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Public-Private Partnerships (PPPs) in Italy

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Public-Private Partnerships (PPPs) in Italy

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RESUMO: Em um continente conhecido por seus altos padrões de bem-estar e serviços públicos, as Parcerias Público-Privadas (PPPs) têm ganhado crescente importância como um mecanismo eficiente para a entrega de infraestrutura e serviços essenciais, ao mesmo tempo em que garantem o cumprimento do Pacto Fiscal da União Europeia.

Este estudo examina o atual marco italiano das PPPs, tanto do ponto de vista legislativo quanto operacional, nos setores de infraestrutura social, como saúde, educação e gestão prisional. Por meio de uma análise das evoluções legislativas sobre o tema, o artigo explica como as mudanças regulatórias influenciaram a estruturação financeira dos acordos de PPP e como são gerenciados os mecanismos de compartilhamento de riscos. Assim, o estudo explora a distribuição dos diferentes aspectos das PPPs entre os setores público e privado.

A pesquisa também analisa o papel de instituições públicas-chave, como o Ministério da Economia e Finanças (MEF), a Cassa Depositi e Prestiti (CDP) e a Autoridade Nacional Anticorrupção (ANAC), na supervisão e no apoio às PPPs. A análise prossegue com a explicação sobre os diferentes stakeholders envolvidos nos projetos de PPP e conclui com as técnicas de financiamento de projetos voltadas para a redução do risco de crédito e o aumento da viabilidade financeira dos projetos.

Os resultados sugerem que as PPPs na Itália contribuíram para facilitar o desenvolvimento ou a renovação de infraestruturas e a prestação de serviços. Por outro lado, ainda existem desafios significativos, especialmente em relação à otimização do custo-benefício e à implementação de mecanismos de pagamento/seguro não diretamente vinculados ao orçamento nacional.

Palavras-chave: PPPs; Infraestrutura Social; Regulação; Legislação; Itália.

ABSTRATCT: In a continent renowned for its high standards of welfare and public services, Public-Private Partnerships (PPPs) have gained increasing importance as an efficient mechanism for delivering infrastructure and services, while ensuring compliance with the EU Fiscal Pact.

This study examines the current Italian framework, both legislative and operationally, of PPPs in social infrastructure sectors such as: healthcare, education and prison management. Through an analysis of

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the legislative developments on the topic, the paper explains how regulatory changes have shaped the financial structuring of PPPs agreements and how the risk sharing mechanisms are managed. Therefore, the study explores the distribution of different PPPs aspects, between the public and the private side.

The research also analysis the role of key public institutions such as the Ministry of Economic and Finance (MEF), Cassa Depositi e Presititi (CDP) and the National Authority Anti-Corruption (ANAC) in overseeing and supporting PPPs. The analysis continues by explaining the different stakeholders related to PPPs projects and finishes by diving into those project financing techniques aimed at reducing credit risk and increasing the bankability of projects.

Findings suggest that PPPs in Italy helped facilitating the development, or renewal of infrastructures and the provisions of services. On the other hand, there are still significant challenges, especially about: the optimization of value for money and the implementation of payments, or insurance mechanisms, not directly associated with the national budget.

Key-words: PPPs; Social Infrastructure; Regulation; Legislation; Italy.

Introduction

A Public Private Partnership is a specific type of concession which involves a long term collaboration between the public sector (such denomination can span from the government until universities) and one or more private entities. The goal of such collaboration is to deliver infrastructure projects and, or public services more efficiently than if those two would have been entirely provided by the public sector alone. With the term more efficiently is intended: cheaper, of a higher quality and with a faster provision.

In a PPP contract the private side share part of the risks associated with the project, among the most significant risks, feature: financial, technical and operational risk. The public side, on the other hand, provides financial support, oversees the project implementation, ensure a correct functioning of the infrastructure or service provision and, gives the private players a framework through which they can operate.

PPPs are used for different type of projects such as: transportation (mainly roads but also railroads and airports), energy, water sanitation... In this paper the focus is on the PPPs regarding social infrastructures. The term social infrastructure includes the following three fields with the related infrastructure projects and ancillary services annexed to them: healthcare, education and prison management.

In Italy the concept of PPP has changed and evolved throughout the years, following the path defined by legislative reforms and new institutional frameworks (among the most important, the ones dictated by the EU). Both EU's directives and Italian legislative frameworks had a role in shaping the regulatory environment for PPPs. In 2014 a new EU directive made significant changes in risk-sharing mechanisms, with the aim of creating a more competitive market by reducing public sector guarantees and increasing private sector's accountability. A few years later this directive had been integrated into the Italian law which defined the fundamental elements of PPP contracts, including performance-based payments, penalties for inefficiencies, and mechanisms for adjusting contracts over time. Throughout the years, further regulations have been introduced such as the one limiting public financial contributions to 49% of the project costs (excluding EU's contributions).

From a practical point of view, the implementation of PPPs in Italy faces some challenges. The public sector is still the one bearing the majority of the project risk, moreover, financial analyses have demonstrated that private partners often achieve disproportionately high returns in PPP-funded projects, raising concerns about the actual value-for-money provided by these contracts (Gatti, 2023; Vecchi et al., 2009). Despite, different problems Italy has a structured and defined framework (legislative and economically), as well as sound institutions, that may allow it to further exploit and implement new PPPs in the future.

Objective

The main objective of this paper is to define the current framework around Public Private Partnerships (PPPs) in Italy, especially the ones related to social infrastructures. More precisely the study aims at explaining the different perspectives, such as: applicability, institutional and financial, through which Italian PPPs in social infrastructure are legislated. The study also goes deeper into the three types of

social infrastructure previously mentioned in order to better explain the scenarios in which these projects take place.

Regulatory Framework for Public-Private Partnerships (PPPs) in Italy:

The elements that distinguish a PPP contract from a normal public procurement are (European Court of Auditor, 2018):

- The payment to the private party is tied to a predetermined performance
- The duration of the contract is generally longer than the one associated with a classic public procurement
- The risks are shared between the public partner and the private one.

In 2014 an EU directive changed some rules about concessions, especially regarding PPPs. The new directive deleted the concept of availability risk. It is important not confusing availability risk with demand risk: the first one regards the functioning of the infrastructure (taking the example of a hospital, it may refer to avoiding blackouts, making sure the elevators work…) while the demand risk is associated with the actual demand coming from the market. Before the directive in question, the public side of the PPP was ensuring a minimum amount of payment in case the infrastructure was not available and more generally freed the private side, almost entirely, from the total project's risk. Such framework entailed two main problems: one of moral hazard from the private investor, and also from the lender who was financing part of the investment, since the majority of the risk was borne by the state (Amatucci et. al, 2019). A second problem was associated with a market distortion: more specifically in some countries, as Italy, some operators ,which were not the most efficient ones, obtained advantages through corruption. This penalized other private players and the whole public system.

The directive introduced the concept of economic risk which entails both the risk associated with the offer and the risk associated with the demand. This directive aims at increasing the risk faced by the private party and reduces the guarantees given by the public sector. Such change has the goal of creating a more competitive market and discouraging moral hazard. Moreover, it incentivizes better and more efficient solutions from the private sector. Such directive was drafted particularly for the health sector since the risk associated with PPPs, in this area, is much more concentrated in the offer risk (so practically how the service is managed and provided) rather than the construction of the infrastructure itself. Consequently, private players are more incentivized to deliver a better service, to avoid losing profits. The directive previously mentioned has been tailored and implemented within the Italian legal system in 2016.

Following the previous directive, the 2018 resolution (resolution n. 318) of the ANAC (Agenzia Nazionale Anticorruzione) about PPPs has been made to allow public institutions to ensure that private players manage the risk in an efficient way. For the ANAC, a PPP contract, to be considered so, needs to have the following features:

- The payment has to be linked to the service's quality and quantity.
- There have to be penalties in case the performances are considered inefficient.
- Optional mechanism to share economic benefits (profit-sharing) and or adapt the contract to the changing circumstances (duration adjustment).

In the document several types of risk, associated to the PPP project, are mentioned:

- Operative
- Construction
- Demand
- Availability
- Other risks (political, expropriation…)

The ANAC's resolution entails also a revision of the Economic and Financial Plan (PEF: Piano Economico Finanziario) with PPPs.

To ensure that the cashflows generated by the project are sufficient to cover all the costs associated with the execution of the contract (this means: the cost for constructing, operating and maintaining the physical infrastructure; the amortization of the capital invested by the private operator and a proper remuneration for this capital; tax payments) the following KPIs are used: IRR (one for the project and one for the shareholders), NPV, Debt Service Cover Ratio (DSCR), Long Life Cover Ratio (LLCR). In 2022 a new resolution (resolution n. 432 from ANAC) set the limit of financial public contribution to 49%, but the non-refundable EU grants are excluded from this 49%, so consequently, they can be used to further reduce the financial investment from the private party.

The resolution of 2018 also specifies that any change in the PEF that can be reconducted to the risk bared by the private party will be rebalanced through charges or compensation at his expenses. In case of a force majeure events then, the economic balance of the PEF will be adjusted to reflect the impact of these events. Despite that, the ANAC specifically says that the additional costs or compensations originated from a force majeure event will be generally managed according to the terms set in the PPP agreement. This means that, according to what have been previously said, it can be assumed that: the majority of the times, the private contractor will be the one facing the consequences of such events.

The allocation of risks between the public and the private party is determined by a risk matrix (Frame 1), that is drafted by the same person who is drafting the PPP contract or, alternatively, it can be drafted by another designated person. Such matrix is then used during the whole PPP's life: before drafting the contract, to evaluate the financial and economic feasibility of the PPP and if it is actually more convenient then a public procurement. The matrix is also used during the auction part to evaluate the different offers and, during the execution phase to avoid the alienation of some risks that originally should have been borne by the private party.

FRAME 1 - EXAMPLE OF RISK MATRIX

Tipo di rischio	Probabilità del verificarsi del rischio (valori percentuali o Valori qualitativi: ades. nulla, minima, bassa, media, alta)	Maggiori costi (variazioni percentuali/valori in euro) e/o ritardi associati al verificarsi del rischio (giorni/mesi, etc.)	Strumenti per la mitigazione del rischio	Rischio a carico del pubblico (SI/NO)	Rischio a carico del privato (SI/NO)	Articolo contratto che identifica il rischio
rischio di progettazione						
rischio di esecuzione dell'opera difforme dal progetto						
rischio di aumento del costo dei fattori produttivi o di inadeguatezza o indisponibilit-à di quelli previsti nel progetto						
rischio di errata valutazione dei costi e tempi di costruzione						
rischio di inadempimenti contrattuali di fornitori e subappaltatori						
rischio di inaffidabilità e inadeguatezz a della tecnologia utilizzata						
rischio di contrazione della domanda di mercato						
rischio di contrazione della domanda specifica						
rischio di manutenzion e straordinaria rischio di performance						
rischio di indisponibilità totale o parziale della struttura da mettere a disposizione e/o dei servizi da erogare						
rischio amministrativo						
rischio espropri						
rischio ambientale/o archeologico						
rischio normativo-politico regolamentare						
rischio finanziario						
rischio di insolvenza dei soggeti che devono pagare il prezzo dei servizi offerti						
rischio delle relazioni industriali						
rischio di valore residuale						
rischio di obsolescenza tecnica						
rischio di interferenze						

Source: Autorità Nazionale Anticorruzione (2018).

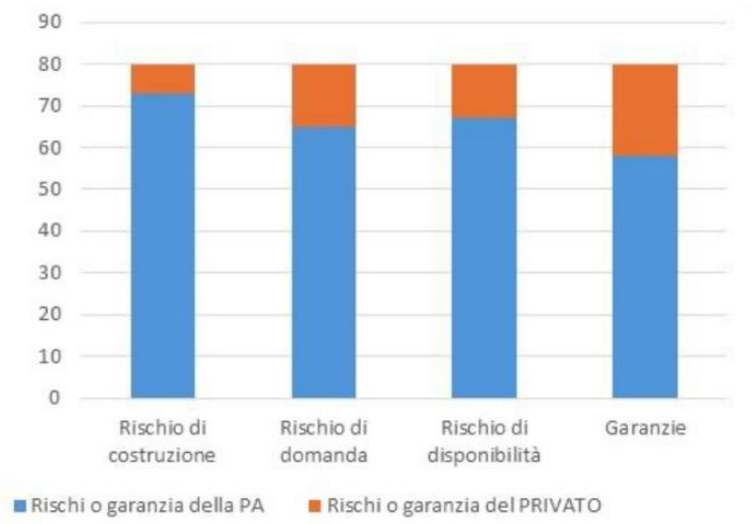
Lastly the resolution specifies how the private party has to communicate the data regarding the performance of the service he is managing. In the document those data are not well specified, it is only said that they should be sufficient to understand if the financial balance of the PPP contract is being maintained or not. Moreover, in the PPP contract there has to be a clause that states that the private party is obliged to communicate those data regularly.

More recently, it has been issued the Nuovo Codice dei Contratti (New Code of Contracts, D.lgs 36/2023), aligned with the EU's Directive 23/2024, which further clarifies the legal nature of PPPs. The new directive classifies PPPs as concessions and also restates the difference between contracts and concessions: which is based on the level of risk (mainly referring to operational risk) faced by the private partner (SDA Bocconi, School of Management, 2023).

The Landscape of PPPs in Social Infrastructure and the related institutions

In the report, called "Relazione sull'attività svolta dal DIPE nell'anno 2023 in materia di Partenariato Pubblico Privato e Finanza di Progetto", from the Italian department for the planning and coordination of the political economy, it is showed the repartition of the risks (in absolute values), in a PPP contract, between the private and the public party. The Figure 1 clearly shows that despite the new reforms, during the past 10 years, the public sector still bears the majority of the risk associated with the project even though the idea behind PPPs was to share a good amount of risk with the private sector.

FIGURE 1 - *RISK DISTRIBUTION BETWEEN PUBLIC AND PRIVATE PARTNERS IN MONITORED PPP CLASSIFIED AS "ON BALANCE" (IN ABSOLUTE VALUE)*

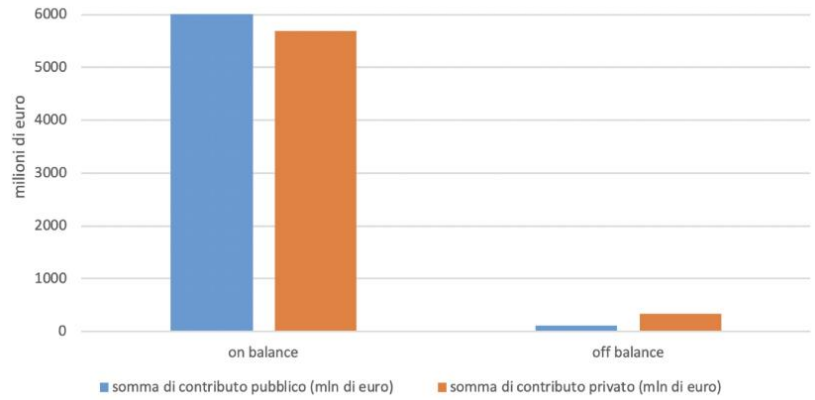


Source: ISTAT (2023).

Despite, the unbalanced repartition of the risk, the amount of money spent by the public and the private party for PPPs projects, it is almost equivalent, for the contracts registered on-balance (this to comply

with the resolution of 2022). While for the ones registered off-balance the financial contribution from the private sector is much bigger than the one from the public (the causality of the source of investment and the profitability of the project may be quite weak). This means that even if the risks of the project are mostly faced by the public side of the PPP, the financing of the project is much more balanced (Figure 2).

FIGURE 2 – *"BREAKDOWN OF THE PUBLIC AND PRIVATE SHARES OF CONTRIBUTION IN MONITORED PPPs CLASSIFIED AS "ON BALANCE" AND "OFF BALANCE"*



Source: ISTAT (2023).

Regard the type of PPPs registered and monitored by DIPE, in Italy, the ones concerning social infrastructures (health, education and management of the prisons) are a slight minority and account only for the 16% of the total of the current active PPPs contracts (DIPE, 2024).

When analyzing the active PPPs projects the available information dates back to 2021, from the European Investment Bank database, more precisely the European PPP Expertise Centre department. Keeping in mind this, at the time, Italian PPPs projects for social infrastructures were divided as follows (EPEC):

- Healthcare: 17
- Education: 2
- Prison management: (abstent)

Moving to which are the public institutions who are involved in the allocation and management of the PPP, they are divided between national, regional and municipal level.

At the national level there are:

- **Ministry of Economy and Finance (MEF):** it oversees PPPs and focuses on financial and statistical reporting. Moreover, it manages a dedicated portal to monitor PPP projects, to ensure

compliance with the financial impact assessments and to provide standardized contract templates for public administrations (Ragioneria Nazionale dello Stato).

- **National Authority Anti-Corruption (ANAC):** it provides guidelines and supervisions to public institutions and private players with the aim of granting the transparency and legality of PPPs contracts. It also verifies that the risk allocation between the different parties of the PPP contract complies with the norms for anti-corruption (Ragioneria Nazionale dello Stato).
- **Cassa dei Depositi e Prestiti (CDP):** it provides long-term loans, at favorable rates, to public entities involved in infrastructure projects. Therefore, it also extends financing to private operators participating in PPPs. It also offers consultancy services to public administration that need help in structuring PPPs contracts (Ragioneria Nazionale dello Stato).
- **Department for the Agenda and Coordination of Economic Politic (Dipartimento per la Programmazione ed il Coordinamento della Politica Economica, also known as DIPE):** it provides legal, technical and financial assistance during the different phases of the PPP. It gathers and monitor data related to PPP projects and can also release preliminary opinions, non-binding, about PPP projects that involve a budget bigger than 10 million.

At the regional level, according to Art. 117 of the Italian Constitution, regions are empowered to manage PPP projects that fall between the category of health and education even though they are obliged to follow national directives and collaborate with national agencies (usually the ANAC and the CDP). Not all regions are managed in the same way, and offices and directories change region by region.

According to the DEPI report of 2024, it is at the municipal level where the public granting authority mostly act. In fact, according to the observed PPP contracts, in Italy, between 2010 and 2023, the 40% of such contracts have been granted by municipalities and second to municipalities there are local health companies and hospitals which features 36% of the total. The third bigger contractor are the regions with 8%. While if taken into consideration the granting authorities that operate at national level, the percentage goes down to 2% (DEPI report, 2024).

PPPs for Health

Focusing specifically on the Italian PPPs' contracts within the health sector it comes out that until now, the vast majority of them was focused on the construction, restructuring and maintenance of structures (Deloitte, 2024). Auxiliary services are often involved as well, but the focus of these projects has always been primarily on providing the infrastructure service (Cruz & Marques, 2012, pag. 97). This can be explained because since 1992 regional health authorities have been given a significant amount of managerial and financial autonomy, consequently allowing for a greater involvement of the private sector. Complementary to these main services, other concessions within the PPPs in the health sector usually included other essential services for the functioning of the infrastructure such as: cleaning, laundry, maintenance of the electric system and also the management of other complementary services (parking, shops and bars).

From a legal point of view the framework of reference, not considering the PNRR due to the complications that Italy is experiencing using those funds, derives from different interministerial decrees. Such decrees reinforced the role of Public-Private Partnerships (PPPs) in Italy's hospital infrastructure by establishing standardized rules for collaboration between public and private entities.

About private and public employees within PPPs in the health sector, the division is structured to ensure efficient management and optimization of resources while preserving public oversight. There is not a fixed formula or law that precisely defines which workers are public and which ones belong to the private sector, but instead the situation changes according to the PPP contract and the type of hospital. Usually healthcare professionals (nurses, doctors, physiotherapists…) are public employees but in some cases, where the services to be provided are not too complex, the employees can be private (Banchieri & Vannucci, 2024). This choice it is mainly dictated by the obligation of these people to adhere to public health standards and ensure the continuity of care. Also, administrative roles are maintained within the public sphere: tasks as patient registration and medical record management remain under public control (Pratici & Singer, 2021). About the private employees who are involved more in the health part rather than in the maintenance of the building and logistics of the infrastructure, usually their duties regard the management of medical equipment and advanced technologies. Moreover, these employees can also provide diagnostic and test services (Banchieri & Vannucci, 2024).

In some situations, workers can be shared between the public and private sectors. Such situation mainly regard: doctors, nurses and technicians who could work in mixed teams under the supervision of both public and private entities.

From a financial standpoint, Gatti (2023) and Vecchi et al. (2009) made a capital budget analysis on the Internal Rate of Return of 14 privately financed hospitals in Italy. They found out that the private partners involved obtained excessively high returns on these projects. Given these results, both authors suggested that PPPs are not the best contractual scheme under the current Italian legislation for healthcare services, in order to maximize the value for money.

The literature on the topic seems to confirm the different logic that PPPs entail, when compared to traditional methods. Bundling contracts throughout the project life cycle reduces the likelihood of the public administration encountering ex-post cost overruns, but the risk-sharing mechanism among the different private parties involved in the project requires a higher ex-ante cost. The equivalence of these two factors does not unequivocally indicate the existence of value-for-money for public administration when opting for PPPs. Furthermore, private partners seem to be able to extract excessive value from PPP-based projects.

PPPs for Education

Regard the PPPs about education the Italian government started to promote them in 2012 through the legislative decree n. 5. The main objective was to improve school infrastructures because they were regarded as essential elements to reduce public expenditures, while at the same time, optimizing the educational environment. It has also to be kept in mind that this decree has been signed in a period when Europe was coming out of the 2008 financial crisis and went straight after into the 2011 debt crisis. Public expenditures were crucial for pushing growth back up and, in order to face the harsh conditions

of those years, the Italian public expenditures on education had consistently shrunk (De Mara & Di Piazza, 2014). Years later, under better conditions, Italy took another step forward in promoting PPPs in the education sector. Such incentives have been carried out through the ministerial decrete n. 213, 2024. Through the decree, a working group was established and tasked with drafting an operational manual regarding the use of the Public-Private Partnership (PPP) instrument in the field of school infrastructure. Lastly through the PNRR (Piano Nazionale di Ripresa e Resilienza): the investment plan made with a combination of EU and national funds to counter the negative economic effects of COVID-19, the use of PPPs has been encouraged for the construction and improvement of school infrastructures.

Before moving on to the distribution of the employees between private and public within the PPP in education, it has to be clarified the following concept. Education in Italy is predominantly public (Eurydice, 2025) and the level of teaching between private and public is very similar. Within the private institutions that manage education, there is a further distinction: scuole paritarie (means they are recognized by the state and follow the national program of education decided by the ministry of education), these schools receive state funds, and scuole non paritarie. The last type does not receive funds from the state and is free to set its own teaching agenda. Explained so, it is clear that the scuole non paritarie are not eligible to participate in PPPs while scuole paritarie are (Ministero dell'Istruzione, 2024). The decree law n. 62/2000 reinforces the concept that even though scuole paritarie are allowed to independently hire the teachers, those people need to satisfy specific requirements dictated by the government. This is important because based on which type of school takes part in a PPP contract (fully public or paritaria), the teachers and professors may be public or private employees. Specified that, in most of the cases teachers and professors, within public funded institutions, are public employees. It is likely that, as for the health sector, the administrative functions such as student registration, record management… remain public. This information come from my experience; moreover, usually people employed in cleaning services for school are public employees as well (Contratto Collettivo del Lavoro per il personale ATA).

Private employees are usually allocated in the following areas: facility management, cafeteria services and, if there are any, management of technological infrastructure. Private employees are present in some extracurricular programs (Eurydice, 2025).

PPPs for Prison Management

Looking at the PPPs in prison management, it is mandatory knowing the following things. In 2013 the European Court of Human Rights exposed Italy for the "chronic malfunctioning of its penitentiary system" (Justice Trend, 2019). After this event some reforms have been implemented and the government tried to make some changes. The most important one, about the infrastructure itself is the decree-law n.123 of 2018 that had the goals of: modernizing the penentiary system (with a specific focus on healthcare and medical assistance within prisons), strengthening rehabilitation efforts, and introducing alternatives to incarceration for minor offenses (Gazzetta Ufficiale Republica Italiana). The law n. 112, emitted in 2024, involved the management of the infrastructure, but was more focused on ensuring the respect of human rights and enhancing rehabilitation programs (Gazzetta Ufficiale Repubblica Italiana). Said so, prison management is a topic often forgot by the Italian politics and it is almost entirely managed by the public sector. However, despite limited, there is a level of private sector

involvement that is concentrated mainly in non-custodial services. Non-custodial services can include: vocational training, rehabilitation programs, and facility maintenance. For example, cooperatives, private companies, and non-profit organizations collaborate with the prison system for work reintegration programs and external probation services. Said, so there is an exception represented by the Bolzano prison, even though this project is not listed among the active Italian PPPs listed by the European PPP Expertise Centre department. Through a private investment of 36,18 million (67% of the total) the Inso group won the concession and obtained a contract of 18 years (of which 2 years and three months should be dedicated to the construction of the facility) (Il sole 24 ore, 2015). The private contractor, beyond the construction of maintenance of the infrastructure, will also be responsible for the following services: cafeteria, sport activities, recreational activities and training activities (including giving the prisoner a job) (Il sole 24 ore, 2015). Said so, this is an isolated case and can be explained through the special status that the Bolzano province has. Within the Italian constitution Bolzano, perhaps, is the province with the greatest autonomy in the entire Italian territory and it is likely that such autonomy contributed to the realization of this project.

PPPs Project Finance

The Italian framework for granting payments to private players involved in PPP projects include the following elements.

Based on the PPP project the Italian government can give guarantees associated to public funds. These guarantees can be:

- Loan guarantees: the government can provide a guarantee over a portion of the private partner's debt. Since the majoirty of PPPs have no or restricted claims over the creditor's assets, this system allows the lenders to recover at least a part of the investment (Ministero dell'Economia e delle Finanze, 2015).
- Refinancing guarantees: this type of guarantee applies to the case in which the financing of the project has a shorter term than the PPP's contract, or at least of part of its cash flows. The government in this case can step-up and guarantee the possibility to refinance the debt when it matures. More than the availability of funds, this mechanism ensures that the debt can be refinanced at good terms (Ministero dell'Economia e delle Finanze, 2015).

Another guarantee, even though it is not explicitly said how it is performed, regard the construction risk. Even though in the last decade Italy began a path to transfer more project's riks to the private side, the construction risk still remains mostly bared by the public side (Italian Department for the Planning and Coordination of the Political Economy).

Minimum revenues guarantees: those are not present in all PPPs. If the the project does not feature a big involvement (both in the financing and pruchasing perspectives) from the public part, then the demand risk is mostly bared by the private players. In such case, usually, there are no guaranteed payments for a minimum traffic level, on the other hand, often there are clauses for the sharing of extra

profits, if they are above a predetermined expected value. In case of PFIs, in which the public authority is the main buyer of the services, there is a minimum threshold that the grantor/s guarantee in case there is a severe lack of demand (Ministero dell'Economia e delle Finanze, 2015).

The Italian frameworks for PPPs, to increase their bancability, provides some sort of protection to the creditors of the PPP project. The lenders involved in a PPP project (especially banks and financial institutions) have a special priority claim over movable assets owned by:

- Concessionaries
- Special Purpose Vehicle
- PPP and General Contractors

This special priority means that the lenders who have this right gets paid before other creditors in case of bankruptcy of the debtor. Moreover if the assets tied to the special claim were to be sold, the lenders prviliges could be ennforced to the new buyer, or alternatively the lenders could recevie their share through the sales proceedings of those assets (this measure is present within the Italian legislative framework but it is not 100% clear to which extent it applies to PPPs).

Another apsect made to improve the bancability of the project, even though I was not able to find to which extent it applies to PPP projects, is the possibility of pledging the SPV's current and future revenues as loans' collateral, or, alternatively, they could be assigned to the lenders in forms of guarantees. It is important to notice that the last case can be implemented even without the debtor's consent and if this happen the public side of the PPP, who is responsible for paying the service, can't block the operation (Baker McKenzie).

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