

A decisive political battle: What the statute of limitations tells us about Italy's ruling coalition



A disagreement over legal time-limits threatened to bring down Italy's government until a deal was reached on 8 November. [Andrea Lorenzo Capussela](#) explains why this seemingly minor issue created tension between the parties in the ruling coalition, and why the underlying debate matters more for the country's future than recent discussions over Italy's budget deficit.

On 8 November, Italy's governing coalition reached a [deal](#) on removing time-limits for prosecuting crimes – the so-called 'statute of limitations'. Trivial though it may seem, the [spat](#) about this matter had created high tensions. Speaking just before meeting the League's leader, Matteo Salvini, the Five Star Movement's leader Luigi Di Maio [threatened](#) to bring the cabinet down over it. I shall try to explain why the underlying issue matters more for the country's future than the [recent debate](#) about Italy's budget deficit, if a financial crisis is averted.

The immediate cause of Italy's malaise is low productivity growth, which has been falling or stagnating since the early 1980s. The roots of this problem, in turn, lie in a politico-economic equilibrium that hinders innovation, competition, and creative destruction. Its most distinctive traits are low political accountability and a weak rule of law. Collusion, clientelism, corruption, tax evasion, and illegal construction are manifestations of it, and often also alternative routes to profits.

The time-limit favours impunity, especially for white-collar crimes (which are typically discovered with a delay and involve complex evidence). It works as a guillotine: once it has passed, the crime is no longer punishable. Most European countries have such rules, but the time generally stops running after an indictment or a first-instance decision. Only in Greece and Italy, two of Europe's most corrupt countries, are trials '[routinely](#)' guillotined during appeals.

In 2005 Silvio Berlusconi's government worsened the problem by reducing the duration of the time-limit. The centre-left vehemently criticised this law, but did not reverse it when in power. Indeed, a 2016 Transparency International [report](#) describes Italy's rules as 'uniquely' ill designed.

The gravity of the matter was such that it featured repeatedly in EU and IMF advice to Rome. In 2014, for instance, the EU Council formally [recommended](#) that Italy should 'revis[e] the statute of limitations by the end of 2014', and the IMF [advised](#) the country 'to re-start the limitation period after the first instance court decision'. Italy heeded these calls only in 2017, under a centre-left government. But the fairly timid [reform](#) it passed only allows a limited suspension of the time-limit during appeals.

The spat opened when the Five Star Movement proposed to stop the time-limit at the first-instance judgment, effectively replicating IMF's advice. The League immediately declared the proposal unacceptable. Its objection, which mirrors arguments used by the drafters of the centre-left reform, is weak. They say that criminal trials, already pathologically long in Italy, will last even longer. But the solution to that problem is more efficient court procedures and organisation, not a guillotine, which on the contrary creates a strong incentive for defendants to engage in delaying tactics, which Italy's procedures plentifully allow.

The matter is important, therefore, and draws a singularly neat line between supporters and opponents of illegality. We may now set it against its broader context.

The League, the Five Star Movement, and Italy's equilibrium

Italy's equilibrium was mightily shaken in 1992–94 by a grave financial crisis and the largest anti-corruption investigation in post-war Europe. It resisted. Since then, however, debt-financed fiscal expansion and competitive devaluations have no longer been able to compensate for falling productivity growth: taxes and revenue collection rose, some welfare policies were cut, and many structural reforms made.

Among the casualties were some targeted, particularistic policies – subsidies to firms, for instance, or special pension schemes – that stemmed directly from that equilibrium. Some reflected either collusion between public powers and economic elites. Some reflected or a deliberate, long-sedimented policy to compensate the damaging effects of Italy's equilibrium with selective transfers or regulatory privileges, granted to social groups that did not benefit from it, so as to secure their consensus. After 2008, austerity policies and Italy's long double recession further eroded this crucial pillar of the equilibrium. Hence the success of the League and the Five Star Movement. Both attacked the establishment, product and guarantor of that equilibrium. Both won the support of many who had withdrawn their consensus for it.



Luigi Di Maio and Matteo Salvini, Credit: [Confartigianato \(CC BY-NC-SA 2.0\)](#)

Yet the League is genuinely an offspring of Italy's equilibrium. It arose in the 1990s as an anti-tax movement, but not a small-state one: it opposed budget discipline, in effect, and the fight against tax evasion. It governed with Berlusconi for nine of the past twenty-five years, and supported also several laws that [increased impunity](#) for white-collar crime (laws which the centre-left generally left untouched while in power). Indeed, the amnesty for tax evasion that is part of the 2019 budget was imposed by the League, and replicates several previous ones. This contributes to explaining why the League now directs popular discontent towards migrants and Brussels, away from Italy's deeper problems.

The Five Star Movement's foundational message was a call for public integrity, conversely, to which only last year they added the universal basic income proposal. But while it arose to challenge Italy's equilibrium, it seems to lack a clear analysis of it and ideas on how to change it. It has no defined political culture, moreover, weak internal democracy, and little expertise. Outmanoeuvred, after the 4 March election it mimicked the League's messages, lost support, and is now neck-and-neck with it in the polls.

Unsurprisingly, this alliance produced a 2019 budget that reflects no serious attempt to shift spending from less productive lines – including those particularistic policies that served to secure consensus – to higher-multiplier ones. Preparatory work done by previous governments – which dropped it for political convenience – suggests that the margin for raising the quality of public expenditure is ample: given Italy's debt-to-GDP ratio, this is an unavoidable policy to accelerate growth. But this coalition, like previous majorities, evidently lacks the ideas, the political courage, and the credibility to propose the transition, inevitably difficult, to more universalistic and growth-friendly policies, and merely sought to assuage the effects of recession and austerity.

Worse, last month the Five Star Movement [accepted](#) the League's tax-evasion amnesty [without a fight](#), implausibly denying that it is an amnesty, and even proposed an amnesty of its own. It concerns illegal construction in the island of Ischia, near Naples, which last year was hit by a moderate [earthquake](#) that caused disproportionate damage. Illegal construction is as widespread as corruption and tax evasion, is particularly pervasive in the South, and is worsening.

The national statistics office [estimates](#) that in 2015 for every ten authorised buildings constructed in Italy, two illegal ones were also built: the ratio was below 1.5 in 2004, but is now close to 5 in the South, and above 6 in the region of Naples. These are often unsafe buildings which crumble during Italy's frequent earthquakes, as in Ischia, or are vulnerable to [floods](#) like those in Sicily earlier this month. But as some six million citizens live in illegal buildings, a 2010 [analysis](#) estimated, no large political party ever seriously sought to address this problem; on the contrary, they issued wide amnesties in 1985, 1994, and 2003. The Five Star Movement, whose support is strongest in the South, is evidently following the same logic.

This is why the Five Star Movement's insistence on its proposal to reform the time-limit, which is sharply inconsistent with the logic of Italy's equilibrium, seemed encouraging. But the deal they reached with the League is a fudge, most probably, because it ties its entry into force to a thorough revision of criminal procedure, due in 2019–20, within which the reform could easily be watered down.

To conclude, the continuities between this coalition and its predecessors are far greater than their rhetoric suggests. Their budget policy and approach to the rule of law reflect the same fundamental logic, which stems from the equilibrium I sketched above. Neither society's expectations nor, by consequence, that equilibrium are likely to change soon, therefore: they shall change when that logic is eschewed, and citizens' main challenge is to elect a majority that will eschew it.

But this is unlikely to happen unless public debate prepares the change. In a recent [book](#) on the political economy of the country's decline, I conclude that Italy above all needs a battle of ideas, on what kind of society it has become and what kind it wants to be. And the need might be urgent, as the pressure for change that the votes of 2013 and 2018 revealed seems set to remain unanswered. That fudge was doubly regrettable, therefore, as it cut short a spat that could have evolved into a genuine political battle on illegality, which would have dragged public debate closer to Italy's deeper problems.

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