



# Gatti Pavesi Bianchi

COVID-19 Update  
THE SO-CALLED “RILANCIO DECREE” -  
ENERGY, UTILITIES & INFRASTRUCTURE

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5 June 2020

## ENERGY, UTILITIES & INFRASTRUCTURE

Law Decree no. 34 of 19 May 2020, published in Official Journal No. 128 of 19 May 2020 (the so-called "*Rilancio Decree*"), introduced various measures in different fields in order to overcome the COVID-19 epidemiological emergency, support businesses and, more in general, the economy of the country.

The *Rilancio Decree* also covers additional measures relating to the infrastructures and transport sectors (i.e. highway, air, sea, rail, local public transport, etc.) and to the energy field. A brief illustration of the provisions adopted in these sectors is described below.

Please note that the *Rilancio Decree* will need to be converted into law by the Italian Parliament within 60 days after its publication.

### INFRASTRUCTURES AND TRANSPORTS

#### (A) Public works

- In order to ensure the prompt execution of public works, to protect workers and support entrepreneurial activities, Article 201, paragraph 1, of the *Rilancio Decree*, provides for an **increase of EUR 40 million**, for the year 2020, of the dedicated **Fund** provided for by the previous legislation and so-called "*Fondo Salva Opere*". In addition, to facilitate the disbursement of the resources of this Fund in favour of sub-contractors and sub-suppliers, who have sent the contracting authority the documentation proving the existence of their credit at a specific date (January 24, 2020), it is allowed that the Ministry of Infrastructure and Transport does not carry out checks on the regularity of social security and tax contributions. Therefore, the payment is allowed even where the beneficiary is in default regarding obligations to pay as a consequence of collection notices.
- With a view to increasing support liquidity to companies, Article 207 provides that in relation to public procurements subject to legislative decree 18 April 2016, n. 50 ("**Public Contracts Code**"), whose notices, have already been published on the date of entry into force of the *Rilancio Decree*, the **amount of the price to be paid in advance** by the contracting authority to the contractor, pursuant to Article 35, paragraph 18, of the Public Contracts Code, can be **increased by up to 30 percent** (compared to the previous limit of 20%). The abovementioned anticipation must be returned if the execution does not proceed in accordance with the contractual timeframe, due to delays attributable to the beneficiary.
- With the same view of aiding the economic recovery, Article 65 introduces the **exemption from paying the contribution due to the Anti-Corruption Authority** by contracting authorities and operators, in relation to public procurements initiated at the entry into force of the *Rilancio Decree* and until 31 December 2020.

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## (B) Transports

### i) Local public transport

- To support the local and regional public transport sectors subject to a public-service obligation in view of the negative effects arising from the COVID-19 epidemiological emergency, Article 200 establishes, under the Ministry of Infrastructure and Transport, a **Fund**, of **EUR 500 million** for the year 2020 to compensate the reduction in tariff revenues from passengers in the period from 23 February 2020 to 31 December 2020 compared to the average tariff revenues from passengers recorded in the same period during the previous biennial. In addition, some measures are foreseen in order to promote alternative forms of sustainable mobility to the local public transport which guarantee the right of mobility of people in urban areas in view of the limitations, established to face the emergency, on local public transportation and rail transport<sup>1</sup>.

### ii) Air transport

- Article 198 establishes a **Fund**, of **EUR 130 million** for year 2020, under the Ministry of Infrastructure and Transport, for the compensation for damages to the aviation industry. At the same time, Article 204 intervenes with regards to the solidarity Fund for the aviation sector and the airport system.

### iii) Maritime and rail transport

- Article 197 provides an expenditure authorization of total **EUR 50 million** for the year 2020 in order to increase resources to stimulate the intermodal transport chain, through the decongestion of the transport both in the maritime sector (the so-called “*Marebonus*”) and in the rail sector (the so-called “*Ferrobonus*”).
- Article 199 introduces measures aimed at supporting port operators and companies operating in ports and, in general, in the maritime sector, also by granting continuity in the operations. For example, the possibility is foreseen of a reduction of the amount of the fees relating to the concessions for the management of maritime stations and passenger support services due in 2020, and the extension for a further 12 months of the duration of the authorizations and concessions in the port area currently existing or expired after January 31, 2020.
- Article 205 provides urgent **measures concerning marine connection** services under a public service obligation between major and minor islands which consist of an extension of the duration of the agreement stipulated for the performance of these services until the conclusion of the procedures referred to in article 4 of the Regulation no. 3557/92/EEC and, in any case, for a period not exceeding beyond the date of 18 July 2021. The effectiveness of this provision is subject to the authorization of the European Commission.
- Article 196 establishes a compensation of EUR 115 million to **RFI**, the company responsible for management and safety of the traffic on the whole national railway

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<sup>1</sup> In particular, Article 229 provides for a “**mobility bonus**” which covers the 60% of the expenditure (and not more than EUR 500) in bicycles, etc., from 4 May until 31 December 2020. In addition, Article 215 introduces refunds for the expenses incurred for the purchase of travel passes for rail and public transport services by commuter travelers.

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network, due to the damages deriving from the contraction of railway traffic. For the same reason, a reduction in access charges is established for the benefit of all railway undertakings involved in the carriage of passengers and goods operating on the national railway infrastructure.

(C) Measures with regards to specific works/operators

i) Highways

- In order to speed up the seismic safety activities and restore the functionality of the *A24 and A25 Roma l'Aquila Teramo* and *Teramo - Pescara* connection, after the seismic events which occurred in 2009 in 2016 and 2017, Article 206 provides for the appointment of an **Extraordinary Administrator** (the so-called “*Commissario Straordinario*”) to carry out the planning, design, assignment and execution of the necessary interventions and who acts in derogation of the provisions set by the Code of Public Contracts.
- Article 214 introduces a yearly EUR 25 million extraordinary contribution, from 2021 to 2034, to ANAS, due to the damages deriving from the contraction of road traffic.

ii) Railways

- Article 208 provides for measures to strengthen certain railway works, such as (i) the high-speed high-capacity lines *Salerno-Reggio Calabria*, *Taranto-Metaponto-Potenza-Battipaglia* and *Genova-Ventimiglia*; (ii) the railway work “*Variante di Riga*” and the rail connection *Bergamo - Aeroporto di Orio al Serio*; and (iii) the laying off a second line *Pontremolese (Parma-La Spezia)*.

iii) Airlines

- Article 202 establishes a new airline (**new Alitalia**) fully controlled by the Ministry of Economy and Finance or controlled, also indirectly, by a publicly owned corporation. The effectiveness of this provision is subject to the authorization of the European Commission. In addition, the norm authorizes a capital contribution by the Ministry of Economy and Finance of EUR 3.000 million.

ENERGY

- Article 119 introduces a so-called 110% *superbonus* for energy and anti-seismic works, providing for a 110% tax deduction, to be divided into 5 annual fees, for documented expenses, incurred by the 1 July 2020 and until 31 December 2021, for specific interventions aimed at increasing the energy efficiency of buildings (the so-called *ecobonus*), the reduction of seismic risk (the so-called *sismabonus*) and for related works relating to the installation of photovoltaic systems and charging columns of electric vehicles. The above measures financed with such a *superbonus* must guarantee the improvement of at least two energy classes or the achievement of the highest energy class, to be demonstrated by means of the energy performance certificate. As provided in Article 121, for such works, afforded during years 2020 and 2021, the proposed tax deduction can be transformed into a contribution of the same amount in the form of a **discount on the invoice by the supplier** who may recover it in the form of a **tax credit transferable** to other entities, including banks and financial intermediaries.

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- Article 30 foresees a reduction of the cost of energy for small- and medium- sized enterprises (SMEs). In particular, there is envisaged a reduction in spending, for May, June and July 2020, incurred by low voltage connected electrical utilities other than domestic use, within a maximum spending ceiling of EUR 600 million, for the year 2020.
  - Article 41 implements urgent measures to grant more flexibility in the white certificates market as regulated by the Decree issued by the Minister of Economic Development on 11 January 2017. In particular, for the purpose of verifying the achievement of the national quantitative energy saving objectives for the year 2019, that must be pursued by electricity and gas distribution companies, the time limit shall be extended until 30 November 2020.

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The Firm assists Italian and international clients in the various practice areas concerning energy, water, transportation, infrastructure and telecommunication sectors, by means of multidisciplinary and transversal consultancies, including corporate and administrative law, public contracts, such as PPP contracts, concessions and public works and services, etc.

We offer assistance to our clients in all stages of development of projects as well as in the relevant financing. We advise several multinational companies which are leaders in the energy sector, in the transport and infrastructure sectors as well as in the telecommunication field.

We assist numerous public and private companies in relation to regulatory and administrative aspects in strategic sectors, including, for example, the s.c. “golden power”. The credibility acquired with the Authority during transactions with a positive outcome is an additional element which qualifies and enables us to provide assistance in the most complex and innovative operations in the energy, infrastructure and telecommunications sectors.

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