

KEY REGULATORY UPDATES

➤ **Renewables Consolidated Text: Published in the Official Gazette**

Legislative Decree No. 190/2024 (the so-called *Renewables Consolidated Act* or *FER Consolidated Act*), which regulates the administrative procedures for renewable energy production, was published in the Official Gazette on December 12, 2024, and came into effect on December 30, 2024. The Regions and local authorities will be required to align with its principles within 180 days from that date. Among the key innovations are the simplification into three administrative regimes – free activity, simplified authorization procedure (PAS), and single authorization – and the introduction of so-called acceleration zones. Regarding this last aspect, it is stipulated that, by May 21, 2025, the GSE must publish a national mapping identifying the country's renewable energy potential and the areas available for the installation of RES plants, related infrastructures and works, as well as storage systems. Subsequently, by February 21, 2026, Regions will be required to adopt, based on this mapping, a Plan for the identification of terrestrial acceleration zones.

➤ **Transitory FER X: decree signed**

Following the approval by the European Commission in mid-December, on December 30, the Minister of the Environment and Energy Security (MASE) signed the decree for the Transitory FER X mechanism for 2025, which will be applicable until December 31, 2025.

The decree will come into force upon its publication on the MASE website, which to date does not appear to have taken place. Subsequently, within 90 days, the operational rules for accessing the mechanism must be approved and, within 30 days from the entry into force of the relevant approval decree, the GSE will issue the first public notice based on the auction calendar.

Among the key aspects, the decree defines the mechanism for calculating the incentive tariff and the criteria for obtaining it, either through direct access or auctions, depending on whether the plant's capacity is below or above 1 MW.

➤ **Energy Release: deadline for expression of interest extended**

Following the publication of the call for Energy Release 2.0 by the GSE, and upon instructions from the MASE, the GSE has once again extended the deadline for submitting expressions of interest to participate in the Energy Release allocation procedure, postponing it from February 14 to March 3, 2025. Furthermore, the scope of eligible entities has been expanded to include those "registered or who have submitted a request for inclusion in the lists of energy-intensive companies for the years 2024 and 2025". Additionally, the amount of assignable energy has been increased from 23 to 24 Tw/h per year.

➤ **Decree-Law “*Emergenze e attuazione PNRR*” in the Official Gazzette**

Published in the Official Gazette on 13 December 2025, Decree-Law No. 208/2024 has entered into force and the relevant parliamentary amendments are now under discussion prior to its conversion into law. The Decree concerns, among others, the system of guarantees related to PPA contracts under the REPowerEU chapter of the PNRR and provides for the GSE to assume the role of guarantor of last resort for the RES energy trading platform managed by the GME. The terms and conditions of application will be regulated by a special decree of the MASE.

CASE LAW

➤ **Council of State: the regional law of Umbria is unlawful**

With its ruling no. 466 of 22 January 2025, the Council of State (CdS) reformed ruling no. 723/2023 of the Umbria Regional Administrative Court (TAR) and annulled the regional measures denying an application for authorization for a photovoltaic plant. In particular, as stated by the CdS, the liberalization of the construction of plants in industrial areas, brought about by Legislative Decree 199/2021, excludes any substitutive power in the hands of the Regions, which cannot introduce in such areas more stringent criteria than those temporarily provided for by the aforementioned decree.

➤ **Council of Ministers: Law No. 20/2024 of Sardinia Region challenged**

During its meeting of 28 January 2025, the Council of Ministers decided to challenge before the Constitutional Court the Law of Sardinia Region no. 20/2024, complaining, among others, that it violates the criteria for the division of legislative competence between the state and the regions, as well as the principles of equality, legal certainty and legitimate expectations. It is impossible to estimate the time required for the ruling, but it is not to be excluded that in the meantime Law 20/2024 will be suspended as a precautionary measure.

➤ **Council of Ministers: Law No. 36/2024 of Calabria Region challenged**

The Government has challenged the Law No. 36 of the Calabria Region, dated November 26, 2024, which introduced a ban on the construction of biomass plants exceeding 10 MWt in national and regional parks and requires existing plants to reduce their power output by May 2025, under penalty of the expiration of the related authorization. Among the reasons published by the Department for Regional Affairs, it is argued that Article 14 of the aforementioned law would impose a ban on the construction of a specific type of renewable energy plant in a particular area, and that the measure would apply retroactively both to plants under construction and those already in operation.

➤ **The Tax Agency on the links between transcription and DL Agricoltura**

Resolution no. 4 of 13 January 2025 by the Italian Tax Agency ruled on the relationship between Decree-Law no. 63/2024 (DL Agricoltura) and the civil code provisions on transcription. Since DL Agricoltura did not introduce any derogation from such provisions, despite the fact that the minimum duration of preliminary surface contracts is now set at 6 years, the effects of transcription will manifest for a maximum of three years, as provided by Article 2645 bis of the Civil Code. Another noteworthy statement regards the extension of the contracts already executed, which does not require any advertising formalities, but rather applies by law.

➤ **TAR Calabria: ruling No. 57/2025**

The Calabria Regional Administrative Court (TAR), with ruling No. 57/2025, annulled the decree denying the Regional Single Authorization Measure (PAUR) for a wind farm project. The court ruled in line with the most recent jurisprudence regarding the role of opinions expressed by administrations representing sensitive interests in this type of procedure, emphasizing the discretionary final assessment of the deciding authority. Referring to consistent case law, the court clarified that the deciding authority is required *“to balance the competing interests and to issue a final measure that is the outcome of an independent assessment”*, as it cannot deny the authorization request by merely making an uncritical reference to a negative opinion expressed by one of the participating administrations, even if that administration is required to provide a binding opinion.

➤ **TAR Lombardia: ruling No. 43/2025**

With ruling no. 43/2025, the Lombardy Regional Administrative Court (TAR) confirmed the orientation of administrative jurisprudence, stating that the change of the connection point to the grid and the relocation of the plant constitute a new connection request rather than a design modification. As such, they require a new and different estimate rather than a mere modification of the one issued for the original project. The court specified that it is reasonable to allow the requesting company to change the location only within significantly limited spatial boundaries; otherwise, the original estimate would be completely distorted, since it is the location of the plant that determines the connection estimate, and not vice versa.

REGULATIONS IN THE PIPELINE

➤ **FER 2 Decree: MASE measure underway to prevent speculative conducts**

Following the positive opinion issued by ARERA on January 21, 2025, regarding the draft decree from the Ministry of the Environment and Energy Security (MASE) amending the FER 2 Decree, the final provision is now awaited. The intervention aims to limit withdrawals from a procedure that are solely motivated by the desire to access more favourable conditions in a subsequent procedure, thus delaying the implementation of plants and restricting the participation of other potentially

interested parties.

Specifically, the modification will concern Article 7, paragraph 4, and will establish that the provisions of paragraph 3 (i.e., the forfeiture of incentives due to delays in the construction of plants, with a 20% reduction in the tariff in case of subsequent re-admission) will not apply if, within 12 months from the publication of the ranking, the applicant notifies GSE of their withdrawal from the eligible position in the ranking. These applicants will be allowed to participate in subsequent procedures for the same plant, but they will not be able to secure a tariff higher than the one initially withdrawn, reduced by 5%. A second amendment will concern Article 14, paragraph 1, letter c), and aims to advance the preparation of an interim evaluation to December 31, 2025 (instead of December 31, 2026) by the entity to be identified in accordance with the same provision.

➤ **Net-Zero: regulations on industrial components and “non price” criteria**

In accordance with the Net-Zero Industry Act (Regulation (EU) 2024/1735), the European Commission has published the draft delegated regulation by which it identifies the list of specific components used in the production of net-zero technologies (including renewable energy sources – RES), and the draft of the implementing regulation aimed at specifying the “non-price” criteria (such as responsible business conduct, cybersecurity and data security, ability to fully and timely deliver projects) the Member States will be required to apply to RES auctions for at least 30% of the volume auctioned annually or, alternatively, for at least 6 GW per year.

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This *Client Alert* is solely intended to provide general information. Consequently, it does not constitute legal advice and cannot be considered a substitute for specific legal consultation.

4

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