimonio Destinato di Rilancio*, amounting to Euro 44 billion and financed by assets provided by the Italian Ministry of Economy and Finance. According to Raise Decree, the resources of the fund should be used to support Italian joint stock companies (including cooperatives and listed companies).

One peculiar feature of the economic measures adopted by the Italian Government has been the tendency to protect the national economy in general and the Italian strategic sectors, in particular. Accordingly, an increasing number of measures have been adopted with a view to strengthen the Italian

regime of control on foreign direct investments (FDI) in the country – in order to avoid hostile foreign takeovers of national companies. In this regard, the Italian Government adopted the Decree Law no. 23 on 8 April 2020, which broadens its screening powers over FDI. Then, with Decree Law no. 21 of 15 March 2012 (the so-called “Golden Power Law”), the Italian government reinforced its power to prohibit or impose restrictions/conditions to an investment by foreign persons in certain strategic industries. The main aim of all these measures were well summarized by the then Italian deputy economic minister, who stressed that Italy will not “become someone’s shopping territory” (Reuters, 2020).

4. Concluding remarks

The Italian government and local administrations have adopted a series of surveillance measures during the COVID-19 pandemic, ranging from a progressive national lockdown to a progressive easing of the restrictions. The legislative acts, circulars and orders adopted have resulted in a very fragmented legal framework, in manifold aspects of the society (security, economy etc.). Though inconsistent messages have come from politicians and experts, citizens have followed the strict emergency rules, as confirmed by the studies that have been undertaken. And indeed, Italy has also been praised at the international level for the measures adopted and enforced (Scevola, 2020).

Overall, after the first 100 days of the pandemic, we see (a) new face(s) of Italy, with manifold challenges, ranging from more concerns on the privacy side when it comes to surveillance and security, and new forms of intervention of the state in the national economy.

It remains to be seen how these challenges will be addressed in the forthcoming months, and to what extent the (new) regulatory framework introduced with the pandemic will be kept in force also beyond the state of emergency.

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