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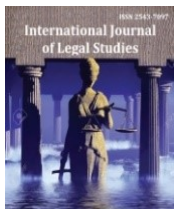
## Spis treści / Contents

<b>Joanna Koczur</b> .....	<b>13</b>
EPIDEMIOLOGICAL INTERVIEW DURING COVID-19 PANDEMIC–LEGAL AND FORENSIC ASPECTS <i>WYWIAD EPIDEMIOLOGICZNY W DOBIE PANDEMII COVID-19 – ASPEKTY PRAWNE I KRYMINALISTYCZNE</i>	
<b>Kacper Choromański</b> .....	<b>31</b>
METHODS OF THE HOMELAND SECURITY INCLUDING USING FORENSICS – HARDPOWER OR SOFTPOWER? IN THE PERSPECTIVE OF POLISH GEOPOLITIC <i>METODY BEZPIECZEŃSTWA WEWNĘTRZNEGO WŁĄCZNIE Z ZASTOSOWANIEM KRYMINALISTYKI – HARDPOWER CZY SOFTPOWER? W PERSPEKTYWIE POLSKIEJ GEOPOLITYKI</i>	
<b>Marcin Konieczny</b> .....	<b>53</b>
COMMON AREAS OF CRIMINALISTICS, CRIMINOLOGY AND FORENSIC MEDICINE IN A PRACTICAL AND FUNCTIONAL APPROACH <i>WSPÓLNE OBSZARY KRYMINALISTYKI, KRYMINOLOGII I MEDYCYNY SĄDOWEJ W UJĘCIU PRAKTYCZNYM I FUNKCJONALNYM</i>	
<b>Giovanni Bianco</b> .....	<b>67</b>
THE BUDGET OF THE ITALIAN STATE BETWEEN THE PANDEMIC AND THE UKRAINIAN CONFLICT, IN THE CONTEXT OF THE EVOLUTION OF THE EUROPEAN PROJECT <i>BUDŻET PAŃSTWA WŁOSKIEGO MIĘDZY PANDEMIĄ A KONFLIKTEM UKRAIŃSKIM, W KONTEKŚCIE EWOLUCJI PROJEKTU EUROPEJSKIEGO</i>	
<b>Lukasz Budzyński, Joanna Lubimow</b> .....	<b>89</b>
ANALYSIS OF THE CONDITIONS OF ECONOMIC MIGRATION PROCESSES TO POLAND IN THE CONTEXT OF THE SARS-CoV-2 PANDEMIC <i>ANALIZA WYBRANYCH UWARUNKOWAŃ PROCESÓW MIGRACJI ZAROBKOWYCH DO POLSKI W KONTEKŚCIE PANDEMII SARS-CoV-2</i>	
<b>Anna Chochowska</b> .....	<b>113</b>
HEALTH SAFETY OF POLES BASED ON THE APPLICABLE LEGAL REGULATIONS ON PREVENTING AND COMBATING INFECTIONS AND INFECTIOUS DISEASES USING THE EXAMPLE OF COVID-19 DISEASE <i>BEZPIECZEŃSTWO ZDROWOTNE POLAKÓW W ŚWIETLE OBOWIĄZUJĄCYCH REGULACJI PRAWNYCH DOTYCZĄCYCH ZAPOBIEGANIA I ZWALCZANIA ZAKAŻEŃ ORAZ CHOROÓB ZAKAŹNYCH U LUDZI NA PRZYKŁADZIE CHOROBY COVID-19</i>	

<b>Julia Wioletta Tocicka</b> .....	<b>133</b>
INTERPRETATION OF THE TAX SCREEN FOR INCOME TAXES IN POLAND <i>WYKŁADNIA PRAWA PODATKOWEGO W ZAKRESIE PODATKÓW DOCHODOWYCH W POLSCE</i>	
<b>Magdalena Węclawska-Misiurek</b> .....	<b>145</b>
THE RIGHT TO PETITION AND A PUBLIC HEARING ON DRAFT LAWS IN POLAND – SELECTED ISSUES <i>PRAWO PETYCJI A WYSLUCHANIE PUBLICZNE W SPRAWIE PROJEKTÓW USTAW W POLSCE – WYBRANE ZAGADNIENIA</i>	
<b>Marcin Oleksiuk, Paulina Szastaj</b> .....	<b>157</b>
DISINFORMATION ABOUT FAILURES IN NUCLEAR POWER PLANTS AND THE SOCIO-PSYCHOLOGICAL EFFECTS <i>DEZINFORMACJA O AWARIACH ELEKTROWNI JĄDROWYCH A SKUTKI SPOŁECZNO – PSYCHOLOGICZNE</i>	
<b>Michał Matusiak</b> .....	<b>175</b>
USE OF THE INTERNATIONAL RIVERS AS THE CHALLENGE FOR THE INTERNATIONAL LAW IN XXI CENTURY <i>WYKORZYSTANIE RZEK MIĘDZYNARODOWYCH JAKO WYZWANIE DLA PRAWA MIĘDZYNARODOWEGO W XXI WIEKU</i>	
<b>Marian Szkodziński</b> .....	<b>187</b>
POWERS OF INSPECTORS OF THE ROAD TRANSPORT INSPECTION IN THE USE OR USE OF DIRECT COERCIVE MEASURES AND FIREARMS <i>UPRAWNIENIA INSPEKTORÓW INSPEKCJI TRANSPORTU DROGOWEGO W ZAKRESIE UŻYCIA LUB WYKORZYSTANIA ŚRODKÓW PRZYMUSU BEZPOŚREDNIEGO</i>	
<b>Sittie Raihana Cosain, Sette Aiza C. Solutan, Jonel Mark D. Sarno</b> .....	<b>199</b>
CULTURAL INTELLIGENCE AND CONFLICT MANAGEMENT STYLE OF LUPONG TAGAPAMAYAPA IN MALITA, DAVAO OCCIDENTAL <i>INTELIGENCJA KULTUROWA A STYL ZARZĄDZANIA KONFLIKTEM W LUPONG TAGAPA- MAYAPA W MALITA, DAVAO OCCIDENTAL</i>	
<b>Marcin Konieczny</b> .....	<b>237</b>
CRIMINAL ANALYSIS FOR EVIDENCE PURPOSES AND THE ROLE OF THE ANALYST AS A FORENSIC EXPERT <i>ANALIZA KRYMINALNA W CELACH DOWODOWYCH I ROLA ANALITYKA JAKO BIEGŁEGO SĄDOWEGO</i>	



<b>Eugene Muambeh Muntoh, Lukong Mathilda Yenla Ep Ngoula</b> .....	<b>253</b>
THE PLIGHT OF WOMEN IN ARMED CONFLICT: RECOUNTING THE ORDEALS OF WOMEN IN THE ANGLOPHONE ARMED CONFLICT IN CAMEROON <i>LOS KOBIET W KONFLIKCIE ZBROJNYM - OPOWIADANIE O PRZEJŚCIACH KOBIET W ANGLOJĘZycznym KONFLIKCIE ZBROJNYM W KAMERUNIE</i>	
<b>Patrycja Brózek</b> .....	<b>269</b>
ON THE PROBLEM OF LOCATING THE EXCESS IN THE SYSTEM OF PENAL REACTION MEASURES <i>O PROBLEMIE UMIEJSCOWIENIA NAWIĄZKI W SYSTEMIE ŚRODKÓW REAKCJI KARNEJ</i>	
<b>Wanda Wojas</b> .....	<b>291</b>
TAX CAPITAL GROUPS – AN ATTEMPT TO ASSESS THE CURRENTLY APPLIED SIMPLIFICATION OF POLISH TAX SYSTEM <i>PODATKOWE GRUPY KAPITAŁOWE - PRÓBA OCENY OBECNIE ZASTOSOWANEGO UPROSZCZENIA W POLSKIM SYSTEMIE PODATKOWYM</i>	



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**THE BUDGET OF THE ITALIAN STATE  
BETWEEN THE PANDEMIC  
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OF THE EUROPEAN PROJECT**

**BUDŻET PAŃSTWA WŁOSKIEGO MIĘDZY  
PANDEMIĄ A KONFLIKTEM UKRAIŃSKIM,  
W KONTEKŚCIE EWOLUCJI PROJEKTU  
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**Abstract**

The balanced budget principle was introduced with the fiscal compact at the European level to pursue the aims of the European project also with an accounting and financial instrument. This principle was constitutionalized in Italy in 2012 with Article 81. The budget variance was seen as an exceptional event to be avoided at all costs, and until 2020, events never required a budget variance. This entailed some economic sacrifice and an abrupt adaptation of Constitutional Court jurisprudence aimed at placing more emphasis on the accounting principle over the rights of certain categories of citizens. This emergency approach, over 2020 and 2021, led to as many as five budget slippages. In March 2021, the Russian invasion of Ukraine began, a fact that destabilized all political and economic relations worldwide. By November 2022, the economic situation had become so unsustainable that on November 9, Parliament authorized a budget deviation to the amount of €9.1 billion. It can be said that, in the last two years, the exception clause of Article 81 Const. has been used for objectively exceptional events (pandemic and Ukrainian conflict), so that the use of the budget deviation is perfectly justified by the events. This fact, therefore stands to mean that so far, budget slippages have not negatively impacted the original rationale of the rule: to use monetary and financial leverage to evolve the European Union project.

**Key words:** balanced budget principle, fiscal compact, Sars Cov 2, Russian invasion of Ukraine, Art. 81 of Italian Constitution, accounting principle, financial leverage to evolve the European Union project

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## **Streszczenie**

Zasada zrównoważonego budżetu została wprowadzona wraz z paktem fiskalnym na szczeblu europejskim, aby realizować cele projektu europejskiego również za pomocą instrumentu księgowego i finansowego. Zasada ta została skonstytucjonalizowana we Włoszech w 2012 r. w art. 81: "państwo zapewnia równowagę między dochodami i wydatkami swojego budżetu". Odchylenie budżetowe było postrzegane jako zdarzenie wyjątkowe, którego należy unikać za wszelką cenę, a do 2020 r. zdarzenia nigdy nie wymagały odchylenia budżetowego. Wiązało się to z pewnymi wyrzeczeniami ekonomicznymi i nagłym dostosowaniem orzecznictwa Trybunału Konstytucyjnego, które miało na celu położenie większego nacisku na zasadę rachunkowości niż na prawa niektórych kategorii obywateli. Wraz z nadejściem pandemii, począwszy od marca 2020 r., włączono (wyjątkowe) skrajne wartości finansowania deficytu, opisane ponownie w art. 81: "zaciąganie pożyczek jest dozwolone jedynie w celu uwzględnienia skutków cyklu gospodarczego oraz, za zgodą izb parlamentu przyjętych bezwzględną większością głosów ich członków, w przypadku wystąpienia zdarzeń nadzwyczajnych". A światowa pandemia Covid 19 z pewnością mieściła się w zakresie wyjątkowego wydarzenia. To awaryjne podejście doprowadziło do nie mniej niż pięciu obsunięć budżetu w 2020 i 2021 roku (rządy Conte - Draghi). W marcu 2021 roku rozpoczęła się rosyjska inwazja na Ukrainę, co zdestabilizowało wszystkie stosunki polityczne i gospodarcze na świecie. W szczególności we Włoszech doprowadziło to do dwucyfrowego wzrostu cen surowców, energii i inflacji, co spowodowało skurczenie się konsumpcji i powiększenie obszarów ubóstwa. Początkowo zarówno „rząd Draghiego”, jak i „rząd Meloni” starały się w porozumieniu z instytucjami europejskimi przestrzegać "równowagi między dochodami i wydatkami swoich budżetów". Do listopada 2022 r. sytuacja gospodarcza stała się tak niezrównoważona, że 9 listopada parlament zatwierdził odchylenie budżetowe w wysokości 9,1 mld euro. Można wskazać, że w ostatnich dwóch latach klauzula derogacyjna z art. 81 Konstytucji była wykorzystywana w przypadku zdarzeń obiektywnie wyjątkowych (pandemia i konflikt ukraiński), a więc wykorzystanie odchylenia budżetowego jest doskonale uzasadnione tymi zdarzeniami. Fakt ten oznacza zatem, że jak dotąd odchylenia budżetowe nie wpłynęły negatywnie na pierwotne założenie reguły: wykorzystanie dźwigni monetarnej i finansowej do realizacji projektu Unii Europejskiej.

**Słowa kluczowe:** zasada zrównoważonego budżetu, pakt fiskalny, Sars Cov 2, rosyjska inwazja na Ukrainę, art. 81 Konstytucji Włoch, zasady rachunkowości, dźwignie finansowe do rozwoju projektu Unii Europejskiej

## **Statement of the Problem in General Outlook and its Connection with Important Scientific and Practical Tasks**

This paper aims to investigate the convergences between the Italian constitution and the European project in the three-year period 2020-2022 that will enter history as the period of the Sars Cov-2 pandemic and the beginning of the war in Ukraine.

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The Italian Constitution of 1948 is being tested by epochal changes, because none of the constituent fathers at the time imagined that there would be:

- a world pandemic
- a war, which did not directly affect Italy, but which could have had a devastating economic impact on Italian citizens, businesses, and institutions.

The construction of the European Union is also being tested by epochal changes.

The EU, in particular, has devised a system of monetary and financial leverage to realise the European project with:

- the principle of a balanced budget, which, in effect, prevents European states from creating new money in deficit (and thus from pursuing their own particular interests in disharmony with the European project)
- special financial support to states (such as the Recovery Fund), designed to realise, concretely and over time, the aims of the European project.

The unpredictability of the health and geopolitical framework of recent years has forced:

- Italy to continuously reinterpret the balanced budget rules and to consider budget overruns while waiting for European financial support;
- the European Union to intervene with massive financial means to tackle crises and pursue its objectives.

### **Analysis of latest research where the solution of the problem was initiated**

The subject of the investigation is the impact on economic and legal rules of unpredictable global events of a health and geopolitical nature occurring in the period 2020-2022.

The last military conflict with comparable global implications to the conflict in Ukraine was perhaps World War II and, to some extent, the attack on the Twin Towers and Washington DC on 11 September 2001.

The latest global event of a financial nature (in a negative sense) was the 2008 global crisis that started with the bursting of the subprime mortgage bubble and culminated with the bankruptcy of Lehman Brothers (contrary to the too big to fail principle).

This paper examines the problem of managing public finance contingencies with the use of monetary and financial leverage in relation to two events

- the Covid pandemic;
- the war in Ukraine.

As of 2012, there was a belief in Italy that with the balanced budget principle in the constitution, there would be no more budget overruns.

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This is testified by a lot of literature among which we point out: Coronidi F., La costituzionalizzazione dei vincoli di bilancio prima e dopo il patto Europlus, in *Federalismi*, 5, 2012. Napolitano G., La crisi del debito sovrano e il rafforzamento della governance economica europea, in ID. (cur.), *Exiting the Crisis. Politiche pubbliche e trasformazioni istituzionali*, Bologna, 2012. Rivosecchi G., L'equilibrio di bilancio: dalla riforma costituzionale alla giustiziabilità, in *Rivista AIC*, 3, 2016.

For eight years with many sacrifices, this was the case, but, starting in 2020, the pandemic and geopolitical crises disrupted the first New Year's resolutions.

As a result, legal and institutional practitioners have had to reinterpret regulations to adapt them to the financial crises and timeframes generated by the freezing (or slowing down) of currency circulation and double-digit inflation.

This is evidenced by the enormous flow of decisions and declarations of the Italian government and European institutions that are reported in this paper in the sources on the internet.

### **Aims of paper. Methods**

The aim of this paper is to analyse how bureaucratic structures (the Italian state and the European Union) have had to adapt to the various world crises in the three-year period 2020-2022, transforming themselves into problem solvers with the financial and legal instruments available.

The method adopted is that of analysing events through an objective reading (almost a cold read). This approach was chosen because the Covid issue and that of the war in Ukraine have been very divisive in Italy and abroad.

In this paper, therefore, the events and financial decisions taken by Italy and the EU will be analysed objectively, without asserting whether they were right or wrong.

In a crisis, governments and institutions have to make quick and sometimes unpopular decisions (such as lockdowns and the use of face masks).

Decisions, for better or worse, have been taken and most citizens have shown a strong trust in the Italian government and European institutions.

### **Exposition of main material of research with complete substantiation of obtained scientific results. Discussion**

This work aims to investigate the dynamic convergences between the Italian constitution and the European project in the period 2020-2022, which will enter history as the period of the Sars Cov 2 pandemic and the beginning of the war in Ukraine. In chronological order, in Italy, we had:

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A) first the pandemic (officially from 21 February 2020, when what will be called patient zero is identified on 21 February) [5].

B) the Ukrainian conflict (24 February 2022)

In the meantime, we are witnessing the evolution of the European project, put to the test by the two aforementioned epoch-making events.

*A) Pandemic:* The Italian constitution came into effect in 1948 and at that time lacks any explicit mention of either a pandemic or the European Union order.

In the abstract, however, the pandemic falls under the provisions of Article 77 of the Constitution, which states that 'in extraordinary cases of necessity and urgency, the government shall adopt, under its responsibility, provisional measures with the force of law'.

In the absence of a constitutional discipline on the 'state of emergency', the pandemic situation was dealt with by means of the adoption of decree-laws, issued pursuant to Article 77 of the Constitution, whereby 'in extraordinary cases of necessity and urgency' the government is legitimised to adopt provisional measures (and the adoption of the D.P.C.M.: Decrees of the President of the Council of Ministers). These imposed increasingly drastic measures, also affecting citizens' freedoms and constitutional rights, as the epidemiological situation worsened, to the point of determining, in the first weeks of March, the total lockdown of the nation.

In order to avoid overloading hospitals, and especially intensive care units, it was therefore decided to impose a quarantine on the population, with severe restrictions on constitutionally guaranteed freedom and the closure of all non-essential commercial activities.

In reality, the pandemic with its lockdowns caused a significant contraction of the economy, especially for off-line activities, such as catering, hotels, transport and sports.

*B) Ukrainian Conflict:* On the other hand, the Constitution expressly takes war into consideration with Article 11, according to which 'Italy repudiates war as an instrument of offence against the freedom of other peoples and as a means of settling international disputes; it consents, on equal terms with other states, to the limitations of sovereignty necessary for an order that ensures peace and justice among nations; it promotes and encourages international organisations directed to this end'.

The Ukrainian conflict should be read in the opposition between NATO (as defender of Ukraine) and Russia (as aggressor of Ukraine). From this perspective, an interpretation of the Constitution has prevailed that allows active intervention by Italy in the conflict.

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According to the currently prevailing opinion of G. Amato (former President of the Constitutional Court), there would be no contradiction in the Italian government's chosen line of active support to the Ukrainian army, thus legitimising the choices of the government led by Mario Draghi [6].

In fact, with the start of the conflict, there has been an exponential increase in the cost of energy (oil, gas, electricity) with a double-digit rise in inflation that has put all governments, and the Italian one in particular, in serious difficulty. In fact, bills in Italy have become increasingly unsustainable, forcing several entrepreneurs to close or suspend their activities.

With both the pandemic and the Ukrainian conflict, the government was faced with an extraordinary economic crisis with the impossibility of creating new money supply due to compliance with the constitutional accounting rule of balanced budgets.

The balanced budget rule is the result of an act of faith in the European project. Consequently, we will see how:

- Italy has acted in compliance with Community law
- the European institutions have supported Italy's difficult period.

### **The Monetary Lever Of The European Project: Euro And Balanced Budget**

The principle of a balanced budget is an accounting principle. In the process of European construction, it also becomes a principle with a strong political connotation.

The balanced budget principle prevents states from generating new money supply (so-called deficits), committing them to manage their budgets trying to break even.

However, it is possible for states to have surplus money from the European Union, provided this money is tied to achieving the priorities indicated by the European institutions: the latest of these financial instruments used by the EU is the so-called Recovery Fund.

Ultimately, monetary and accounting leverage is used in Europe to achieve the aims of the EU, first with the euro and then with the balanced budget.

1) Euro: The first step to give a unified vision to the European project with a monetary instrument was the euro.

The purpose of the euro is to create a common economic and above all political space within Europe.

The euro has become one of the strongest currencies in the world, which proves the solidity of the project of the idea of a united Europe.

Italy joined the euro in 2000, abandoning the lira. It was a strong sign of Italian governance that it wanted to embrace the European project. Italy thus decided to rely on

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Europe for currency supply, as it was not longer allowed to produce the lira. Such a choice denotes total trust in the European project on the part of Italian institutions. There is debate on whether, with an unchanged constitution, Italy could assign the production of money to a third party. In the writer's opinion, it could: it was a delegation of the function of producing money. A delegation based on full adhesion to the European project.

Can one therefore leave the euro, which some call irreversible?

Of course, one can leave the euro: but that would presuppose the abandonment of the European project (at least as it is now outlined). Currently, both Italian governance and the majority of Italian citizens are in favour of the European Union. So, the abandonment of the euro is currently theoretically possible although highly unlikely.

With the advent of the euro, the principle of balanced budgets began with the discipline of the fiscal compact. On 2 March 2012, the 25 EU Member States signed the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (the so-called Fiscal Compact) in Brussels.

This treaty provides for a series of instruments aimed at enhancing ex ante coordination of economic policies, such as the institutionalisation of the Euro Summit (or Euro16 Summit), which outlines

- a strengthening of interparliamentary cooperation on the matter
- reaffirms the contents of the so-called 'European Semester', i.e. the economic policy coordination cycle in the framework of which each country is called upon to negotiate the measures necessary to ensure financial and budgetary balance.

The Fiscal Compact also introduced stricter budget constraints, committing signatory states to implement the so-called balanced budget rule through binding, permanent and (preferably) constitutional provisions.

The new budget constraints defined by the Fiscal Compact were followed by Constitutional Law No. 1 of 2012 [1], which intervened on the text of Article 81 of the Constitution as follows [2]: "The State shall ensure a balance between the revenues and expenditure of its budget, taking into account both adverse and favourable phases of the economic cycle. Recourse to borrowing is permitted only in order to consider the effects of the economic cycle and, subject to authorisation by the Chambers adopted by an absolute majority of their members, in the event of exceptional events [...]. The content of the budget law, the fundamental rules and the criteria aimed at ensuring the balance between budget revenues and expenditures and the sustainability of the debt of the public administrations as a whole shall be established by law approved by an absolute majority of the members of each Chamber, in compliance with the principles

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defined by constitutional law'. The constitutional legislature has also intervened to amend Articles 97, 117 and 119 of the Constitution as follows:

*The article 97:*

"Public administrations, consistent with European Union law, shall ensure that budgets are balanced and public debt is sustainable".

*The article 117:*

"Legislative power is exercised by the State and the Regions in compliance with the Constitution, as well as with the constraints deriving from the Community order and international obligations.

The State has exclusive legislation in the following matters:

(a) foreign policy and international relations of the State; relations of the State with the European Union; right of asylum and legal status of citizens of States not belonging to the European Union; [...].

(f) organs of the State and relevant electoral laws; State referenda; election of the European Parliament;

The following are matters of concurrent legislation: international and European Union relations of the Regions; [...]

The Regions and the Autonomous Provinces of Trento and Bolzano, in the matters of their competence, participate in the decisions directed to the formation of community regulatory acts and see to the implementation and execution of international agreements and acts of the European Union, in compliance with the rules of procedure established by the law of the State, which regulates the modalities of the exercise of the substitutive power in case of non-compliance'.

*Italy, therefore,*

- with the final approval of the Constitutional Bill on 18 April 2012;

- with the enactment of Constitutional Law No. 1/2012, published in the Official Gazette on 23 April 2012 (i.e. one month after the approval of the fiscal compact);

- with Constitutional Law that came into force on 1 January 2014;

introduced into the Constitution the principle of a balanced budget and debt sustainability of public administrations.

Article 5 of the constitutional law then postponed its implementation to a reinforced law to be approved by an absolute majority. This law was approved at the end of the 16th legislature with Law No 243 of 24 December 2012 (Provisions for the implementation of the principle of balanced budgets pursuant to Article 81(6) of the Constitution).

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It states that:

- 'this law constitutes the implementation of Article 81, paragraph six, of the Constitution, as replaced by Constitutional Law No 1 of 20 April 2012, and of Article 5 of the same Constitutional Law';

- specifying that it 'may be repealed, amended or derogated from only in an express manner by a subsequent law passed pursuant to Article 81, paragraph six, of the Constitution'.

Indeed, this requirement was adhered to by the subsequent legislator who, by Law No. 164 of 12 August 2016 (Amendments to Law No. 243 of 24 December 2012 on the subject of balancing the budgets of regions and local authorities). With it, at the Government's initiative, it made a series of textual amendments to Law No. 243 of 2012, aimed at taking into account the new regulations on the harmonisation of regional budgets that had intervened in the meantime and at dictating a framework of rules different from the traditional 'internal stability pact'.

As a result of Constitutional Law No. 1 of 2012, which is clearly inspired by the Fiscal Compact, the financial constraint is also clearly and explicitly assumed by the Italian Constitution and national political classes.

It should be pointed out that the introduction of the aforementioned principle of a balanced budget in domestic laws with constitutional provisions was not an obligation on the part of the legislature, as the Fiscal Compact only provides a preference for constitutional provisions.

A preference, not an obligation, was provided for:

- in the Euro-Plus Pact

- in the letters addressed to the member states by the two ECB governors (Trichet and Draghi), which, by imposing spending cuts in certain sectors, spoke of opportune (and not necessary) reform without reference to a change in the Constitution.

Including a balanced budget in the Constitution means espousing the aims of the European Union in full. It is an act of trust by the Italian legal system that the purposes pursued (or to be pursued) by the European Union coincide with the purposes pursued (or to be pursued) by Italy.

With this act, Italy renounces creating deficits, i.e., creating new money. At the same time, Italy is confident that the European Union will transfer money to Italy, if necessary, because Italy's purposes coincide with those of the European Union.

By giving a legal value to a political commitment ("let us espouse the aims of the EU"), the balanced budget constraint becomes, as we shall see, a parameter for judgments of constitutional legitimacy. The reform was not legally necessary (in terms of revising

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the Constitution), but it was politically necessary in view of accelerating the project of building the so-called United States of Europe.

### ***The Principle Of A Balanced Budget Before The Pandemic***

The new Article 81 Const. establishes a general rule and its exception:

— GENERAL RULE: "the state shall ensure a balance between the revenue and expenditure of its budget [principle of a balanced budget]"

— EXCEPTION: "recourse to borrowing is permitted only in order to take into account the effects of the economic cycle and, subject to authorisation by Parliament adopted by an absolute majority of their members, in the event of exceptional events [budgetary slippage]"

This is the end of the possibility for Italy to create a deficit (and, therefore, more money), only for 'exceptional events' specified in the regulations [4].

Before COVID, the general rule of the balanced budget principle prevailed; after COVID a regulation inspired by the budget deviation prevails, justified by a factual situation that authorises the derogatory regulation.

In relation to the balanced budget principle in the Constitution, let us see how it has been applied from 2012 to the present day.

- Let us start with a law. Parliamentary Law No. 214/2011 had provided for a freeze on the automatic revaluation of pension treatments starting in 2012, at the instigation of the government headed by Mario Monti in order to comply with budget containment requirements.

- The constitutional law on the balanced budget came into force on 8 May 2012.

- The Constitutional Court, with sentence No. 70/2015 declared illegitimate, with retroactive effect, the freeze on the revaluation of pensions (automatic equalisation) in the years 2012-2013 operated by the Monti government. Consequently, thanks to the retroactive effect of the decision, pensioners were entitled to a recalculation of their pensions, including the revaluation (reimbursement) from 2012.

If the ruling had not been retroactive, pensioners would not have been entitled to any reimbursement for previous years (but possibly only for the future, starting in 2015).

With retroactivity, a decision was made with potentially significant financial effects on the public budget. The decision in Positive Law was hierarchically justified in the name of the prevalence of the pensioners' right to receive a pension under:

(a) Art. 36 of the Constitution: pension adequate to the needs of life;

b) Art. 38 of the Constitution: pay corresponding to a wage level that allows a free and dignified existence.

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In other words, although not expressly mentioning the principle of a balanced budget, the judges made Articles 36 and 38 of the Constitution (on decent pay) prevail over the new Article 81 (whereby the government cannot finance its spending in deficit). Because of the ruling, the government was forced to envisage a strategy to deal with the dangers from (at least) two fronts:

- 1) the army of pensioners who - very presumably - would have reclaimed the money illegally taken away by the same Government;
- 2) the battleship of the Justices of the Court, lined up in the defence of traditional fundamental rights. This risked condemning the Government for other similar offences against its citizens in the future.

After due consideration, let us see what the Government has in store for pensioners. For the (Renzi) government, the full implementation of the ruling meant an outlay of more than € 17 billion for 2015 alone: an enormous sum. To partially remedy this, the government approved a Decree-Law (no. 65 of 2015), by which it approved a (very) partial reimbursement of only € 2.2 billion out of the € 17.6 billion due to pensioners. A sort of mini bonus.

For example:

- (a) "pensioners with a € 1,500 gross pension will receive arrears of about € 660 in their August pension but are entitled to more than € 3,000 in arrears" [7].
- b) "Pensioners with a gross pension of € 2,000 will receive arrears of about € 440 but are entitled to more than € 4,000 in arrears" [7].

This was a buffer measure, because, beyond the issue of pensioners, the government's real problem was to avoid being condemned in the future for other categories of citizens from whom money was illegally taken.

With this in mind, in June 2015, some members of the parliamentary majority tabled a bill 'on the subject of the investigation and transparency of judgments of constitutional legitimacy': in fact an attempt to limit the prerogatives of the Constitutional Court, so as to avoid the repetition of rulings such as 70/2015.

With this institutional ritual (majority bill that could become law), the government issued a very precise political warning to the Court's judges.

Immediately after the presentation of the bill, the Constitutional Court returned to rule on a new case: the legitimacy of the freeze on contracts in the public administration. Here, too, the Court found the extension of the freeze for the years 2013-2014 and then 2015 to be illegitimate, considering it a violation of trade union freedom (Article 39 of the Constitution). But, in this case, the ruling was not deemed retroactive, because the decision leaves 'without prejudice, for the period already elapsed, the economic effects

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deriving from the discipline examined'. If the ruling is not retroactive, then the government is not obliged to compensate anything from 2013.

The non-retroactivity of the law, in this judgment, follows from the Judges' new decision to let Article 81 prevail over labour rights (Article 39).

In other words, the Judges say:

— the government has "unlawfully" embezzled € 35 billion from public employees;

— but, due to the new Article 81 of the Constitution, the Government is no longer obliged to return them.

The prevalence of budgetary rules over fundamental rights has caused much debate.

Beyond the different sides, it should be noted that since 2015, the need to respect a balanced budget has been very much felt at national and EU level.

At the national level, because Italy is the only European state to have included a balanced budget in its Constitution.

At European level, because the EU reserves the right to agree on monetary policies with individual member states in order to pursue a more coordinated and effective international collaboration project.

Consequently, a particular interpretation of the horizontal hierarchy principle may also apply in this case. Article 81 may also prevail because it is a more recent constitutional law that, due to the time factor, it is superordinate to earlier constitutional laws. The Fundamental Rights, in fact, date back to 1948, while the principle of a balanced budget is from 2012.

### ***Italy And The Coronavirus Pandemic: Deviations And Recovery Fund***

As of early 2020, the world is facing the most serious health crisis in modern history.

The coronavirus pandemic originated in Wuhan, China on 31 December 2019, when Chinese health authorities notified an outbreak of pneumonia cases of unknown aetiology.

On 11 February, the World Health Organisation (WHO) announced that the respiratory disease caused by 2019-nCoV was called COVID-19, which within a few months rapidly spread to countries around the world with varying levels of intensity. The first Italian cases occurred on 21 February 2020, where the first infected person, a 38-year-old man from Codogno, was identified. From there, the search for the virus and the infected began (first with the molecular swab, which could only be carried out on people returning from China): within three days, there were 325 confirmed cases.

This was the beginning of the first devastating wave for Italy, culminating in a national lockdown starting on Sunday 8 March. The virus immediately stood out for its strong

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contagiousness and lethality among those most at risk, generating sudden and substantial pressure on health systems due to the growing demand for treatment and the hospitalisation of the most serious cases.

In the first weeks after its spread, in the absence of vaccines and specific treatments, the most affected countries stemmed the contagions through the introduction of severe social distancing measures, constraints on individual mobility and the closure of schools and universities, the stoppage of non-essential activities, and the complete re-organisation of essential production activities aimed at safeguarding the health of workers.

Italy proved to be vulnerable and unprepared at a health and economic level also due to the lack of an adequate pandemic programme. This has stimulated a new legal literature on the subject [2].

With reference to the COVID-19 emergency, six reports have been submitted to Parliament so far, five of them during 2020.

- I Discovery: On 5 March 2020, the government presented the first Report to Parliament to deal with the consequences of the COVID-19 outbreak. The new public finance targets were authorised by Parliament with the approval, on 11 March, of House Resolution No. 6-00103 and Senate Resolution No. 6-00102. This is the first 'budget deviation' authorised in 2020.

- II Disagreement: authorised by Parliament with the approval, on 29 and 30 April respectively, of Chamber of Deputies Resolution No. 6/00107 and Senate Resolution No. 6/00106.

- III Dismissal: authorised by Parliament with the approval on 29 July of Chamber of Deputies Resolution No. 6/00123 and Senate Resolution No. 6/00124.

- IV Dismissal: authorised by Parliament on 14 October 2020 with the approval of Chamber of Deputies Resolution No. 6/00145 and Senate Resolution No. 6/00138.

- V Disagreement: authorised by Parliament on 26 November with the approval of Chamber of Deputies Resolution No. 6/00154 and Senate Resolution No. 6/00152.

With the new budget slippage, the pandemic bill grows [8].

This year the public debt will touch the record threshold of 160% of GDP, an increase of more than 25 percentage points over the pre-Covid level

This is a new budgetary slippage, the fifth since the pandemic broke out, with resources allocated in part to finance the new Restructuring Decree that is coming (the third since October), and for the rest to reinforce the overall endowment for the Budget Law, which in its current formulation counts on a total of € 38 billion.

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This is about € 8 billion to which must be added € 2 billion for the third “Ristori” decree, taken from the funds still unspent in the previous anti-crisis measures.

According to Economy Minister Roberto Gualtieri, the new budget variance does not change the deficit target set for this year at 10.8 per cent of GDP. It will, if anything, serve to make available the higher revenues resulting from a larger-than-expected rebound in GDP in the third quarter (16.1%). Another slippage will follow, at the beginning of next year, which is expected to be around €20 billion [19].

If from 2015 onwards the principle of a balanced budget, due to EU influence, was imposing itself even on the rights considered fundamental, from 2020 onwards this principle is continually being deviated from by budgetary slippages due to the pandemic.

The need to invest money quickly in the COVID era, skipping all national and international bureaucratic delays, has caused the importance of the balanced budget principle to regress in favour of a kind of budget deficit principle.

In order to technically proceed with a budget deviation, it is necessary to start with another pivotal concept, namely the medium-term objective (MTO). This term, in fact, refers to the targets that an EU nation must achieve, in a given time, for the structural budget balance.

We can therefore say that each country has its own MTO, which is normally calculated on the basis of:

- economic potential
- budgetary conditions
- economic situation
- financial sustainability risk

According to European legislation, each member country must have a structural budget balance equal to its MTO. On some occasions, it may even be rapidly approaching the target.

The European rules themselves, however, allow for temporary deviations from the pattern indicated above and, in precisely these cases, we have a budgetary deviation.

This manoeuvre, however, can only be carried out in cases of emergency, such as the economic crisis caused by Coronavirus.

Budgetary slippage is also permitted if the country has carried out major structural reforms. This applies if the changes, such as pension reforms, have an impact on long-term public financial sustainability. However, it must be remembered that the budget deviation must be authorised by Parliament and the European Commission, and only if a margin of 3% is maintained.

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Among EU countries, Italy was one of the first to request a budget deviation. This was due to the fact that its economy was one of the hardest hit and, as early as March 2020, the country was in lockdown with the consequent closure of business activities. The serious situation affected the national GDP, and the government decided to request the budget deviation on three occasions.

The first manoeuvre amounted to € 20 million and served to finance the Cure Italy Decree, while the second one of € 55 million was for the “Ristori” Decree. The last slippage came in July, amounting to € 25 billion and was necessary to extend some social safety nets and the redundancy fund.

By now, slippage has become the rule in Italy. This is because the European bureaucracy is slower in disbursing the money. In any case, the EU is preparing the so-called Recovery Fund to inject new money into a system severely debilitated by COVID.

"Recovery Fund", is the core of Next Generation EU, is intended to support and revive the European economies affected by the COVID-19 pandemic, which plans to spend over € 1,800 billion from 2021 to 2027.

For Italy, about € 200 billion are planned, of which about € 80 billion in grants. In the meantime, Italy must provide for its money needs by continually derogating from the principle of a balanced budget in order to create new money to put on the market.

In exceptional times, therefore, the exceptional procedure of Article 81 of the constitution is used. When the situation normalises (hopefully), the Recovery Fund will come into operation with the possibility for Italy to respect the principle of a balanced budget that is so important for the new European governance.

With a balanced budget, in fact, the EU can subordinate the disbursement of funds to the realisation of very specific plans that are at the top of the list of European governance.

The objective of Next Generation Italy is to finance investments, both public and private, to make them the driving force behind the continent's revival.

The areas of intervention identified by the government are six:

- Green revolution and ecological transition, to which € 74.3 billion is allocated
- Digitalisation, innovation, competitiveness and culture (€ 48.7 billion)
- Infrastructure for sustainable mobility (€ 27.7 billion)
- Education and research (€ 19.2 billion)
- Gender equality and social cohesion (€ 17.1 billion)
- Health (€ 9 billion) [8].

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### **The Ukrainian Conflict**

The Russian-Ukrainian conflict is a political, diplomatic, and military confrontation that started in February 2014 and has escalated sharply over the past year. The overt conflict, now in the media limelight, is thus the result of a long incubation that entered somewhat under the radar due to the implementation of so-called low-intensity wars.

The armed intervention was preceded by a prolonged massing of Russian forces on the border that began in spring 2021, motivated by Russian President Vladimir Putin on the basis of the fear of Ukraine joining NATO and followed by military exercises.

This emblematically demonstrates the nature of the conflict:

(a) apparently, it appears to be a matter between Russia and Ukraine

b) in fact, it is a redefinition of power relations between NATO and Russia (along with its allies).

The Russian invasion of Ukraine in 2022 is therefore conventionally dated with the military offensive initiated by the Armed Forces of the Russian Federation on 24 February 2022 with the invasion of Ukrainian territory.

The war caused the biggest refugee crisis in Europe since the end of World War II (especially in Poland), so much so that it was deemed necessary to invoke the Temporary Protection Directive.

A few days before the invasion, Russia had formally recognised the independence of two self-proclaimed states in the Donbass region within the borders of Ukraine:

- the Donetsk People's Republic

- the Lugansk People's Republic,

On 20 February, Russia sent its armed forces to garrison Doneck and Lugansk.

On 21<sup>st</sup> February, the Federation Council unanimously authorised President Vladimir Putin to use military force outside the border.

### **Confindustria Italiana On The Economic Shock**

According to Confindustria, "the global scenario is dominated by the extreme tensions and uncertainties generated by the Russian invasion in Ukraine. The impact on economic activity is acting as a profound supply shock, at the moment difficult to quantify, because the picture is constantly evolving" [9].

The conflict, at the monetary level, has led to:

- the depreciation of the euro

- substantial losses in the main financial markets.

The sectors most affected by the crisis are:

- the energy-intensive ones, such as metallurgy, chemicals, ceramics, and glass,

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- the other highly internationalised sectors such as transport equipment (motor vehicles, aircraft, ships).

The main one comes from the further increase in energy, agricultural and metal prices. The exacerbation of tensions in the markets for these commodities is due to the fact that Russia, Ukraine (and Belarus, as a vassal state of Russia) are among the world's main suppliers.

The Confindustria dossier states that 'in Italy, increases in oil, gas, and coal prices are driving up the costs of businesses.

From an analysis carried out using input-output tables, the incidence of energy costs on total production costs (all non-energy cost items being equal) would increase by 77% for the total Italian economy, entering from 4.6% in the pre-pandemic period (average 2018-19) to 8.2% in 2022.

In euro, this impact would translate into an increase in Italy's energy bill of € 5.7 billion on a monthly basis, i.e., an additional burden of € 68 billion on an annual basis.

By far the most affected sector is metallurgy, where the incidence could be as high as 23% by the end of 2022, followed by non-metallic mineral productions (refractory products, cement, concrete, plaster, glass, ceramics), where the incidence of energy costs could be as high as 16%, wood processing (10%), rubber-plastics (9%) and paper production (8%).' [9]

The increases in energy prices (+52.9% per year in March) have led to a reduction in the purchasing power of households and to a decrease in consumption, which seemed to have recovered in the post-COVID phase.

### **The Position Of The Italian Government**

During 2022, two governments alternated, headed first by Mario Draghi and then by Giorgia Meloni (the first female Prime Minister in Italian institutional history).

A) At the beginning of the conflict, the incumbent government was headed by Mario Draghi, assisted by a very large majority of national unity determined by the need to tackle the pandemic.

Draghi's position can be summarised in the following points:

- support Ukraine with over € 800 million in assistance for refugees, strengthening the refugee reception capacity and providing refugees with access to Italian public health care [10].

- trying to raise the awareness of the partners and parties involved so that a ceasefire can be reached as soon as possible, and negotiations can be forcefully restarted.

- the support of sanctions against Russia, even though these may lead to a partial boom-rang effect against Italy [11];

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- the sending of arms [12] to Ukraine for a total amount of over € 450 million [13]. Above all, for the purposes of our investigation, Draghi, during the Ukrainian conflict was always against budget deviations: "the instrument of the budget deviation was used a lot during the COVID emergency. The Conte 2 government asked for it five times in total: four in 2020 and one in 2021. For a total deficit increase of € 108 billion in 2020 and € 32 billion in 2021. To the latter were added the €40 billion slippage that the Draghi government called for again in 2021. In all, €180 billion" [14].

B) ON 25 September 2022, in new elections, the centre-right led by Giorgia Meloni won, with approximately 44% of the preferences, winning an absolute majority in both chambers.

Initially, the government headed by Meloni showed that it wanted to continue the line of the Draghi government on public accounts.

Already during the election campaign Giorgia Meloni declared on 22 September: 'I don't want the budget gap, if I can avoid it. While the priority is to help the Italians, if I can avoid putting our young people further into debt to make the few who speculate on people's lives richer and richer, I am even happier' [15].

In this sense, on 1 November, the new Minister of the Economy (and a former minister in the team headed by Draghi) represented the thinking of the executive as follows: "The new government is oriented towards confirming its commitment in the coming years to reduce the deficit and the debt/GDP ratio.

Such statements are the result of Italy's liquidity crisis, while the European institutions try to prepare financial strategies to create a climate of stability within all EU states.

In order to remedy the limitations of the Economic and Monetary Union and to meet the challenges of the crisis, the initiative of the European institutions and the member states has been along two lines:

a) the management of individual insolvency risks, through the provision of financial assistance instruments for states in need.

b) the strengthening of fiscal and economic integration, in order to structurally ensure the balance of public finances and to set the conditions for a revival of growth [3].

While waiting for the EU's help, the adverse effects of the economic situation brought about by the conflict forced the executive to consider the possibility of deviation once again.

"Russia's invasion of Ukraine is causing untold suffering and destruction, but it is also weighing on Europe's economic recovery," said Economy Commissioner Paolo Gentiloni, recalling that "the war has caused energy prices to soar and further disrupted supply chains, so inflation is set to remain higher for a long time to come" [...].

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The European 'rebound' was 5.4% in 2021. Italy is among the countries that did better, also thanks to Recovery Fund, with a growth of 6.6%, slightly higher than that estimated in the last winter forecasts by the Commission itself. However, Brussels warns, "in the second half of 2021, rising input prices and supply bottlenecks have started to weigh on industrial activity, while rapidly rising energy prices have dented household purchasing power. [...]

For these reasons, Italy sees GDP growth forecasts contracting by 1.7% between before and after Ukraine. [...] The outlook, the Commission adds, "remains subject to pronounced downside risks". And this is because, 'as one of the largest importers of Russian natural gas among EU countries, Italy would be severely affected by sudden supply disruptions'.

During the election campaign, there had been much discussion about whether or not a new budget deviation should be approved (six deviations were approved to deal with the COVID-19 pandemic). [...]. Meloni, for example, had repeatedly stated that the budget deviation should be the 'ultima ratio', i.e., a solution to be adopted after trying other avenues [17].

And in the end, the financial situation became so unsustainable that the government finally had to implement a budget deviation, the first in the Ukrainian conflict era.

On 9 November 2022, the House and Senate authorised the budget deviation to the tune of €9.1 billion, which the government wants to commit to counteract the negative effects of rising energy prices, which fall on household bills.

In particular, the government has asked Parliament to give its green light

- for additional borrowing of € 9.1 billion in 2022

- by more than € 21 billion in 2023

- by about € 2.4 billion in 2024 [18].

Ultimately, in order to counteract the negative effects of the increase in energy prices - which negatively affect the bills of households and businesses - the Meloni government, in agreement with the European institutions, was forced to resort to the budgetary slippage of €9.1 billion for the year 2023 [18].

## **Conclusions**

The balanced budget principle was introduced with the fiscal compact at the European level to pursue the aims of the European project also with an accounting and financial instrument. This principle was constitutionalised in Italy in 2012 with Article 81: "the State shall ensure a balance between the revenue and expenditure of its budget".

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A budget deviation was seen as an exceptional event to be avoided at all costs and, until 2020, events never required a budget deviation. This entailed some economic sacrifices and an abrupt adaptation of the Constitutional Court's jurisprudence to give more emphasis to the accounting principle than to the rights of certain categories of citizens.

With the advent of the pandemic, starting in March 2020, the (exceptional) extremes for deficit financing were integrated, again described by Art. 81: 'recourse to borrowing is permitted only in order to take into account the effects of the economic cycle and, subject to authorisation by Parliament adopted by an absolute majority of their members, upon the occurrence of exceptional events'. And the worldwide Covid pandemic certainly fell within the scope of an exceptional event. This emergency approach led to no less than five budget slippages in 2020 and 2021 (the Conte - Draghi governments). In March 2021, the Russian invasion of Ukraine began, a fact that destabilised all political and economic relations worldwide. In particular, in Italy, it led to a double-digit increase in raw materials, energy and inflation, resulting in a contraction of consumption and increasing pockets of poverty.

Initially, both Draghi's and Meloni's governments tried to respect the 'balance between the revenue and expenditure of their budgets', in agreement with the European institutions. By November 2022, the economic situation had become so unsustainable that on 9 November, Parliament authorised a budget deviation in the amount of €9.1 billion. It can be said that, in the last two years, the exception clause of Article 81 of the Constitution has been used for objectively exceptional events (pandemic and Ukrainian conflict), so that the use of the budget deviation is amply justified by the events. This fact, therefore, means that so far budgetary slippages have not negatively impacted the original rationale of the rule: to use monetary and financial leverage to advance the European Union project.

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