



# DISASTER RECOVERY AND RECONSTRUCTION IN ITALY

**A Legal and Policy Survey**



Croce Rossa Italiana

**+CIFRC**

*Disaster Law*

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## Methodological note

The information presented in this report is current as of June 2022. The lack of official translations of most Italian legislation cited in this study required translation by the author. Although this was done as faithfully and attentively as possible, any possible discrepancy as well as any other errors or omissions, are to be attributed solely to the author.



# Executive summary

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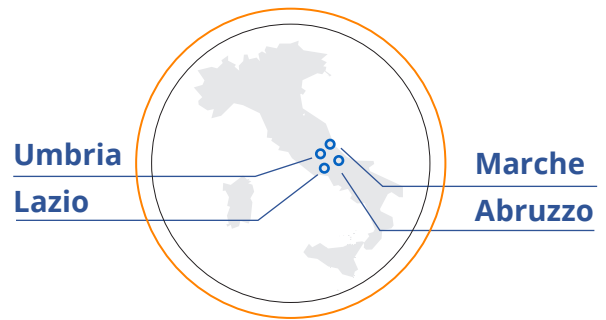
Italy is a particularly fragile country that is exposed to many types of geophysical and meteorological hazards.<sup>1</sup> However, seismic events like earthquakes represent the country's main source of risk and have historically influenced the development of the Italian disaster management and civil protection systems. This study aims to analyse the overall features of the Italian post-disaster recovery and reconstruction model as well as the factors that affect how it is implemented – particularly those in play today.

The survey of the seismic crisis that hit central Italy between the end of summer 2016 and the beginning of spring 2017 is particularly fit-for-purpose in this sense. These earthquakes are not only the most recent major disaster to affect the country but are also 'old' enough to make it possible to evaluate the efficiency of the existing Italian normative and institutional system. This system is complemented by special regulatory acts progressively issued over the last six years to regulate the recovery and reconstruction processes, with the latter being ongoing at the time of writing.

According to the current legislation in Italy and, in particular, the Civil Protection Code adopted in 2018, civil protection functions include removing obstacles to resuming normal living and working conditions, as well as restoring essential services and reducing residual risks in the areas affected by disasters. These functions are not assigned to a single administration, but rather envisaged as an integrated system made up of public and private entities, with central and territorial structures constantly working to ensure coordination and consistent operativity. This system is based on the principle of subsidiarity, meaning that the first response to the emergency, whatever the nature and the extent of the event, must happen at local level, starting from the municipal structures.

At the same time, as part of the post-emergency phase, a 'delegated commissioner' can be appointed by national authorities to manage the subsequent reconstruction phase (both physical and economic). Endowed with extraordinary powers and resources, and supported by dedicated administrative and technical staff, the delegated commissioner is the senior representative, firmly placed at the centre of the many different issues that come with reconstruction projects in involved territories. As part of this process, regional governments – while conforming with involved municipalities – provide the necessary assets and regulate the functions of their technical offices, which cooperate with the delegated commissioner. This institutional and normative framework is complemented and adapted to the unique reality of the situation by ad hoc secondary legislation, mainly so-called 'ordinances', the key regulatory acts that set up and regulate the extraordinary measures for the post-emergency phases.<sup>2</sup>

Against this backdrop, extensive desk-based research and consultations with institutional stakeholders, including experts from the Italian Red Cross, helped to identify the critical factors in the recovery and reconstruction processes as well as to develop related recommendations on normative advancements to address them. These include measures to help restore essential services in small and very small municipalities; to transition from recovery to reconstruction; to standardize and simplify existing primary and secondary norms; to regulate special and derogatory powers; to reduce hindering factors in complex and multilevel governance systems, as well as 'signature phobia' and administrative reticence; and to steer private behaviours to avoid waste, mitigate future risks and ensure long-term sustainability.



# 1. Introduction

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This report forms a key part of a wider research project on ‘Law and Disaster Recovery and Reconstruction’ conducted by IFRC Disaster Law and based on a previous literature review<sup>3</sup> on the topic. The wider project aims to identify and collect existing regulatory models to inform the development of a set of evidence-based recommendations on how to improve domestic legislation in the sector. This is in line with the overall mission of IFRC Disaster Law – to provide technical support to governments on the development of effective disaster risk management (DRM) law, in coordination with National Red Cross and Red Crescent Societies. In particular, the work on recovery and reconstruction fills a gap in the set of advocacy tools developed by IFRC Disaster Law over the last few years<sup>4</sup>.

The study focuses on Italy and builds on both a desk-based survey of relevant legislation on recovery and reconstruction and a series of consultations with key institutional stakeholders. It was not possible to collect and describe all normative acts that may be relevant for the activities carried out during recovery and reconstruction in this study. Such a gigantic mapping effort would not help to achieve the report’s main goal, which is to identify good practice, main obstacles and potential recommendations based on the Italian legislative and institutional model. Instead, the study looks at how different regulatory acts issued by different bodies can effectively be combined and implemented as part of an overall system of post-disaster governance.

Italy is a particularly fragile country, in geophysical and hydrometeorological terms, being exposed to multiple types of disasters. However, as described in **section 2**, seismic events have always been the main threat to the country. In turn, **section 3** illustrates how destructive earthquakes have historically influenced the development of the Italian disaster management and civil protection systems. **Section 4** then describes the overall features of the Italian model of recovery and reconstruction, focusing on the factors affecting how it is implemented today. Although distinguishing between the concepts of ‘recovery’ and ‘reconstruction’ is not easy from a theoretical or a practical perspective – as they partially overlap in practice, so that reconstruction is often considered part of recovery – the specificities of the Italian model motivated the choice to address them distinctly.

Hence, the seismic crisis that hit central Italy between summer 2016 and spring 2017 is used as a case study in **section 5**. This event is particularly fit for purpose, being the most recent major disaster affecting the country. But it is also long enough ago to make it possible to evaluate how the existing legislative system, complemented by special regulatory acts issued over the last six years, influenced the recovery and reconstruction processes. The latter of these is still ongoing at the time of writing.

The extensive consultations with institutional stakeholders represent an added value of this report, which also includes a dialogue with the Italian Red Cross, whose role in post-earthquake reconstruction has gained prominence in the last few years (**section 6**). Indeed, the consultations informed the identification of a considerable number of critical factors in the recovery and reconstruction processes, as well as the development of a list of related recommendations on normative advancements to address them (**section 7**).

The hope is that the results of this study, based on the Italian experience, will inform in a useful and productive way future legislative advancements in other countries, enabling a quick and effective return to normality for those people affected by disasters in every part of the world.

## 2. Italy's disaster risk profile



Italy is prone to both natural and human-made hazards, with geophysical events like earthquakes and meteo-hydrogeological hazards being the main sources of risk.<sup>5</sup> Other potential threats of varying scale come from volcanic activity, tsunamis, wildfires, industrial and chemical accidents, and the presence of nuclear plants in neighbouring countries.

In fact, Italy is the most earthquake-prone country in Europe, as evidenced by the number and intensity of seismic events recorded in the country in the last 20 years.<sup>6</sup> This is because the country is located on the edge of the convergence between two large tectonic plates, the African and the Eurasian. Their relative movements lead to the accumulation of energy and deformation that are occasionally released in the form of earthquakes. Their destructive impact, mainly concentrated in Apennine areas and on the Tyrrhenian volcanic belt, is amplified by a high-population density in the areas of risk, as well as fragile infrastructure and a lack of accurate perception of the levels of danger by most of the population.<sup>7</sup>

Hydrogeological instability is the second major disaster risk. Italy is one of the European countries most affected by landslides, especially rapid phenomena (e.g. rockfall, mud and debris flows) due to intense rainfall, persistent precipitation and earthquakes. These can be characterized by high velocity, up to a few metres per second, and high destructive power, often with serious consequences in terms of loss of human lives, injured and evacuated people, and damage to buildings, cultural heritage and transportation infrastructures.<sup>8</sup> Floods are also very common, in a magnitude that depends highly on structural risk factors such as population density, urbanization, illegal construction, logging and inadequate maintenance of riverbeds.

Although less frequent, other natural events represent a serious risk for Italy. For instance, being the only volcanically active country in mainland Europe, volcanoes – both active (two) and dormant (nine) – expose part of the population to a certain level of risk.<sup>9</sup> Likewise, earthquakes and active volcanoes are both potential causes of tsunamis, especially for the coastline and islands in the southern regions. In the summer months, when aridity, high temperatures and strong winds evaporate a part of the water normally retained by plants, there is also the risk of wildfires. This is particularly relevant considering that about 30 per cent of the country is made up of forests, which provide immense wealth for the environment and economy, the territory's equilibrium, and conservation of biodiversity. Yet, tens of thousands of hectares of woodlands are burned every year due to wilful or culpable fire, linked with building speculation, neglect and carelessness of humans.<sup>10</sup>

The Italian population and environment are also exposed to risks from the industrial activities of factories using or keeping chemical substances for their production processes. The effects of potential industrial accidents or malfunction depend on the types of chemicals involved, how concentrated they are, the period of exposure and the quantity absorbed. Effects on the environment are linked with contamination of soil, water and atmosphere by toxic substances. Industrial risk in Italy is mainly posed by chemical or petrochemical facilities – concentrated in northern regions – and liquefied-gas storage facilities spread throughout the country.<sup>11</sup>

Finally, despite the 1987 ban on the use of nuclear energy for peaceful purposes by popular referendum, and the subsequent closure of nuclear power plants in Italy, the attention on nuclear risk remains high, especially due to the presence of nuclear plants in foreign countries, less than 200 kilometres from the national border (i.e., France, Germany, Slovenia and Switzerland). To this end, a national plan of protective measures against radiological emergencies is in place and defines the operational procedures to manage the flow of information between the various parties involved in line with international and European law.

# 3. The Italian legal framework for disaster management

## 3.1 Historical overview



The concept of civil protection as an expression of solidarity, collaboration and civic sense has ancient roots in Italy's history, with the first humanitarian relief organizations even predating the unification of the country in 1861. Still, the post-unity legislative framework in this sector remained fragmented and unsystematic for a long time, limiting itself to planning interventions for catastrophic events or only addressing specific subjects. Over the decades, civil protection interventions usually stemmed from the ad hoc ordering powers

of local representatives of the central government (i.e. prefects) and mayors and were implemented through military and security personnel.

The first 'organic' law on relief was the Royal Decree number 1915 (2 September 1919) which established a set of rules on emergency services in the event of disasters, although mainly concerning earthquakes. The Minister of Public Works was responsible for managing and coordinating relief by all the involved civil and military authorities. Not until April 1925 was a more comprehensive law on civil protection created (Law 473) giving the Civil Engineering Department of the Ministry of Public Works responsibility for relief activities, with the aid of the health services.

In the second half of the 20th century, two major events – the Florence flood (Tuscany) in 1966 and the Belice Earthquake (Sicily) in 1968 – dramatically highlighted the unsuitability of the Italian relief system and the lack of adequate coordination, monitoring and preventive mechanisms. Moreover, in the Belice case, reconstruction activities were criticized as the local population was resettled far from town centres, thereby disrupting local customs and traditions. These events led to a gradual institutionalization of disaster management in Italy that started in the 1970s. In this phase, the Italian legal system formally assimilated the concept of 'civil protection' and specified for the first time the notions of 'natural calamity' and 'catastrophe'.

While the governance model of the time tasked 'commissioners for emergencies' and decentralized administrative bodies to assist the people affected by the emergency 'to the return to normality', its main focus remained on the emergency phase. A noteworthy practice in terms of reconstruction was recorded in response to a catastrophic earthquake that struck the region of Friuli Venezia Giulia in 1976. Mayors in every town ran 'operative centres' – one-stop-shops for affected people that were made up of representatives of public and private stakeholders and given operative powers. The 'Friuli model' also gave a key role to the regional and local administrations, and primarily aimed to restore the social and civil tissue of affected territories based on the formula 'how it was, where it was'.

In the early 1980s, the Civil Protection Department (CPD) was set up as a component of the Presidency of the Council of Ministers. The CPD was designed as a more streamlined, extra-ministerial structure capable of coordinating all the institutional, technical and human resources needed for each different emergency. Its mission included studying the causes of calamitous events and related preparedness measures, but also restoring 'normal life and activities'. However, it was only in 1992, with the adoption of Law 225, that the variety of civil protection activities was subsumed into a national network of entities forming a proper Civil Protection Service (CPS).



According to this new and more consistent law, civil protection functions were not assigned to a single administration, but rather envisaged as an integrated system of public and private entities, with national and local structures each operating to ensure consistent operativity throughout the country. This system was based on the principle of subsidiarity, meaning that the first response to the emergency, whatever its nature and extent, must be guaranteed on a local level. Therefore, mayors were (and still are) the first line of response for managing and coordinating relief as well as assisting the population and organizing the available resources according to agreed emergency plans to counter specific risks on their territories.

### 3.2 The civil protection system today



Italy is a unitary state characterized by strong regionalism. A 2001 constitutional reform has consistently expanded regions' autonomy and powers, devolving them a wide range of legislative powers across many fields of governance.<sup>12</sup> This multilevel administrative system is regulated by the principles of subsidiarity (meaning the administrative functions shall be carried out at the most local level of government that they can be), adequacy (local government capacities need to be adequate for the administrative functions attributed

to them) and differentiation (the administrative functions shall be allocated taking into account the different characteristics of the involved entities).

Meanwhile, a series of legislative reforms took place in the 1990s and 2000s that alternately expanded and contracted the scope of action of the CPD. This scope ranged from its strictly emergency functions to the broader management of issues including post-disaster reconstruction. The normative framework regulating the Italian CPS was reorganized in 2018 when a new Civil Protection Code (hereafter 'the Code') was adopted.<sup>13</sup> This was envisaged as a unified and simple text pulling together and substituting all previous legislation regulating the sector. From 1992 to 2018, Law 225 had been modified and integrated by numerous subsequent laws and other types of legislation, also concerning sectors only indirectly related to post-disaster reconstruction.

The Code, which was rapidly completed and adopted when the earthquakes occurred in Central Italy, reiterated the main features of the Italian CPS. These included its polycentric and multilevel nature; the guiding principles of subsidiarity, adequacy and differentiation as the main criteria for allocating civil protection competencies; and the three-way classification of calamitous events as:

- a. emergencies connected with disasters of natural origin or resulting from human activities that can be dealt with through actions implemented by individual entities and administrations ordinarily competent ('type a');
- b. emergencies connected with disasters of natural origin or deriving from human activities which – by their nature or extent – involve the coordinated intervention of several bodies or administrations, including regions and autonomous provinces ('type b'); or
- c. emergencies of national importance connected with disasters of natural origin or deriving from human activities that, due to their size or intensity, must receive immediate intervention and with extraordinary means and powers ('type c').<sup>14</sup>

The Code specifies that the CPS' main components are the state, the regions, the autonomous provinces of Trento and Bolzano<sup>15</sup> and the local administrations (i.e., municipalities), according to their respective legal systems and competencies. The President of the Council of Ministers ('Prime Minister') – in his/her capacity as national civil protection authority and holder of relevant policies in this field – coordinates and oversees the activities of all public entities involved. This happens in coordination with the Head of the CPD who is in charge of operational issues.

Hence metropolitan mayors and presidents of the regions, as territorial authorities of civil protection, promote, supervise, integrate and coordinate relief activities through their civil protection offices and structures. In practice, subnational authorities, exercising their respective normative and administrative powers, usually play a key role in overcoming the emergency phase, regulating for instance the organization of civil protection systems in their respective territories, including enabling a return to normal living conditions.<sup>16</sup>

The Code also introduced some new normative elements. These included giving greater prominence to prevention activities such as dynamic studies of possible risk scenarios and expanding the concept of ‘non-structural prevention’ (i.e. activities such as alerting and disseminating civil protection knowledge and related ‘behavioural rules’). As for the management of national emergencies, extraordinary measures can now be activated before a state of emergency has been declared. A ‘state of mobilization’ declared through a decree by the President of the Council (following the proposal by the Chief of the CPD or the president(s) of the affected region(s)) is enough to allow the territorial systems to mobilize and request the contribution of national assets and resources.<sup>17</sup>

As the following sections explain, this new and unified piece of legislation now regulates the role of the CPD in terms of its ‘structural’ interventions during the recovery phase. At the same time, it also provides the normative basis for arranging reconstruction processes and for adopting dedicated administrative measures to deal with them.

## 4. The Italian legal framework for recovery and reconstruction

“Besides emergency management, the National Civil Protection Service has also to promote the return to normal living and working conditions of the communities affected by the disaster. This goal is achieved through the restoration of essential services, the reduction of residual risk in the affected areas, the recognition of the damage suffered by the economic and productive realities, cultural heritage, building heritage, public and private facilities and infrastructure with the consequent adoption of the first necessary measures.”<sup>18</sup>

### 4.1 The legal and institutional framework for post-disaster recovery



Importantly, the Italian Civil Protection Code of 2018 does not differentiate between ‘recovery’ and ‘reconstruction’. Instead, it refers to ‘overcoming the emergency’ (*il superamento dell'emergenza*) which includes the ‘return to normal living conditions’ (*ripresa delle normali condizioni di vita*). As we will see, the precise scope of ‘recovery’ and ‘reconstruction’ activities is not entirely clear as, in some cases, they seem to overlap in terms of time, applicable law, adopted measures and implementing tools. The ‘overcoming of emergencies’ consists of:

“the coordinated implementation of measures to remove obstacles to the resumption of normal living and working conditions, to restore essential services and to reduce the residual risk in the areas affected by disasters, as well as the recognition of the needs for the restoration of damaged public and private structures and infrastructures, as well as the damage suffered by economic and productive activities, cultural heritage and landscaping (...) and the launch of the related first measures to deal with the above”.<sup>19</sup>

The ‘return to normal living conditions’ includes the launch of the reconstruction process with the end of the state of emergency and the related passing of responsibilities and powers to a delegated governmental authority (see section 4.6). This is a longer-term process spanning many years, during which the physical and economic assets of society are restored. For the remainder of this report, the concept of ‘overcoming the emergency’ will be referred to simply as ‘recovery’, while the concept of ‘returning to normal living conditions’ will also include activities related to long-term ‘reconstruction’.

According to the Code, the CPS promotes the actions needed to return to normal living conditions, in collaboration with relevant authorities, and in line with the programmes of protection and rehabilitation of the territory. These actions vary depending on the nature and magnitude of the event, ranging from stability check surveys to building temporary structures for displaced populations, providing psychological support for people affected by the disaster and constructing temporary schools and other facilities.

The Code also recognizes and regulates the key role of the Department of Firefighters in recovery and reconstruction activities. Firefighters represent a key operational structure of the CPS, which explicitly identifies them as responsible for the post-emergency phase ‘according to the modalities and levels of responsibility expected from its own set of rules/governance system’.<sup>20</sup> In every major event that strikes the Italian territory, firefighters bear the overall technical responsibility for checking and reactivating critical infrastructure (e.g., roads, buildings, telecommunications lines).

## 4.2 States of emergency and the system of ordinances



All initiatives, resources and bodies related to post-relief emergency management following major disasters depend on the central government, together with the regions, declaring a 'state of mobilization of the CPS' and/or a 'state of emergency of national relevance'.<sup>21</sup> The first case concerns events that, due to their exceptional and intense nature, can compromise life, physical integrity or critical infrastructures. This allows the CPS to support the regional authorities whose territories are affected by the event by deploying assets made available by other regions and national structures.

As the disaster event evolves, the state of mobilization can end or – if the situation worsens – be replaced by a state of emergency 'of national relevance'. However, regardless of whether a state of mobilization has already been declared, a state of emergency can be declared in all cases in which the intensity or extension of the calamitous event generates the need for urgent and extraordinary means and powers (i.e. type c emergencies, see section 3.2).<sup>22</sup> This allows for civil protection 'ordinances' to be issued, as the key regulatory acts coordinating the extraordinary interventions needed to face the emergency, with the agreement of the relevant regional governments.<sup>23</sup>

Hence, the Italian normative system does not incorporate pre-existing 'recovery plans' nor a pre-determined allocation of specific responsibilities across different institutions. Instead, the plans are mainly developed on an ad hoc basis through a sequence of civil protection ordinances and related implementing tools. These can derogate from other existing legal provisions, within certain limits as agreed on when deciding the state of emergency, as well as the general principles of law and EU law. Importantly, there must be an indication of the main rules from which they are intended to derogate, and the reasons must be set out.

Article 25 of the Code clarifies that civil protection ordinances, within the limits of available resources, may regulate post-disaster recovery and, namely, those activities intended to:

- restore the functioning of public services and strategic network infrastructures;
- manage activities for removing the waste, rubble, plant or alluvial material or excavated earth and rocks produced by events;
- guarantee administrative continuity in municipalities and affected territories, including through interventions of a temporary nature;
- activate initial financial measures supporting the economic and social activities of the population, and economic and productive activities directly affected by the event;
- implement interventions, including structural ones, for reducing residual risk in the affected areas, initially by protecting public and private safety, by working together with existing programming and planning tools;
- recognize the need to restore damaged structures and infrastructures, public and private, as well as the damage to the economic and productive activities, cultural and building heritage, and the landscape; and
- implement measures to meet the urgent needs referred to in the previous point, also through relocating, where possible temporarily, to another location in the region.

It is therefore clear how the recovery phase in the Italian legal system (i.e. what is considered necessary to 'overcome the emergency') is first implemented as part of this overall framework, primarily through the ad hoc adoption of extraordinary normative acts. Following its decentralized nature and as per the principle of subsidiarity, the CPD operative structures generally rely on the public bodies and institutions

normally responsible for the previously mentioned activities. At the same time, an additional coordination mechanism can be created as part of the post-emergency phase: a 'delegated commissioner' can be given the overall task of managing the subsequent reconstruction phase (both physical and economic), towards a 'return to normality' (see section 4.6).

Of note, these two systems can coexist, and their respective roles and functions can temporarily overlap. In particular, article 26 of the Code aims to ensure a smooth transition from the state of emergency back to normal life. A dedicated civil protection ordinance has to be adopted at least 30 days before the state of emergency ends, and should ensure that the delegated commissioner keeps performing their functions until the planned interventions are complete. This 'last' emergency ordinance can also derogate from existing legal provisions for up to 6 months, although it is not renewable, and must always be in respect of the general principles of the domestic legal system and EU law. Such derogations can concern the awarding of contracts for public works, the purchase of goods and services, and/or the reconfiguration of planned interventions (within the available resources).

### 4.3 Funding and other extraordinary resources



As can be inferred from the above, planning and carrying out recovery and reconstruction activities depends on dedicated financial resources being provided in an effective and timely manner. According to the Code, the first amount of funds to be spent on urgent relief and assistance in national emergencies is identified right after the calamitous event by the Italian Council of Ministers at the same time as it declares the state of emergency.<sup>24</sup> This deliberation could allocate – even at this early stage – resources for recovery activities such as restoring public services and strategic network infrastructure, as well as managing waste, rubble and other materials. These activities are to be conducted while the CPD and involved regional bodies assess the overall needs generated by the event.<sup>25</sup>

After the needs assessment phase, the Council of Ministers allocates additional financial resources to continue the recovery and start reconstruction activities. These include measures supporting the economic and social fabric and productive activities, and structural interventions addressing residual risks and protecting public and private safety. Both the initial and additional resources progressively allocated come from a National Emergency Fund set up by the Presidency of the Council of Ministers as part of its financial budget. A Regional Fund for Civil Protection is set up on the same financial account as a potential complementary tool to support regions and local administrations in their efforts to address type b events.

Once the relief and recovery phases have ended, following the 30th day after the state of emergency was declared, subsequent ordinances are issued in coordination with the Ministry of Economy. In this way, the Italian Parliament intends to ensure that the available funding is consistent with public finance mechanisms and that the gradual expenses are effectively sustainable over time (article 25.5). This is particularly relevant considering that, to avoid potential delays and ensure their timely operation, civil protection ordinances are exempt from the previous legality check by the National Court of Audit.

The potential opening of 'special budget lines' for managing national emergencies is also regulated. These can be authorized to ensure the execution of the civil protection ordinances and can be kept open for up to 48 months from the start of the state of emergency. As set out in article 27 of the Code, the transfer of funds in this way follows a two-step process. The initial resources for urgent recovery coming from the National Emergency Fund are first transferred to this account. Then a delegated commissioner is appointed to manage the special account, and additional resources identified through

the following deliberations and ordinances are allocated only for 50 per cent at a first stage, with the remaining half to be transferred when the subsidized interventions are certified as complete.

Interestingly, thanks to a subsequent amendment of the Code adopted in 2020,<sup>26</sup> the deposit in the ‘special budget lines’ of additional financial resources different from those taken from the National Emergency Fund can potentially be authorized via ordinances. These can come, for instance, from the regional governments and local administrations, but also from donations (including from private entities), other administrations (not further specified), as well as from the Solidarity Fund established by the European Union in 2002.<sup>27</sup> When any of these special accounts are closed, the delegated commissioner must report within 40 days about all managed and coordinated interventions, specifying the origin of the funds as well as the beneficiaries and the type of expenses.

The duration of special accounts can be extended beyond the end of the state of emergency – although not beyond the limit of 48 months – to continue and complete the interventions and activities decided by relevant ordinances. This is to avoid any disruption in the provision of funds when transitioning from emergency to ordinary status, considering that post-disaster reconstruction inevitably takes place between them. In fact, for those activities that can be conducted as part of the ordinary financial regime, unspent funds can be transferred to the regional administrations or – when existing – the appointed regional civil protection agencies. In the case of additional residual funds, these can be transferred back to the central administration, reallocated for remaining interventions in the central state’s remit, or otherwise be given back to the National Emergency Fund for future emergencies.

Finally, article 28 of the Code regulates measures to remove any obstacles to ‘the return to normal living conditions’ in the affected areas. According to this, a Council of Ministers’ decision can identify ways to provide concessions, contributions and forms of sustenance to help people, companies and their economic and productive activities damaged by the event. This can be done within the limit of the resources made available for the purpose under current legislation, and according to specific criteria including coverage limits, equity of disbursements in all affected territories, and complementarity with what is already compensated by insurance companies.

#### 4.4 The role of non-governmental stakeholders



‘Active citizenship’ and organized volunteering increasingly represent key parts of the Italian CPS. Indeed, the Code includes several provisions regulating the role of citizens – both as individuals and within associations – in all initiatives aimed at enhancing the resilience of respective communities, and the dissemination of a ‘civil protection culture and knowledge’, including through ‘professional entities’. Citizen volunteers can contribute to civil protection activities once they have learned how to act in an effective, integrated and

informed manner. However, the law recognizes that, in situations of emergency, they can act simply as private citizens to execute first any immediate interventions directly related to their personal, familiar or proximate environments. While this should happen in coordination with existing organizations, regional governments can regulate the occasional participation by their citizens even when not directly involved in the events.<sup>28</sup>

The important role played by civil society is recognized by the language used in the Code on ‘organized volunteering’ and how it should be integrated into the CPS: civil protection volunteers are persons who “for their own sake chosen, carry out voluntary work in favour of the community and of the common good (...) making available their time and own skills to acquire (...) the training and preparation needed to compete in the promotion of effective responses to the needs of people and communities, [acting] in a personal, spontaneous non-profit way, not even indirectly, and exclusively for solidarity purposes,

participating, with passion and commitment, in a free and organized force that helps to improve the life of all".<sup>29</sup> The involvement of volunteer organizations guarantees today a flexible pool of local professionals and experts in multiple sectors, including in support of recovery activities.

Hence, the CPS promotes and encourages the widest possible participation of organized volunteering. It acknowledges its value and social function in fulfilling the solidarity duties that represent the basis of the entire system, as set out in the Italian Constitution. The CPS also coordinates the volunteer organizations aiming to be part of it, including those created by individual municipalities. Hence, the Code devotes several provisions to integrating volunteer organizations within the national service, mandating the adoption of the necessary tools, modalities and procedures. This not only includes their participation in the drafting and implementation of civil protection planning but also in the actual activities aimed at overcoming an emergency.

Of note, certain legal and economic facilities are given to such types of involvement. First, the expenses incurred as part of such activities must be reimbursed, insurance coverage must be arranged by the public authorities, and the volunteers' usual job (both public and private) has to be guaranteed as well as the related salary and pension schemes. This aspect is particularly relevant considering that, when needed and authorized by the CPD, volunteers in rescue and assistance activities (in type c events) may be used for up to 60 continuous days and up to 180 days in the year. Moreover, a contribution (including financial) to train volunteers to be ready and able to help in an emergency can be granted and is, therefore, regulated.<sup>30</sup>

When specific organizational criteria and requirements, as well as certain levels of technical capacities, are met, those volunteer organizations that include 'civil protection' as part of their remit must enrol in a national register created for this purpose.<sup>31</sup> This is to guarantee the quality standard of civil protection activities of all types of volunteer organizations operating in this sector, and with their headquarters in Italy, including in implementing international agreements on assistance in the case of major emergencies caused by natural hazards or human activity.

Finally, the Code explicitly recognizes the role of the Italian Red Cross (*Associazione della Croce Rossa Italiana*), mentioning it in article 13.1 as a national operative structure of the CPS. A framework agreement signed between the CPD and the Italian Red Cross specifies how – in case of disaster – the latter contributes to the overall response activities. In the recovery phase, the Italian Red Cross can set up health and psychosocial support facilities in the field, and first-aid posts and camps to house the population and rescuers. It can also set up services to produce and distribute meals and systems to purify water in support of health facilities.

No reference is made to protecting vulnerable groups or categories, beyond that of considering 'disability' and 'people in a condition of social fragility' in defining strategies and planning of civil protection activities.<sup>32</sup> This does not exclude the possibility of other volunteer organizations enrolled in the national register advocating for a particular vulnerability or focusing on these aspects as part of their mission.



## 4.5 Transparency, assessment and monitoring mechanisms



The direct participation of citizens – both individually and as part of volunteer organizations – in planning and implementing civil protection activities also helps to ensure the right level of transparency in all disaster management phases. At the same time, certain assessment and monitoring activities must be carried out to ensure transparency. These not only allow for timely adjustments during both the recovery and reconstruction phases, but also help to identify regulatory gaps that can be addressed by dedicated amendments,

such as the legislative decree No 4 of 6 February 2020, providing integrative and corrective measures to the Code of 2018.

All ordinances regulating both recovery and reconstruction must therefore be published in a timely and effective way, to allow the constant evaluation of if, and how, the decisions they contain are seen as appropriate and suitable first by the affected population, and second by all other involved stakeholders. It is therefore important to stress that the Code not only mandates that all ordinances be published in the Italian official gazette, but also that they have to be made public as per the Italian legislation on transparency obligations for the Italian public administration, as well as that on the right of access to administrative documents (Legislative Decree 33 of 14 March 2013).

The Code also requires that a dedicated civil protection ‘directive’ shall be adopted to create a monitoring system to verify and assess the implementation of measures included in the ordinances. This provides a regulatory act to ensure civil protection activities are carried out in a joined-up way, while complying with the unique features and needs of the territories.<sup>33</sup> This system, which should also verify the correctness of the financial aspects and can be extended to the related implementation tools, must ensure that regular monitoring activities and periodic inspections are carried out. Such an assessment mechanism also concerns the ordinances not directly issued by the head of the CPD, a particularly relevant aspect considering the relevant role that the delegated commissioner can play – also through ordinances – in the recovery and reconstruction phase (see section 5.3).

The monitoring activities are particularly emphasized around the special accounts that can be opened to address a particular emergency. On this point, to ensure the necessary transparency of funds that are transferred into and from these accounts, transferring money between them is not allowed. Importantly, the regions may adopt measures with purposes similar to those envisaged for monitoring, for type b emergencies, even by derogating from the regional legislative provisions in force. In fact, with a specific decree of the President of the Council of Ministers, in agreement with the Unified Conference of Territorial Bodies, regional bodies can adopt measures addressing not only the allocation criteria and the methods of transferring the resources to be allocated to each region, but also the related activities of monitoring.

Finally, bearing in mind the important role that volunteer organizations and other associated groups play in the Italian civil protection system, and considering its decentralized structure, the Code dedicates particular attention to their supervision. Article 33.4 mandates monitoring and public control of the activities carried out by such organizations, linking with another piece of relevant legislation, namely the Legislative Decree 117 of 3 July 2017 regulating the activities of civil society organizations and other associated entities. The Ministry of Labour and Social Policies, in collaboration with the CPD and related civil protection regional bodies, is therefore tasked with making sure that volunteer organizations and other involved associations conform with relevant legislation, both primary and secondary.



## 4.6 Relevant norms for reconstruction



In the case of major disasters (type b and type c events), the recovery phase can last for a long time. The rehabilitation processes taking place across the affected regions/areas can become increasingly differentiated according to a series of factors, including the number of people, including private and public entities, involved/affected; the loss, damage and destruction levels to deal with; the administrative and technical capacities of different regional and municipal bodies to conduct and complete recovery processes and start addressing reconstruction projects; their political stability; and their legal preparedness at different levels.

The state of emergency can continue even after most urgent activities are completed, to justify the extraordinary normative powers of both the CPD and the delegated bodies as well as the special allocation of resources (see sections 4.2 and 4.3). As part of this process, national authorities can start a proper reconstruction phase by distributing resources and responsibilities at the different governmental levels. As illustrated in more detail in section 5, every reconstruction process is unique. Indeed, when a disaster occurs, a new model of governance is created through both new legislation (e.g. legislative decrees) and secondary norms (e.g. 'ordinances' or 'directives'), which vary case-by-case.

Still, there are some common elements, including the usual appointment by the government of a special delegated figure (usually defined as 'delegated' or 'extraordinary commissioner') in charge of coordinating the reconstruction activities, and the point of reference for all other stakeholders, both public and private. Normally given extraordinary powers and resources, and supported by dedicated administrative and technical staff, the delegated commissioner is the senior representative, firmly placed at the centre of the many different issues that come with reconstruction projects in the affected territories. Still, the role of regions and their 'special offices for reconstruction', created ad hoc through a dedicated governmental decree, is particularly relevant and is normally part of any reconstruction process. The regional governments – while conforming with the involved municipalities – autonomously provide the necessary assets and regulate the functions of these offices, which cooperate with the delegated commissioner.

The main issues normally addressed in this phase are: restoring and repairing private buildings; coordinating the reconstruction and repair of public works; surveying and identifying standardized and fair criteria for evaluating the losses recorded in the affected territories; planning the resources needed and managing the disbursement of funds, including for cultural and tourist activities; rebuilding the socioeconomic fabric in the areas affected by earthquakes; creating special criteria for/lists of professionals and companies involved in the reconstruction; liaising with the authorities responsible for carrying out prevention activities against organized crime; and maintaining and managing special accounts.

Regulating such activities is fairly complex due to the overlap between ongoing recovery, existing norms in other relevant sectors (e.g. norms on public contracts, penal code and anti-corruption norms, laws protecting the environment and cultural heritage) and those special legislative instruments addressing certain aspects of the process. These range from how professionals and companies are involved in reconstruction, to the management and disposal of rubble and other materials. Also, the numerous and multifaceted set of ordinances, issued both from the head of the CPD and the delegated commissioner, contain detailed provisions operationalizing the measures and activities mentioned above.

Furthermore, all new norms dealing with reconstruction are normally issued with a set 'expiry date'. Still, the length of these processes is often hard to foresee, and the possibility of new hazards occurring and creating new damage adds a series of unknowns to any regulative effort, implying the need to modify, derogate, discuss and/or renegotiate the existing norms. To show how such a complex normative system is set up and implemented, the next section describes the most recent and relevant case study of post-disaster recovery and reconstruction in Italy – that following the series of earthquakes that struck the heart of the country in late 2016 and early 2017.

## 5. Case study: Earthquakes in Central Italy (2016–2017)

### 5.1 Main events



At 03:36 on 24 August 2016, a 5.9 magnitude earthquake hit the central regions of Italy, partially destroying the towns of Accumoli, Amatrice and Arquata del Tronto. The first, very powerful and destructive shake with the epicentre in Accumoli resulted in the highest number of deaths (299), more than might have otherwise occurred due to the higher number of people in the area during the tourist season. This was only the start of a long seismic sequence that for months impacted the regions of Abruzzo, Lazio, Marche and Umbria, ending only in April 2017.<sup>34</sup> During this period, three additional major earthquakes struck on 26 and 30 October 2016 and 18 January 2017, affecting thousands of people, with hundreds injured and many others forced to leave their homes (around 41,000). Extensive damage to residential and public buildings, businesses and commercial activities, communication routes and cultural heritage were also recorded in the area.<sup>35</sup>

The first relief personnel arrived on the sites a few hours after the quake of 24 August, albeit with a certain delay in reaching the more isolated villages due to the numerous collapsed bridges and roads blocked by rubble. The day after, the Council of Ministers declared a state of emergency, allocating 50 million euros for implementing the first relief and recovery measures. All relevant services were immediately deployed for civil protection operations: firefighters, armed forces, police forces, the Italian Red Cross, the National Alpine Corp and Speleological Rescue, between them deploying 5,400 rescuers in a few days. Thousands of civil protection volunteers belonging to national and local organizations were activated in the field, mainly to help the population, but also to support coordination centres and local health services.

While the Operational Committee of the CPD was immediately gathered in its premises in Rome, from August 28 onwards, a 24-hour operating Directorate of Command and Control was established in Rieti, the town closest to the operations. Throughout the emergency, the directorate coordinated emergency management activities. Over the entire period, many complex interventions for recovery were regulated through civil protection ordinances and carried out as part of the Italian CPS, including assisting the population; restoring traffic infrastructure and essential services; carrying out damage surveys of buildings, artistic and cultural heritage; searching for alternative housing solutions; and supporting economic production activities.

In parallel, a delegated commissioner was appointed to manage the reconstruction process from an early stage of the emergency (9 September 2016) through a decree of the President.<sup>36</sup> Hence the CPS continued to manage the recovery phase, for instance by checking the viability of buildings and carrying out an inventory of damage. Meanwhile the delegated commissioner, after having established a streamlined technical and administrative office assisting him, worked in close connection with the CPS around more structural and long-term aspects.

The first overall tool regulating the transition from recovery to reconstruction was the key legislative decree on 'Urgent interventions in favour of the populations affected by the 2016 earthquakes' (Law Decree 189 of 17 October 2016).<sup>37</sup> This represented the normative centre around which the governance model was built. All the reconstruction activities had to be based on this legislative framework and

operationalized through specific ordinances. During the following weeks, as will be illustrated, this setting became particularly tangled due to the need to adopt overlapping and amending instruments regulating the wide and evolving array of issues that had to be dealt with. Law Decree 189 (2016) regulated the role, powers and resources of the delegated commissioner for reconstruction, organizing these around three main areas: organization of their administrative support office, private reconstruction and public reconstruction.

On 10 November, the delegated commissioner formally began activities to implement the principles and objectives defined in the decree, and therefore to provide the legal and technical tools needed to start the reconstruction, both public and private. At the time of writing, this process and all related activities in the territories are still underway. Between 2016 and 2022, many decrees and other legislative tools were issued, concerning new urgent interventions to help the populations affected by the seismic events while existing ones were reformulated.<sup>38</sup> Meanwhile, four different people in turn covered the role of commissioner, each time trying to give a new impetus to the process, in constant coordination with regional governments. This legal and institutional setting would last until the end of the state of emergency, on 31 December 2022, together with the related extraordinary management and an increasing amount of funds allocated to its purposes.<sup>39</sup>

## 5.2 Regulatory aspects of the post-earthquake recovery



### Temporary accommodation of the displaced population

Two days after the quake of 24 August 2016, the Head of the CPD adopted an ordinance putting in place the first urgent measures to address its destructive effects (Ordinance 388).<sup>40</sup> This already included some recovery measures, such as a mandate that required municipalities to provide accommodation to those families whose usual homes were completely or partially destroyed, or who had been evacuated by the authorities.

A contribution for ‘autonomous accommodation’ was immediately agreed for up to 600 euros per month, with a limit of 200 euros for each member of the family who normally lived in the damaged property.<sup>41</sup> Moreover, if the family unit included persons over the age of 65, with a medium to high level of disability (more than 67 per cent according to Italian law) an additional contribution of 200 euros per month was granted for each such person. These economic benefits – which increased over the following months until the end of the state of emergency – started from the date of the evacuation and lasted until the conditions for returning home had been met, or other stable accommodation was found.

The same ordinance established that, due to the serious socio-economic consequences of the seismic event, the holders of mortgages of destroyed or partially unusable buildings, or of loans for commercial and economic activities carried out inside these, could ask banks and credit institutions to suspend repayments by self-certifying the damage suffered. This was granted until the properties had been reconstructed and then restored to a usable/liveable state (or until the state of emergency ended). According to the law, it was up to the banks and financial intermediaries to inform the borrowers of this possibility, at a minimum by displaying a notice in the branches and on their website, indicating repayment times and costs of suspended payments.

In the following weeks, a series of civil protection ordinances added to and adjusted these measures, which were gradually converted into legislation adopted by the Italian Parliament. The measures addressed various recovery issues such as the needs of displaced families. Through Ordinance 394 of 19 September, for instance, new measures regulated the arrangement of mid-term stable accommodation for people who could not arrange for it for themselves. In particular, a framework agreement previously

signed between the government and the CPD for the prompt supply of emergency housing solutions (*Soluzioni Abitative di Emergenza*) made available such resources to affected administrations, including regions and municipalities.<sup>42</sup>

The emergency housing solutions were anti-seismic structures of different sizes (40, 60 and 80m<sup>2</sup>), removable and convertible, made following energy-saving criteria and with low environmental impact as they were mainly made from wood. These were designed to be suitable for any climatic condition, were already fully furnished and designed so persons with disabilities could use them.<sup>43</sup> Moreover, the emergency housing solutions could be connected by pedestrian paths and green areas, with the idea of recreating communal spaces, according to the urgent needs of the territory and allowing for more flexibility in meeting the needs of the displaced families. Ordinance 394 identified the regions as implementing bodies for constructing the emergency housing solutions and, therefore, the regional authorities carried out related activities and urbanization work as requested by their mayors.

The affected municipalities were tasked with identifying and quantifying the need for this kind of accommodation, considering only the buildings located in the 'red areas' or declared uninhabitable (classified as type E or F on an increasing scale of damages from A to F) and for which the damage could not be quickly resolved. On this basis, local administrators prepared the proposals for identifying the usable areas, also taking into account the non-residential needs such as public services (offices, schools, health structures) and religious activities, for which a parallel process of relocation was mandated in the same ordinance. The areas intended to host the emergency housing solutions were then defined by the region in agreement with the mayors, after having carried out the necessary suitability checks, ensuring that public areas were preferred to private ones and limiting the number of areas, in respect of the housing needs of families.<sup>44</sup>

Meanwhile, a series of measures was agreed to ensure temporary assistance to the displaced population after the first emergency camps closed. Apart from granting money for autonomous accommodation, temporary hospitality was organized in public buildings, hotels and vacant homes and second homes (with the owners' agreement).<sup>45</sup> To this end, the ordinances mandated some derogations from the 'Procurement Code' (i.e. the Legislative Decree 50 of 18 April 2016) to ensure timely and effective interventions. While respecting both Italian and EU law, this allowed public entities to authorize the temporary measures without the usual planning approval and other administrative requirements.<sup>46</sup>

In October, with the new seismic events and the coming cold season, a parallel short-term solution was introduced by another series of ordinances.<sup>47</sup> This concerned the provision of residential containers – integrated with modules for office, service, common rooms and refectories – adopted to welcome citizens who could not leave their territory for professional or family reasons. These could be immediately removed when they were no longer needed.<sup>48</sup> The presidents of the regions concerned were identified as the implementing bodies for the construction of temporary structures aimed at allowing the economic and productive activities damaged by the seismic events to continue. To this end, public subjects could derogate from existing legislation on the minimum height of structures and the main health and hygiene requirements of the living quarters, provided they still complied with safety requirements.<sup>49</sup>

## Restoration of schools and education services

During the recovery phase, to ensure the school year started as normal in the affected areas and to identify alternative solutions, the Directorate of Command and Control of the CPD worked closely with the task force of the Ministry of Education, University and Research. This concerned in particular those schools which, following viability checks, were declared fully or partially uninhabitable. The first measures aimed at providing alternative accommodation for the schools in other institutes in the same municipality (e.g. through arranging 'double shifts') or through a 'twinning' process with schools of neighbouring municipalities.

Based on a series of civil protection ordinances, some laws were relaxed and other legal facilitations were made towards these goals. For instance, Ordinance 392 of 6 September 2016 allowed for buildings and structures to be identified with technical and dimensional features not necessarily complying with the technical legislation for school construction, including urban planning functionality.<sup>50</sup> This was further integrated with a subsequent ordinance (393), relaxing the limits on the number of students per class, established by the norms on the reorganization of the Italian school network, and the rational and effective use of the school's human resources.<sup>51</sup>

Temporary buildings with flexible structures were also built for educational services in 15 municipalities (10 for the school year 2016/2017 and 5 for 2017/2018) thanks to donations from public institutions and bodies, banking foundations and voluntary organizations. A particularly delicate aspect was the need to ensure that educational services continued during the transition from the recovery to reconstruction phase. In April 2017, with the closure of the Directorate of Command and Control, a new civil protection ordinance (444 of 4 April 2017), transferred the remaining activities for establishing and activating modular school structures to the General Directorate for the Intervention in the Field of School Construction of the Ministry of Education, University and Research.

With the activation of the Office of the Delegated Commissioner (see section 5), an extraordinary programme for fully restoring educational services in the affected territories was approved.<sup>52</sup> This included repairing existing buildings and building new ones and, in both cases, paying particular attention to the seismic retro-fitting/adaptation of such territories.<sup>53</sup> Also, among the plan's guiding criteria, energy-saving and fire safety regulations were particularly emphasized. Particular attention was also given to the monitoring and control mechanisms and to anti-corruption checks, which were assigned to the existing independent authority on this topic.<sup>54</sup>

### Other key issues in recovery activities

Since the start of the recovery phase, assessing the conditions of the **artistic and cultural heritage** and arranging the complex activities to restore and protect this type of asset represented an important field of intervention. Over 20,000 movable cultural assets (including paintings, statues, sacred furnishings, bells and altarpieces), about 11,500 books and almost 5,000 linear metres of documents kept in the historical archives of the territory were affected by the earthquakes. To meet these needs, along with the Ministry of Cultural Heritage and Activities and Tourism and the regions, the CPD implemented activities to safeguard the historical-archaeological heritage in the affected territories.

In particular, regional administrations with the help of municipalities were responsible for the collection, transport to temporary storage sites, and recovery of culturally valuable materials resulting from the collapse and demolition of unsafe buildings.<sup>55</sup> The regions could also define the tender procedures to select who would undertake these activities – though these were slowed down following the earthquakes at the end of October which led to an extension of the damaged areas.<sup>56</sup> Mixed teams made up of ministerial experts, firefighters, staff of the Carabinieri Command for the protection of cultural heritage and volunteers specialized in the recovery of cultural heritage contributed to these efforts.

**Waste disposal** constituted a further issue to regulate in the recovery phase, starting from the collection and transport of material from the partial or total collapse of the buildings. Ordinance 391 of 1 September 2016 contained a series of provisions aimed, for example, at classifying and coding them as urban waste during the phases of collection and transport to temporary storage sites identified by local administrations. This derogated from the requirements and procedures in the Environmental Code for classifying waste according to its origin, characteristics and dangerousness (i.e. Article 184 of Legislative Decree 152 of 3 April 2006). In this context, it was also specified that the remains of architectural, artistic and historical assets, goods and items of even symbolic value, tiles, bricks, ceramics, stones with the value of local culture, worked wood and worked metals did not constitute waste in any case.<sup>57</sup>

Another issue was the unsorted municipal waste produced in the places where the displaced population was assisted. The relevant civil protection ordinances mandated that such waste could be transferred to the nearest available disposal plants already authorized for the purpose. This could be done without changing the norms on the authorizations in force at that time, namely derogating from the need to define the place of origin for ordinary waste disposal.<sup>58</sup> The manager of the collection services would agree in advance with the managers of the plants, notifying the region and the regional agency for the protection of the environment. The collection and transport of toxic material resulting from the partial or total collapse of buildings, such as that containing asbestos, was regulated by a dedicated ordinance.<sup>59</sup>

Finally, interventions were adopted in support of the **livestock sector**. To meet the needs of the affected farmers and ensure they could continue to do their work, assistance was given to those who had suffered damage to their homes and businesses after the earthquakes. The proposed measures were identified by the Ministry of Agricultural and Forestry Policies and shared with the regional presidents. In particular, the regions were given the task of creating stables, barns and temporary facilities to store food. The Lazio Region took on the task of supplying materials to all regions.

In addition, the regions, in agreement with the mayors, covered the construction of temporary rural housing, to allow farmers not to leave their farms. The tender for the supply of this temporary housing was launched by the Umbria Region for all the affected regions. However, the further seismic events of October led to a significant increase in the number of damaged businesses, making it necessary to extend the forms of assistance already provided. For this reason, pending the delivery of the temporary rural housing, the CPD made available camps set up by the Italian Red Cross. The farmers were allowed to propose the positioning and independently carry out the construction works of the modules intended for the activities.

### 5.3 Critical regulatory issues of the post-earthquake reconstruction



Reconstruction following a major disaster is a varied, non-linear process, which involves the human, cultural, social and economic heritage of the damaged territories. It requires quick answers but, at the same time, the need to identify and address several medium and long-term issues emerging due to the calamity. The pre-existing institutional set-up, the many stakeholders involved, the socio-cultural conditions of the affected communities and the features of the economic system make every reconstruction process a unique

case, often with multiple ramifications across different sectors.

At the same time, some normative acts created for recovery purposes can remain relevant in the reconstruction phase, like the alternative/temporary housing solutions for displaced people. Of note, the parallel running of the two phases (and of the related governance systems and activities of the CPD and the delegated commissioner) brings a certain risk of inconsistencies if not properly regulated. A critical aspect highlighted by the 2016 earthquake was the importance of collecting accurate data in the recovery phase (for instance, documents on damaged/destroyed properties, effective use of and activities undertaken in certain facilities, family statuses). This is because gaps, errors, or lack of verifications of pre-existing irregularities can hinder the future reconstruction processes, leading to wasted resources and time (see **Recommendation 6.b**).

Despite the lack of an abstract and reproducible governance model, the main aspects to address and regulate are normally the private/public reconstruction, the full restoration of public services, and the protection of cultural heritage, landscape and environment. These processes generally require a cross-cutting approach and the involvement of numerous entities, some 'upstream' (i.e., remotely setting up



a system of controls such as those ensuring a more resilient reconstruction), and others ‘downstream’ (i.e. at the forefront in identifying and responding to the needs of stricken communities). Moreover, any reconstruction phase implies not only a redefinition of physical spaces in an equitable and shared manner but also greater security against future risks and sustainable use of the soil. The priority is often given to restarting the local economy without fully considering the sustainability of socio-economic dynamics in the medium to long term (See **Recommendation 6.g**).

Another overarching variable affecting both the methods and timing of a reconstruction process is the existing legislation, and how it helps or hinders the process. Though people affected by disasters are understandably keen to return home and to living in pre-disaster conditions as soon as possible, there is no doubt that, for both their safety and the stability of the economic and social system, it is necessary to develop a dedicated array of norms and procedures regulating such a complex process. Hence, any implementation planning must confront and coordinate with both pre-existing and newly adopted legal instruments, with the latter partially derogating to the former, thus normally leading over time to an entangled set of norms.

In the post-2016 phase, both recovery and reconstruction activities were affected by a proliferation of norms of various levels and issued by different entities, primarily the Civil Protection Department and the delegated commissioner, often addressing subjects relevant to both. This led in some cases to a confused and fragmented regulatory framework, and thus to a sort of ‘normative maze’ that was difficult to understand and comply with for the citizens and the public administrators themselves (see **Recommendation 6.c**). These aspects were further aggravated by the effects of the new series of quakes occurring in late 2016 to early 2017, resulting in the need to adopt new legislative tools or amend the previous ones.

To address this issue, an Earthquake Assistance Service (*Servizio Assistenza Sisma*) was set up by the delegated commissioner in 2021 to provide a quick and reliable response to professionals, businesses, local authorities and citizens involved in the reconstruction. It operates both online and offline, through dedicated telephone numbers, online forms and emails. The service is composed of nine technicians who respond to questions and concerns. In a dedicated section of the online platform, users can consult the ‘opinions’ issued by the Office of the Legal Adviser, while another section contains frequently asked questions (FAQ) sorted by topic. It is also possible to speak directly to one of the facility’s technicians every day.<sup>60</sup>

One of the main obstacles to a prompt and effective recovery was the lack of adequate human, technical and financial resources in the local administrations, especially in those situations in which mayors did not have the capacity to deal with the vastness and complexity of daily administrative activities for reconstruction. In some cases, to allow for the restoration of basic public and administrative services such as traffic circulation, civil registries, waste management, educational services and social facilities, a twinning system was set up between these entities and bigger municipalities to share expertise and capacities in certain administrative functions (see **Recommendation 6.a**).

At the same time, special legislation was adopted giving new duties to territorial administrations, primarily the municipalities and their technical offices. A lack of sufficient clarity in how to apply the norms led in some cases to a misunderstanding of respective responsibilities in tender procedures and project assignment, thus bringing about resistance – if not real phobia – to sign the documents needed to complete the planned interventions (see **Recommendation 6.f**). These aspects were aggravated by the historic economic fragilities of affected territories, the decreasing population rate, as well as the institutional weakness determined by the presence of very small municipalities without shared management of offices or functions.

## 5.4 The delegated commissioner



Within two weeks of the first quake in August 2016, a series of legislative tools were adopted that launched a new reconstruction model based on the different institutions and disciplines being coordinated by a delegated commissioner for reconstruction appointed by the Italian Government. This approach was consistent with the characteristics of the territorial administration in the affected area: small and very small municipalities (initially 62, then 140 following the earthquakes in October and January) in four different regions. This required not only a focus on the reconstruction of structures and facilities but more complex planning work to be led by a strong central coordination figure.

Hence, the delegated commissioner was tasked with guaranteeing that the many stakeholders would not only “talk to each other” but also “understand each other”.<sup>61</sup> In particular, acting as a link with the recovery activities carried out by the CPS until that point and as specified in the presidential decree that established its role, this included:

- coordinating the state administrations, also the presidents of the regions and the mayors concerned, as well as the National Anti-Corruption Authority, to define plans, intervention programmes, the necessary resources and administrative procedures to reconstruct public buildings and private individuals’ housing, as well as infrastructure in the areas affected by the earthquake;
- connecting the respective areas of coordination, jointly with the Head of the CPD; and
- reporting directly to the President of the Council of Ministers on the activities and initiatives aimed at achieving the assigned objectives.<sup>62</sup>

For these tasks, the commissioner could make use of the critical resources made available by the President of the Council of Ministers and a ‘support office’ role was also created. This office was made up of assigned personnel belonging to public administrations consisting of high-level public officials, administrative staff and up to 10 experts, including a legal advisor.

The normative set-up established in October by the key Law Decree 189/2016 further detailed and systematized the functioning of this model, with the commissioner at the centre of a system of connections between the President of the Council of Ministers, the individual ministries and the presidents of the regions of Abruzzo, Lazio, Marche and Umbria who assumed the role of deputy commissioners.

Accordingly, the commissioner prepared an operational plan to allow public and private reconstruction while complying with the existing legislation, represented primarily by the Italian ‘Procurement Code’ adopted in 2016,<sup>63</sup> but also considering other important legal constraints such as those related to cultural heritage and environmental protection. Importantly, the Law Decree 189/2016 also stated the right of the commissioner to derogate from ordinary laws, while respecting the general principles of the legal system, to give immediate impetus to the reconstruction through ordinances regulating the implementation of its provisions. Various institutions and authorities were involved in the system to protect the legality and supervision of expenditure, a particularly relevant aspect considering the spending autonomy through special accounts.

However, over the years, the derogating powers of the delegated commissioners remained in some cases underused. This was allegedly because their nature and limits were uncertain, and they did not feel confident in using them, also considering the risk of additional delays from potential institutional or judiciary conflicts (see **Recommendation 6.d**). In 2021, thanks to simplified and new procedures, first the



Ordinance 100 of 9 May 2020, and the introduction of the 'Extraordinary Reconstruction Programmes', the reconstruction process rapidly accelerated. This also resulted from the adoption of a new type of special ordinance that, triggering the derogating powers of the delegated commissioner, increased the number of approved requests and authorized the doubling of construction sites compared with the preceding four years.

Special derogating ordinances defined in a precise way the interventions and derogations to be used, in particular around the 'Procurement Code' and the project approval process. They promoted a new reconstruction strategy in the most destroyed historic centres, where it was necessary to proceed in a highly coordinated manner between the public and private spheres. In unblocking such complex situations, these regulatory acts are also aimed at revitalizing affected communities from a cultural, social and economic point of view. Their implementation was entrusted to two sub-commissioners, who worked with the municipalities and regional special offices for reconstruction, which assumed central roles as implementers of many of the interventions.<sup>64</sup>

Another key element that the normative system established was a 'Fund for reconstruction' by the Ministry of Economy and Finance, whose resources were allocated to the commissioner's special account. Resources deriving from private donations, as well as from the European Union's Solidarity Fund<sup>65</sup> (except those aimed at reimbursing expenses incurred in the first emergency phase) could also flow into the special accounts. Alongside this framework, the decisions relating to the economic and financial resources destined for reconstruction (estimated together with the deputy commissioners) were made, at the request of the commissioner, by the government and parliament. At the same time, the presidents of the regions as deputy commissioners were entitled to special accounts opened to manage the resources transferred by the delegated commissioner to implement the interventions delegated to them.

The law also authorized the setting up of a Technical Scientific Committee, tasked with elaborating and defining the criteria to guide the reconstruction. Suggestions and insights of the Committee were to be considered part of the legal instrumentation and fully entered among the technical procedures governed by the commissioner's ordinances.<sup>66</sup> The Committee was composed of 15 experts from different fields ranging from earthquake engineering and urban planning to protecting and enhancing cultural heritage. It assisted the commissioner in defining the guidelines for the planning, design and implementation of reconstruction interventions, including with seismic adaptation and improvements to damaged buildings.

Guidelines and other technical documents developed by the Committee aimed at finding the right balance between 'security' (achieving resistance parameters for the repaired buildings very close to those expected for new ones, according to the formula internationally known as 'build back better'<sup>67</sup>) and 'identity' (by maintaining traditional materials and construction types). For instance, the reduction of future risks was connected with a new method of classifying seismic risks on a scale from A (minimum risk) to G (maximum risk). Future normative acts connected improving the seismic resistance capacity of buildings with economic bonuses (i.e., fiscal deductions on 70 and 80 per cent of expenses incurred in, respectively, moving down one or two risk classes).<sup>68</sup>

This was made possible due to the implementation of a new seismic in-depth assessment based on micro areas (called *microzonazione sismica di III livello*) regulated by a series of ordinances that allowed for a localized identification of the stable zones susceptible to seismic amplification and the zones susceptible to instability induced or triggered by the new earthquake as well as an identification of the 'active and capable faults' and hydrogeological instabilities.<sup>69</sup> The Committee's and other experts' work also endeavoured to make structural interventions compatible with the protection of architectural, historical and environmental aspects, also through indications aimed at ensuring eco-sustainable architecture and energy efficiency.<sup>70</sup>

## 5.5 Institutional setting

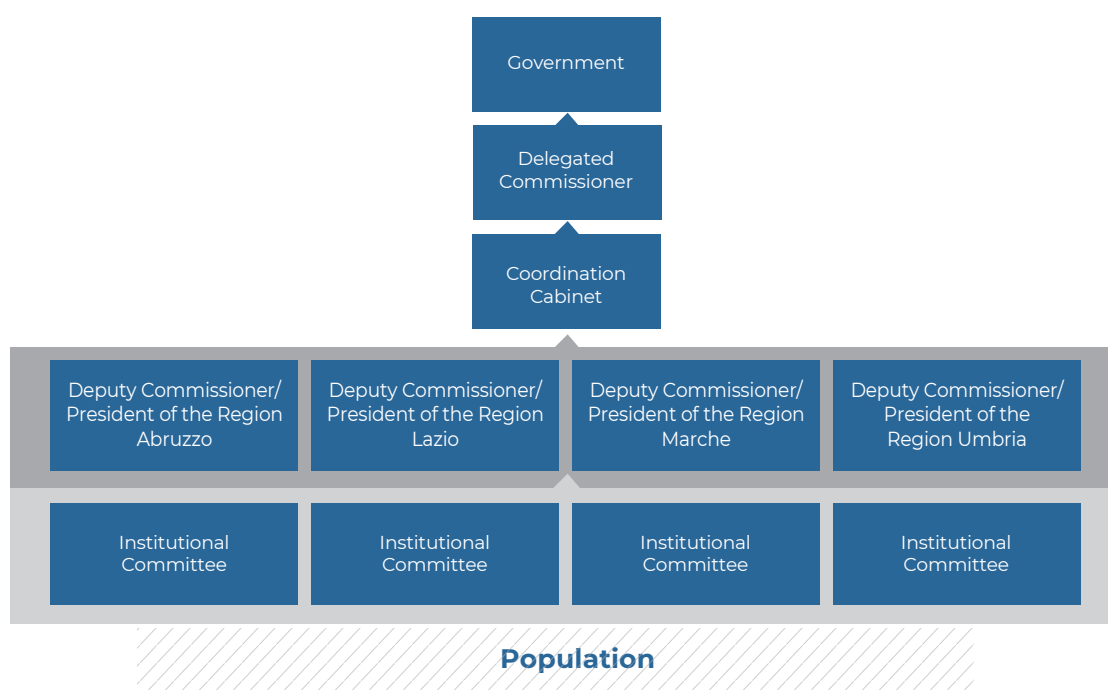


The Law Decree 189/2016 also created a broader institutional set-up for the reconstruction, aimed at complementing the commissioner's role. This was articulated on different levels and through different bodies which, within their own competencies, were responsible for the definition of the reconstruction's strategic elements. This included:

- **Institutional Committees** in each of the four regions, chaired by the respective regional president and made up of the presidents of the provinces and the mayors of the municipalities;
- a **Coordination Cabinet** composed of the delegated commissioner for reconstruction, as President, and the presidents of the regions involved, as deputy commissioners; and
- a **Permanent Conference** chaired by the delegated commissioner for reconstruction and composed of a representative of the Ministry of Culture, Ministry of the Environment and Sea Protection, Ministry of Infrastructure and Transport, and by a representative of the regions, provinces, park authorities and mayors competent for the matter.

The commissioner was therefore at the apex of the system, cooperating and determining the adoption of his own measures only with the unanimous agreement of all the deputy commissioners/presidents of the regions via the Coordination Cabinet. According to this set-up, the Institutional Committees were designed as the place in which the territory confronted and defined their own priorities and requests, which were subsequently represented and verified in the Coordination Cabinet. Hence, the Cabinet, as well as connecting and synthesizing the requests of the territorial actors by representing them to the central institutions, also became the place where, through creating the 'rules of the game', the contributions of stakeholders found their own space within the normative production that governed the reconstruction (see **Figure 1**).

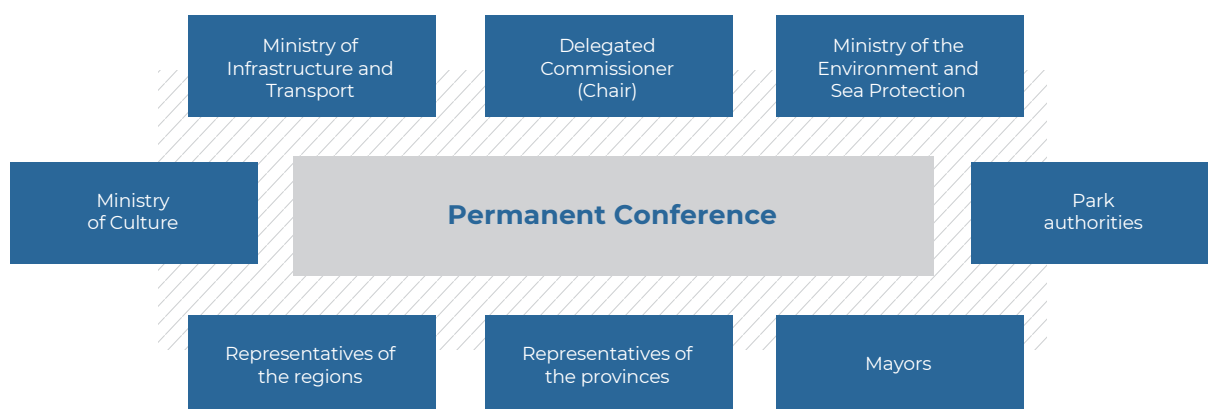
**Figure 1** – 'Vertical' institutional set-up for enabling input from the territories



The last institutional body of this structure, the Permanent Conference, was set up to empower and accelerate the reconstruction of the territories hit by earthquakes, as well as to bring unity and standardization in the management of interventions. It was the sole body with authority to direct, coordinate and make decisions across all sectors, in particular, decisions on programming, planning, implementation and execution of interventions and approval of projects. According to Law Decree 189/2016, the Permanent Conference gives a mandatory and binding opinion on the instruments implementing urban planning adopted by the individual municipalities within 30 days of receipt of the documentation by the municipalities themselves. It also approves, according to the 'Procurement Code',<sup>71</sup> any project prepared by the implementing bodies.<sup>72</sup>

The Conference also approves the projects of public works and works relating to cultural heritage under the responsibility of the commissioner, the Ministry of Cultural Heritage and Activities and Tourism and the Ministry of Infrastructure and Transport. It acquires the authorization for interventions on cultural heritage, which is given within the Conference itself by a representative of the Ministry of Cultural Heritage and Activities and Tourism. At the same time, it gives a mandatory and binding opinion on the programme of environmental infrastructure. The Regional Conference chaired by the competent deputy commissioner, or their delegate, was also established and operated in each of the four affected regions, for the projects of competence, with the same means, powers and effects as the Permanent Conference.

**Figure 2 – The Permanent Conference as 'horizontal' institutional set-up for cross-sectoral standardization**



According to this model, if on the one hand the commissioner's relationship with the central institutions is aimed at identifying the priorities and general elements that must be regulated, on the other hand the relationship with stakeholders at the territorial level is aimed at bringing these interests in an overall context, while from time to time verifying their consistency with the principles and general interests. To ensure that the requests are all heard and collected, this system of relationships tasked the deputy commissioners in the Institutional Committees to consult not only with the local authorities and the territorial representatives of the central institutions (e.g. presidents of the provinces, presidents of the mountain unions and mayors) but with all other actors representing the population or specific categories or institutions present in the area (e.g. universities, parishes, trade associations, professional associations and other citizens associations).

Operationally, once the consultation phase is complete, each ordinance of the commissioner is brought to the Coordination Cabinet to be scrutinized by the deputy commissioners, who can propose additions and changes. Once the Cabinet has assessed whether to incorporate them and in what manner, they themselves proceed with a resolution. Finally, and only at the end of this process, the ordinance is submitted to the Court of Auditors and then registered and published.

It should be noted that this model, based on a distribution of powers at different levels of governance (e.g. national, regional and municipal), necessarily entailed the complex and delicate work of accommodating and combining the differing interests and respective requests of institutional stakeholders. In some cases, especially when responsibilities could not be clearly allocated to a single administrative entity, this hampered the decision-making process and led to conflicts and ‘institutional fatigue’. The privatization of certain reconstruction activities like those established by article 34 of Law Decree 189/2016 proved to be a good way to reduce bureaucratic slowdowns and delays due to different institutional interests (see **Recommendation 6.e**). According to this decree, interested professionals respecting certain quality and legality criteria can ask to be registered on a special list for reconstruction.

## 5.6 Operational measures



Partly reflecting the priorities identified in the recovery phase, the post-earthquake reconstruction legislation, including the commissioners’ ordinances, was made following logical steps. These started from the private assets, including minor damage (for which immediate reparation is allowed) and then focusing on serious damage, then public heritage (historic centres and cultural heritage), and finally immediate and urgent responses to protect collective needs such as creating facilities for educational services.

Within the overall framework provided by Law Decree 189/2016, regulations (ordinances) were made in four main areas, respectively to govern:

- internal organization and technical management (organization of the commissioner’s office, distribution of personnel in regional structures such as the ‘special technical reconstruction offices’ set up by each region);
- methods and techniques for managing reconstruction and cross-cutting elements;
- private reconstruction (population and productive sectors); and
- public reconstruction (public buildings for the provision of services, cultural heritage and buildings of worship).

On the cross-cutting elements (second point), rules were implemented to standardize prices and the behaviour of businesses and professional suppliers interested in reconstruction. These aimed to reduce hinderances such as barriers to entry for suppliers of materials, construction companies and single professionals, as well as the risk of ‘contestable markets’ and ‘market dominance’.<sup>73</sup> They also aimed to guarantee transparent systems for selecting operators and a control, as quickly as possible and complying with the principles of legality, even for the private reconstruction, of which there were many varied types.

On this point, not only were the activities leading up to reconstruction regulated (e.g. identification of damaged properties and principles to be respected in the implementation phase of the interventions) but also the methods of disbursement and reporting of contributions. In particular, the commissioner set up a ‘single commissioning station’ for managing tenders for interventions on public works contracted by the regions through their special offices, but also by the Ministry of Cultural Heritage and Activities and Tourism, Ministry of Infrastructure and Transport and the commissioner himself. Furthermore, the careful preparation of a single ‘price list’ guaranteed free and fair competition between businesses and professionals in procurement orders, while protecting the supply chain of subcontractors of construction companies.

In addition, specific ordinances protected competition and the market through an organized control system that limited the appointments each professional could acquire. Of note, a memorandum of understanding signed between the commissioner and the National Network of Technical and Scientific Professions favoured the dissemination of simplified information and thus the compliance with the ordinances' relevant content. As part of this, the limit to the tasks assigned to any professional – initially not appreciated by professional associations – was explained as a method to ensure a role in reconstruction for all those who have the skills, including young people and smaller companies. This was also meant to speed up the entire reconstruction process, as excessive concentration of tasks in the hands of a few professionals had slowed it down in the past.

Law Decree 189/2016 (article 34), supplemented and amended by the subsequent Law Decree 8 of 2017, which also intended to ensure optimum transparency in assigning design and construction management, allowed a special list of qualified professionals (known as a 'special list') to be compiled.<sup>74</sup> According to this, "private entities confer the tasks for the reconstruction or repair and restoration of buildings damaged by seismic events exclusively to professionals enrolled [in this list]". Moreover, "the construction manager must not have in progress or have had in the last three years non-episodic relationships such as those of legal representative, owner, partner, technical director with the companies invited to participate in the selection for the assignment of repair or reconstruction works, even in subcontracting, or relationships of marriage, kinship, affinity or legally relevant relationships (...) with the owner or with anyone who holds corporate positions in the same".<sup>75</sup>

These norms, introduced to ensure greater transparency, efficiency and legality in the relationships between appointed professionals and private citizens, represent a turning point and a new reality compared with the previous reconstruction processes in Italy. For the first time, legislation was made to include cross-cutting provisions aimed at generating consistent implementation through uniform behaviour and a certain standardization of actions. This also included an attempt to involve the professionals working in public administration, who in most cases are the technical pivot around which the whole reconstruction process evolves. In fact, they are always called on to approve, verify and control both public and private works.

Still, private reconstruction is a process that depends highly on decisions taken by individual citizens and the effects of their combined behaviour. In this sense, the choice about if and when to submit a request to reconstruct a private building, as well as the intentions of the owner for its future use, can be only partially driven by public authorities. In the governance model examined in this study, moral hazards<sup>76</sup> and potential opportunistic attitudes were partially disincentivized through economic bonuses and other advantages offered to steer the behaviour of affected citizens (see **Recommendation 6.g**).

The regulatory framework drawn up by the delegated commissioner, building on previous experience and complying with the legislation of the 'Procurement Code',<sup>77</sup> also aimed to prevent infiltration by criminal groups at any stage of post-earthquake reconstruction activities. Based on article 30 of the Law Decree 189/2016, a mission structure was created in the Ministry of the Interior, to carry out checks aimed at releasing anti-mafia information for those assigning public and private contracts and to coordinate all activities to prevent and combat criminal infiltrations. This took place in close collaboration with the competent prefectures, and a list, called the 'anti-mafia registry of the executors', was kept and updated by the same body, to which all operators interested in participating in any capacity and for any activity had to register.

The risk of criminal infiltration and the protection of legality in both public and private reconstruction were also guaranteed through the direct commitment of the National Anti-Corruption Authority, which operated a widespread control system of the professionals and companies involved. The regulatory

framework that came from the Law Decree 189/2016 and the commissioner's orders outlined a system that ensured constant control of financial flows for reconstruction and their effective destination. This was based on the principle that the amounts are usually paid not to the injured party, but to businesses and professionals who contribute to the interventions themselves, on the basis of documentation that certifies that the interventions have indeed been carried out.

Lastly, the work of the commissioner and their office, starting from the preparation of the rules on reconstruction, needed an external control verifying their consistency not only with the resources made available but also with the ordinary legislation. Hence, a collaboration was established with the Court of Auditors for this purpose.

## 6. A practitioner's view: the role of the Italian Red Cross in post-earthquake reconstruction

A dialogue with Marco Coletti, Head of Project Unit on the Earthquake in Central Italy, Italian Red Cross

**Marco, the Italian Red Cross was at the forefront in the response to the earthquake just a few hours after the first terrible earthquake of 24 August 2016. The institutional commitment of the Italian Red Cross then continued both in restoring the social life in the communities and the reconstruction phase. In some ways, it was unprecedented involvement. Is it possible to make an initial assessment five years after the event?**

My evaluation is extremely positive. The Italian Red Cross has confirmed itself as a leading player in the national emergency system by intervening with its volunteers and staff alongside the population as part of the civil protection system from the first moments following the earthquake. But what is more, the Italian Red Cross wanted to go beyond its usual role of 'emergency operator' by broadening the spectrum of its interventions. In particular, we promoted a fundraising campaign intended to finance post-emergency projects to be carried out in-house. For this reason, a dedicated Project Unit on the Earthquake in Central Italy was created in 2017 with the aim of positioning the Italian Red Cross as a proactive player in the reconstruction phase, developing projects accurately tailored to the needs of the territories. This approach is at the basis of our claim "The ItRC [Italian Red Cross] was there, is there and will be there". In five years, we have already built and delivered over 50 per cent of the planned works, so we can only be very satisfied.

**As part of this, the construction of permanent structures would not only respond to the primary needs of the population but is also aimed at making them 'places with community spirit'. This commitment has grown over time and to date there are 16 reconstruction projects, some completed, some still in progress, distributed across the four affected regions. What did it entail having to operate in such a complex, multilevel governance model? Can you give us some examples?**

As you have rightly observed, our projects are aimed at reconstructing the urban fabric and the sense of community of affected populations, creating works that give hope for the future and contrasting the phenomena of depopulation which has affected those territories from 2016 to today, especially for young people. The complexity of planning and carrying out works that impact so much on the territories concerned has led to the need to manage many relationships and related requests, also due to the succession of several political administrations, with consequent changes in needs and priorities. In particular, as part of the project for the Auditorium in Amatrice, we had to adapt the structure while the construction was in progress to meet new requests from the municipality, with considerable effort in technical and economic terms. Fortunately, in that case, we managed not to change the previous budget and work plan.

**On a regulatory level, what have been the major obstacles that you and your unit have faced in recent years? I imagine that dealing with the procedures established by the 'Procurement Code' (Legislative Decree 50/2016) and the series of specific ordinances approved over the last few years have been among the main ones.**

I cannot hide the fact that the legislative and regulatory framework in which we found ourselves operating did not help us complete the works I mentioned on schedule. The bureaucratic complexity of the approval process and procedures for the award of works, services and supplies provided for by



the current Procurement Code, was not adequate for rapidly meeting the needs of the communities, as well as of other partner associations and donors. Only after the sudden emergency related to the COVID-19 pandemic, did the Italian Parliament intervene with ad hoc regulations aimed at simplifying the assignment procedures. These helped us to optimize, streamline and speed up our work, with very satisfactory results compared to previous objectives. The regret remains for the delay that built up in the planning phase, even if, compared to the general framework of the reconstruction, our timings appear faster than average for public works. Indeed, it is almost comparable to those of the private reconstruction, especially considering that the latter operate outside the regulatory provisions of Legislative Decree 50/2016. From this point of view, the results in terms of completed works in five years are very significant.

***I wonder if the distinctive features of a National Red Cross Society such as the Italian Red Cross facilitated or hindered its role within this legislative framework. I am thinking, for instance, of the need to connect private entities, including donors or other associations, and public institutions in charge of managing and approving the reconstruction projects.***

The nature of the Italian Red Cross did not represent an issue within the legislative framework, but it certainly helped us manage relations with the bodies involved in our reconstruction activities, as well as the donors. The trust in our emblem and the closeness to the population that our volunteers have built up over a century of widespread presence throughout the country have allowed us to work peacefully even in the most difficult moments. We believe that, with the achievement of important results like reopening the primary school in Isola del Gran Sasso d'Italia and the Auditorium della Laga in Amatrice, this confidence has been further consolidated, as well as our presence alongside the populations.

***The current delegated commissioner and his management seemed to give a new impetus to the reconstruction phase, which was having some difficulties and was further slowed down by the outbreak of the pandemic. This also included more extensive and effective use of special ordinances, also in derogation from current legislation. How is this affecting Italian Red Cross implementation capabilities for reconstruction?***

The appointment of Dr Giovanni Legnini as delegated commissioner has certainly provided new momentum to public reconstruction activities. As the National Red Cross Society, not being a public administrative entity, we have not been able to benefit from the special derogative powers, at least to date. In fact, with the new Special Ordinance 19 of 15 July 2021 issued by the commissioner, due to the important results achieved, the Italian Red Cross was appointed for the first time as 'implementing body' for the building of a multifunctional sports centre in Arquata del Tronto. This is an important recognition of the work we have done, which gives us great responsibilities but also great incentives, especially because we will be able to use the 'special powers' and verify their effectiveness in completing the work.

***A final question concerns the aspects related to a 'sustainable' reconstruction that also takes into account future risks. I am thinking of the connections between hydrogeological instability and active faults, but also of the need for energy efficiency and the reduction of environmental impact. Do you think that the current regulatory framework allows these aspects to be duly taken into account and supports their effective implementation? Can you give us some examples from projects managed by the Italian Red Cross?***

As for the aspects relating to hydrogeological instability and active faults, these are not issues that fall within the scope of our projects, as they are the responsibility of other bodies. As far as we are concerned, we carry out works in compliance with the anti-seismic legislation in force, but in many cases, we adapt them to standards that make them 'strategic facilities', i.e., usable in case of future emergencies as coordination centres for emergency management and recovery activities. With respect to energy efficiency and environmental impact, we always provide for the presence of photovoltaic systems



and the insulation of buildings that reduce energy consumption, in compliance with the requirements included in the national minimum environmental criteria (*Criteri Ambientali Minimi*). These are defined within the scope of the Italian plan for the environmental sustainability of consumption in the public administration sector and adopted by a Decree of the Minister for the Environment and the Protection of the Territory and the Sea.<sup>78</sup> With this in mind, I believe that the legislation is well structured to support the creation of works that increasingly take into account the problems linked to climate change and protecting the environment.

***Thank you and good luck.***

Grazie!

## 7. Recommendations

The following recommendations are based on recent experiences in applying the Italian governance model on post-disaster recovery and reconstruction. They were developed on the basis of legal research as well as feedback provided by the national key informants consulted for this study. The recommendations mainly stem from the 2016 earthquake onwards, but also consider lessons learned from previous disasters in Italy.

- a. **The restoration of essential services in small and very small municipalities:** Twinning small and very small administrative entities with bigger municipalities through dedicated regulatory acts can be a suitable temporary solution to the lack of capacities and resources to cope with the event. Administrative personnel in big cities, including from regions not affected by disasters, can put their expertise and capacities in specific administrative functions at the disposal of the affected ones. This avoids the need to hire or train new staff and ensures immediate support, saving time and resources. When physical municipal structures are destroyed, metropolitan towns can provide 'mobile convoys', i.e., containers furnished with the necessary equipment to host the seconded personnel. This sharing of good practice can also help to develop the capacities of small administrations and improve their normative and institutional preparedness.
- b. **The transition from recovery to reconstruction:** The relationship and respective scopes of action of the governmental bodies in charge of the recovery process (e.g. the Civil Protection Department) and those managing the reconstruction phase (e.g. the delegated commissioner) should be clearly defined at the earliest stages of the emergency. It would therefore be helpful to more clearly set out the respective activities of the distinct parts of the civil protection system in relevant primary and secondary normative acts. This would also help to optimize use of time and resources from the early stages of post-emergency interventions through to the reconstruction activities. As part of this, damage assessment activities in the recovery phase must be as accurate as possible and collect varied data. For instance, verifying how buildings were used at the time of the event can help ensure a smooth transition from recovery to reconstruction.
- c. **The risk of a 'normative maze':** Relevant normative sources, including specific ordinances, should clearly and coherently address measures to overcome the emergency (recovery) on one side, and those related to reconstruction activities on the other. Also, as soon as the situation is sufficiently stabilized, national authorities, including delegated commissioners, should start to standardize and simplify existing primary and secondary norms, towards the adoption of a 'single text' of reference. This can help create a coherent and intelligible set of norms for private citizens, professionals, companies and public administrations. Citizens' associations should be made part of these efforts, as done with the Consolidated Law on Private Reconstruction first presented to associations and citizens for their feedback on 23 July 2020.
- d. **The provision of special and derogatory powers:** The possibility to derogate from existing legislation to address critical and urgent situations – within certain limits provided by the legal system – is a vital component of legislative instruments on recovery and reconstruction. However, the exact content, boundaries, procedural aspects and effects of derogatory powers needs to be clearly spelled out to not void the capacities of the derogating bodies. These aspects should be comprehensively clarified in the legislative tool establishing and implementing such powers. In case of doubt, secondary norms should be created to better define the terms of use of derogatory powers, thus leading to greater effectiveness of the institutional body endowed with them (e.g. the delegated commissioner).
- e. **The hindering factors in multilevel governance systems for reconstruction:** Privatizing some reconstruction activities can be a potential solution to the risks of bureaucratic slowdowns and delays stemming from the different institutional interests in multilevel systems. Indeed, the timing for getting the necessary authorizations and financial contributions for private reconstruc-

tion can be vastly reduced once the procedure is optimized and assigned to private professionals and technicians. This way, technical offices at both regional and municipal levels can focus on preventive and subsequent controls and verify that normative requirements are being met within certain time limits. Another way to avoid slowdowns and institutional conflicts is to set up, before disasters strike, framework agreements between public and private entities such as those regulating the provision of temporary facilities for residential, agropastoral and commercial use (see explanation of emergency housing solutions in section 5.2).

- f. **‘Signature phobia’ and administrative reticence:** A potential solution to the reticence shown by administrative and technical officials working in small municipal entities is to bring in figures who work as a bridge between the national authorities and the lower administrative levels in charge of the planning and implementation of reconstruction processes. For instance, setting up special reconstruction offices at the regional level and/or sub-commissioners tasked with coordinating special procedures and taking certain responsibilities can complement the capacities of involved municipalities. At the same time, creating digital platforms or dedicated remote services providing quick and reliable feedback to issues raised by professionals, businesses, local authorities and citizens involved in the reconstruction can improve and speed up their action and cooperation.
- g. **Steering private behaviours to avoid waste and mitigate future risks:** A well-balanced and well-regulated system of incentives can steer the behaviours of affected citizens and discourage potential opportunistic attitudes. In particular, these aspects should be duly regulated from the recovery – when a more generalized distribution of contributions towards autonomous accommodation is understandable – to the reconstruction phase, when such contributions should be connected with the requests of restoring and rebuilding private facilities. This should be done considering future seismic risks but also the evolving and systemic nature of disaster risks brought on by climate change generating more destructive extreme events and hydrogeological instability. The prior adoption of comprehensive risk-informed building standards and planning controls based on risk mapping and risk assessment (or, at least, their quick adoption after an event) not only reduces the risk of future disasters but is also sensible from an economic point of view considering the likelihood of the destructive impacts of future disasters.
- h. **Lack of vision on long-term sustainability:** In line with the advancements in global standards and reflecting commitments taken internationally, a sustainable reconstruction represents a key aspect to consider, especially with reference to the standards enshrined in international frameworks (e.g. the Sendai Framework for Disaster Risk Reduction 2015–2030 and the Sustainable Development Goals). On this point, the distribution of resources for reconstruction should not place the costs of greater sustainability onto individual citizens but take into account different income brackets and types of properties. This could be done for instance through a system of bonuses that depend on improving the energy efficiency of buildings and, more generally, by referring to the international protocols and standards on sustainability. These include those on reducing environmental impact, the life-cycle of buildings and the quality of indoor environments. Norms for public works should mandate using sustainable measures such as sustainable lighting, water recovery systems, environmentally friendly roads, green systems and integrated mobility.

## 8. Conclusion

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“The town does not exist anymore.” These were the desperate words of the Mayor of Amatrice on the morning of 24 August 2016. In saying this, he not only referred to the collapse of most of the physical structures – buildings, squares, streets and churches – but also to the annihilation of the town’s communal dimension. Five years after the dramatic events that started that day, the reconstruction process is still ongoing, and the wounds have been healed only partially.

As this study has illustrated, the Italian recovery mechanism was able, after many legislative reforms, to establish a civil protection system with suitable institutional balance. On the one hand it has a centralized, strong (but light) executive structure: the Civil Protection Department embedded in the Presidency of the Council of Ministers. On the other, it has a widespread system of resources and assets that is distributed both vertically (across different administrative levels, with the mayors as ‘first lines’) and horizontally (with civil society and volunteer organizations willingly joining the system).

Still, some critical issues can be recorded on the transition to the reconstruction phase. This is because ‘overcoming the emergency’ and ‘returning to normality’ are abstract and multifaceted concepts affected by many factors that inevitably merge into one another. As evidenced in this study, pre-established formulas serve only partially, and ‘one-size-fits-all’ models are hardly applicable. A too-rigid normative framework can lead to guesswork, impracticability, low impact, waste of economic resources, lack of long-lasting solutions and missed opportunities for sustainable growth in the future.

Any recovery and reconstruction process needs a certain amount of ad hoc legislation – both primary and secondary – to fit its unique situation. Also, in light of the evolving risks and multiple hazards that inevitably transform needs, recovery and reconstruction models should constantly adapt to respond effectively to these transformations. This does not mean that domestic authorities must ‘start from scratch’ when a disaster occurs. On the contrary, predetermining regulatory standards and patterns can ensure consistency, while the prior adoption of framework agreements on specific issues can be extremely useful ways to address the unknown components of these processes.

Overall, such governance models should be based on the pillars of population safety, sustainability, fairness, economic growth, legality and enhancement of territorial heritage. They should identify priorities and responsible subjects through innovative methods, such as joining together different stakeholders through public-private partnerships. Also, governance models should give key roles to local institutions, who are best placed to identify which interventions are needed, when and where.

There is, therefore, no doubt that a reconstruction based on these elements cannot take place without the strong involvement of local organizations, civic activism and local sensitivities. In other words, the affected communities must be fully involved, supported by a further strengthening of the capacity of the special offices for physical reconstruction, which represent the first interface for professionals who assist citizens and businesses.

# ENDNOTES

- 1 Geophysical hazards are natural events caused by the physical processes of the earth such as earthquakes and volcanoes. Meteo-hydrogeological hazards are extreme weather events such as avalanches, landslides, floods and heatwaves.
- 2 In the Italian legal system, 'ordinances' are documents issued by an organ of the public administration (for example, the prefect or the mayor) to impose a specific behaviour on a subject or a class of subjects or on an organ. They are, therefore, administrative measures that create positive duties (to do or give) or negative (not to do). When they contain general and abstract norms they are considered normative acts and, therefore, sources of law.
- 3 IFRC Disaster Law. *Literature Review on Law and Disaster Recovery and Reconstruction* (IFRC, 2020) at <https://disasterlaw.ifrc.org/media/1684>
- 4 See IFRC Disaster Law at <https://disasterlaw.ifrc.org>
- 5 Geophysical hazards are natural events caused by the physical processes of the earth such as earthquakes and volcanoes. Meteo-hydrogeological hazards are extreme weather events such as avalanches, landslides, floods and heatwaves.
- 6 See data provided by the Italian National Institute of Geophysics and Volcanology: <https://ingvterremoti.com/i-terremoti-in-italia>.
- 7 See the Italian National Institute of Geophysics and Volcanology: [www.ingv.it/it/newsletter-n-9/3768-che-percezione-abbiamo-del-terremoto](http://www.ingv.it/it/newsletter-n-9/3768-che-percezione-abbiamo-del-terremoto).
- 8 See Trigila A., Iadanza C., Munafò M., Marinosci I. *Population Exposed to Landslide and Flood Risk in Italy*, in Lollino G., Manconi A., Guzzetti F., Culshaw M., Bobrowsky P., Luino F. (eds). *Engineering Geology for Society and Territory* – Volume 5 (Springer, 2014).
- 9 See Civil Protection Department. Presidency of the Council of Ministers. Volcanoes in Italy. <https://rischi.protezionecivile.gov.it/en/volcanic/volcanoes-italy>.
- 10 See Civil Protection Department. Presidency of the Council of Ministers. Fire risk. <https://rischi.protezionecivile.gov.it/en/pagina-base/fire-risk>, according to which 12 per cent of the domestic forestry heritage has been destroyed in the last 30 years.
- 11 See Gatti M., *IDRL in Italy. A Study on Strengthening Legal Preparedness for International Disaster Response*. Report commissioned by the Italian Red Cross and the IFRC, 2015.
- 12 Constitutional Law 3 of 18 October 2001.
- 13 Legislative Decree 1 of 2 January 2018. In the Italian system, a legislative decree is a normative act having the force of law adopted by the constitutional body that has the executive power (Government) by express and formal delegation of the constitutional body that has the legislative power (Parliament).
- 14 Ibid, article 7.
- 15 Unless otherwise specified, all subsequent references to regional governments made in this report implicitly also include the autonomous provinces of Trento and Bolzano. These are distinct and autonomous entities with respect to the regions, to which Italian law attributes particular forms and conditions of autonomy.
- 16 See the Italian Civil Protection Code (2018), article 11.1 (i).
- 17 Ibid, article 23.
- 18 See Civil Protection Department. Presidency of the Council of Ministers. Activities. <https://servizio-nazionale.protezionecivile.gov.it/en/activities>
- 19 Of note, the original version of the article as adopted in 2018 did not include the references to the damages suffered by 'landscaping' and to 'public and private structures and infrastructures'. These were added through a subsequent legislative decree (N. 4 of 6 February 2020) including a series of supplementary and corrective provisions to the Code.
- 20 Ibid, article 10.3.
- 21 Respectively regulated by articles 23 and 24 of the Code (2018).
- 22 According to article 24.3, the state of emergency can last for up to 12 months, renewable only once for up to another 12 months.
- 23 See the Italian Civil Protection Code (2018), article 25. According to articles 24.9 and 25.11, the regions, in the limits of their legislative powers, can define provisions with similar purposes in relation to type b and c emergencies as defined in article 7.1, including the issuing of ordinances and other directives.
- 24 This should be based on homogeneous criteria established by a dedicated civil protection 'directive'. These are secondary legislation instruments that can be issued by the President of the Council of Ministers following a proposal by the Head of the CPD to regulate certain aspects more deeply. See article 15 of the Civil Protection Code.
- 25 See the Code (2018), article 24.
- 26 See Legislative Decree 4 of 6 February 2020.
- 27 See the Council Regulation (EC) No 1012/2002 of 11 November 2002 establishing the European Union Solidarity Fund.
- 28 See the Code (2018), article 31.
- 29 Ibid, article 32.1.
- 30 Ibid, articles 32.5 and 37.
- 31 Ibid, article 34.4.
- 32 See the Code (2018), article 18.1 (a).
- 33 Ibid, article 15.
- 34 The entire sequence counted more than 92,000 shocks of which 9 were more than 5 in magnitude, affecting an area of 7,929 km<sup>2</sup>.
- 35 The total damage quantified by the Italian authorities as of December 2021 amounts to around 27 billion euros, including private real estate assets, public works and places of worship.
- 36 Decree of the President of the Republic, 9 September 2016.

- 37 In the Italian system, a law decree is a provisional legislative act having the force of law, adopted in extraordinary cases of necessity and urgency by the Government. The effects produced by this act can be provisional, since it loses its effectiveness if the Parliament does not convert them into law within 60 days of their publication. In addition to the Law Decree 189/2016 and its subsequent amendments, the Italian Government and Parliament have adopted further measures aimed at streamlining the procedures and favouring the recovery of the earthquake-hit territories of central Italy. They concern in particular: organizational structures for reconstruction, rubble, town planning simplification rules, local authorities/ implementing bodies, technicians, economy and development of the territory, tax obligations and various payments.
- 38 A full list of national legislation adopted by the Italian Government and Parliament is available at <https://sisma2016.gov.it/provvedimenti-governo-e-parlamento>
- 39 Law 234 of 30 December 2021, articles 1,449 and 1,450. The maximum length of 24 months for a state of emergency (as per article 24.3 of the Code), can be further extended through a primary legislative instrument that needs to be approved by the parliament.
- 40 Ordinance 388 of 26 August 2016, 'First urgent civil protection interventions following the exceptional seismic event that hit the territory of the Lazio, Marche, Umbria and Abruzzo Regions on 24 August 2016'.
- 41 This number was gradually increased by subsequent ordinances, such as Civil Protection Ordinance 408 of 15 November 2016, article 5.
- 42 Decree of the Head of the Civil Protection Department 1239 of 25 May 2016.
- 43 A derogation from existing legislation on the minimum height of residences and hygiene-sanitary prerequisite was decided for these purposes, still maintaining the minimum safety standards. See Ordinance 399 of 10 October 2016, article 2 derogating the Ministerial Decree of 5 July 1975.
- 44 A high-level official at the Ministry of Public Transport, who provided the necessary technical support, was appointed as implementing subject and tasked with monitoring activities and coordinating needs for public services structures. In the following months, despite some delays due in some cases to administrative hurdles, 3,615 emergency housing solutions were completed, equal to 99.4 per cent of those ordered.
- 45 Ordinance 394 of 19 September 2016, article 4.
- 46 Ibid, article 5.
- 47 Starting from the Ordinances 406 and 408 of 15 November 2016.
- 48 On 2 March, with the delivery of the last temporary modules in the municipality of Norcia, the arrangement of all the container areas was completed. A total of 23 residential settlements were built in nine municipalities in the provinces of Macerata, Fermo and Perugia to provide temporary accommodation for about 1,100 people.
- 49 See Ordinance 414 of 19 November 2016.
- 50 Ministerial Decree of 18 December 1975, 'Updated technical standards relating to school buildings, including the indexes of didactic, building and urban planning functionality, to be observed in the execution of school building works'.
- 51 Decree of the President of the Republic 81 of 20 March 2009.
- 52 Ordinance of the Delegated Commissioner 14 of 16 January 2017, 33 of 11 July 2017 and 35 of 31 July 2017.
- 53 See Ordinance of the Delegated Commissioner 14 of 16 January 2017.
- 54 Law Decree 189/2016, article 32.
- 55 See Ordinance 391 of 1 September 2016, article 3.
- 56 See Ordinance 392, article 1 and 393, article 4 and 5.
- 57 Ibid, article 3.
- 58 See Ordinance 389, article 2.
- 59 See Ordinance 394, article 11.
- 60 According to the data updated as of 31 July 2021, 2,274 question forms, 1,842 phone calls and 379 certified emails were received, making a total of 4,495 requests for assistance.
- 61 See Valeriani E, and Bertelli A. *L'attività del Commissario Straordinario ed il futuro della ricostruzione del Centro Italia: una strategia sostenibile*, 2017.
- 62 Decree of the President of the Republic, 9 September 2016, article 2.
- 63 Legislative Decree 50 of 18 April 2016, 'Procurement Code'.
- 64 At the time of writing, 25 'special ordinances' have been approved, for a total of over 257 interventions with an allocation of over 643 million euros.
- 65 Council Regulation (EC) No 2012/2002 of 11 November 2002.
- 66 See the 'founding' Ordinance 11 of 9 January 2017.
- 67 UN Office for Disaster Risk Reduction. Terminology (Build back better). [www.undrr.org/terminology/build-back-better](http://www.undrr.org/terminology/build-back-better)
- 68 See Ministry of Infrastructure and Public Transports, Decree No 58 of 28 February 2017 and annexed guidelines.
- 69 E.g. Ordinance 24 of 12 May 2017 and Ordinance 64 of 6 September 2018.
- 70 See Ordinance 11 of 9 January 2017, article 2.
- 71 Legislative Decree 50 of 18 April 2016, 'Procurement Code'.
- 72 See article 16.
- 73 The first case concerns markets served by a small number of firms that are nevertheless characterized by competitive equilibrium while the second to situations in which a firm can control markets.
- 74 Article 34. L'Elenco Speciale dei professionisti abilitati agli incarichi di progettazione e direzione dei lavori per gli interventi provati, creato con l'Ordinanza 12/2017, contiene 22.977 nominativi registrati, in gran parte professionisti che esercitano in forma individuale (19.230, pari all'84%). Tra i soggetti abilitati il 43,2% è rappresentato dagli ingegneri, il 28,5% dagli architetti, il 17,4% dai geometri, il 7,4% dai geologi e l'1,9% dai periti industriali. Rapporto 2021.
- 75 Ibid, 34.4.
- 76 E.g., a situation where an economic actor has an incentive to increase its exposure to risk because it does not bear the full costs of that risk.
- 77 Legislative Decree 50/2016 and subsequent amendments.
- 78 In Italy, the effectiveness of the minimum environmental criteria has been ensured by article 18 of Law 221/2015 and, subsequently, by article 34 of Legislative Decree 50/2016 'Procurement Code' containing 'Criteria for energy and environmental sustainability' (amended by Legislative Decree 56/2017), which made them mandatory for all contracting authorities.



IFRC Disaster Law works with National Red Cross and Red Crescent Societies and governments to strengthen disaster risk governance, through the development and implementation of disaster and emergency-related legislation, policies and procedures. With 20 years of experience supporting the development and implementation of disaster law and policy around the world, we are the global leader in disaster law technical advice to governments.