KEY REGULATORY UPDATES

➢ FerX: updated operational rules and first auction notices published

On June 18, the Ministry of the Environment and Energy Security (MASE) approved by director's decree the updated operating rules of the transitional FerX decree, purposed to supplement and replace those published on May 20.
The updated operating rules are composed of two sections: Part A, on operating rules for participation in auction procedures, and Part B, on operating rules for notification of start of works (direct access), notification of entry into operation and payment of operating prices.
On July 9, the Energy Services Manager (GSE – *Gestore dei Servizi Energetici*) published data on the expressions of interest received for the first FerX transitional auction. Approximately 1,500 requests were submitted, totaling 17.6 GW for photovoltaic plants (out of a maximum quota of 8 GW) and 2.9 GW for wind power (out of a maximum quota of 2.5 GW). No expressions of interest were received for hydroelectric plants or those powered by residual gas from wastewater treatment.
At the same time, the GSE also published the notices for the first competitive procedure, which will open for registration on July 14, 2025, at 12:00 PM and close on September 12, 2025, at 12:00 PM.

➢ FerX: ARERA opinion on second auction published

On July 8, Arera published its statement on the MASE's draft decree amending the transitional FerX decree, which envisages the holding of a second auction dedicated to photovoltaic plants whose main components are not produced in China, for a total quota of 1.6 GW. The draft decree provides for a reduction of the deadlines, setting 30 days to submit the application to access the support mechanism, and for the publication of the rankings within the following 45 days, in any case not later than December 31. It is also provided that applications submitted for the first auction may be cancelled, as long as this is done within the operating period of the relevant procedure, and without incurring in a penalty, as long as they are subsequently resubmitted to participate in the second auction.
The opinion of the Unified Conference and the scrutiny of the Court of Auditors are now awaited. The Ministry's goal is for the auction to be held in the middle of next September.

➢ Agrivoltaic: modification in the timelines under approval

The Ministry of the Environment and Energy Security (MASE) has signed and published a decree modifying the deadlines for the implementation of the works allowed for agrivoltaic systems, within the framework of the call for tenders under Decree No. 436/2023 (so-called DM Agrivoltaic).

Specifically, the new decree changes paragraphs 1 and 2 of Article 8, which defined the deadlines for accessing the incentives: under the previous wording, plants that were in a suitable position in the ranking list had to complete the works and enter into operation by June 30, 2026, otherwise they would forfeit their right to the incentives.
The amendments introduced by MASE do not vary the deadline of June 30, 2026, for the completion of the installation; the installation date is defined as the *"date of completion of the construction of the agrivoltaic system, i.e., the power generation facility as found by the Gaudi system"*. The deadline for commissioning, now set within 18 months from the installation date, is postponed. Failure to meet this new deadline will result in a 0.5 percent reduction in the incentive tariff for each month of delay, up to a maximum of 9 months. The new provisions will also apply to projects submitted prior to the entry into force of the amending decree.

- **PPA Decree on GME platform**

On July 1, 2025, MASE published Ministerial Decree No. 152/2025, which regulates new national methods for the promotion of long-term renewable power purchase agreements (PPAs). The measure defines guidelines for the Manager of Energy Markets (GME) for the purpose of establishing an organized market platform (so-called MPpa), intended for the negotiation of standardized PPAs with a duration between 5 and 10 years. Only owners of RES plants in operation and/or already authorized, that meet the requirements identified with the operating rules to be issued by the GSE within 120 days of the publication of the decree, will be allowed to submit offers for sale on the MPpa. In order to prevent speculative phenomena, the sale of electricity produced from renewable sources is expressly prohibited if such energy is already the subject of previously negotiated contracts.
The decree also introduces mandatory financial guarantees for operators, the validity of which will have to be ascertained before access to trading. In the event of default by an operator who has concluded a contract through the MPpa platform, the Energy Services Manager (GSE) will take over as a guarantor of last resort, assuming the defaulting operator's contractual obligation to the counterparty and recognizing to the latter the reserve purchase price in the event of default.

- **Energy Release: *comfort letter* from the European Commission**

The European Commission sent MASE the comfort letter approving the "Energy Release 2.0," confirming its full compatibility with state aid regulations and internal market rules. The instrument prepared by the MASE to support large electricity consumers will be able to be implemented without substantial changes, albeit with some revisions from the original design, including the possibility for energy-intensive companies to transfer the commitment to return and build new capacity to third parties, selected through a special auction by the GSE.

- **MACSE: Terna's FAQ ahead of September auction**

Terna published the first official FAQs on MACSE, commenting on several points. The main ones are summarized below:

- it is not possible to participate in the auction through the mandate of the owner of the facility and the authorization titles, as the participant must possess these titles;
- there is a possibility of qualifying a storage system (SdS) for which a so-called integrated construction and operation permit has been issued (e.g., BESS + PV), provided that the system does not have a functional relationship with another generation and consumption unit;
- entering into contracts for components does not imply commencement of works if such contracts are subject to the successful outcome of the auction;
- in case of changes in the corporate structure of the participating company after the deadline for submitting the request for admission, the company must promptly notify Terna of such change, ensuring in all cases that the applicant holding the authorizations is the same company that sent the admission request;
- in the event of disputes over authorization titles, preclusion from participation in the auction exists only if suspension or cancellation of the title occurs, and not for the mere filing of an appeal if it does not affect the title's validity or effectiveness.

➢ DL Infrastructure: published DL No. 73/2025, RES acceleration zones

On May 21, 2025, DL Infrastrutture (No. 73/2025) was published in the Official Gazette, introducing certain amendments to the Consolidated Renewable Energy Act (Legislative Decree 190/2024) in relation to the identification of so-called acceleration zones for RES plants, the mapping of which was simultaneously made available by the GSE.
Article 13 of this decree-law states that the acceleration zones will be located within the suitable areas pursuant to Article 20, paragraph 8, of Legislative Decree 199/2021 and that they coincide with industrial areas identified by regional, supra-municipal or municipal urban planning instruments. In addition, it is specified that by August 31, 2025, regions and autonomous provinces will have to submit plan proposals for land acceleration zones to Strategic Environmental Assessment (VAS) and that, in case of non-compliance, the State's substitutive powers will be triggered.

➢ Fer2: ranking list for the first auction and notices for the second auction

On May 14, 2025, the GSE published the ranking list of the first auction under Fer2 for biogas and biomass plants, which ended with the allocation of 6.06 MW out of the 10 MW available. In addition, notices were published for the second competitive procedure in which 8.94 MW are made available for biogas and biomass plants, including the unused quota from the first auction, and 50 MW for floating photovoltaic plants.
Applications for the second auction can be submitted exclusively through the RES-E Portal from noon on July 7, to noon on September 5, 2025.

CASE LAW

➢ TAR Lazio: DM Suitable Areas, DL Agriculture and Sardinian Regional Law

In several rulings, the Lazio Regional Administrative Court partially annulled the DM June 21, 2024 (so-called DM Suitable Areas) and referred to the Constitutional Court questions on the legitimacy of Sardinia Law No. 20/2024 and DL Agricoltura. With reference to the Ministerial Decree on suitable areas, the partial annulment requires the MASE to reissue the criteria for identifying suitable and non-suitable areas for renewables. The judges found illegitimate, among other things, the absence of transitional regulations to protect authorization procedures underway at the time of the publication of the regional laws and the lack of unified criteria and principles for the exercise by the regions of the power to identify suitable areas. On the other hand, with reference to DL Agricoltura (Decree-Law No. 63/2024) and Regional Law No. 20/2024 of Sardinia, the referral respectively concerned the non-exclusion of simple agrivoltaic plants from the ban and the establishment of prohibitions on the construction of new plants in suitable areas.

➢ TAR Apulia: priority to the development of RES plants in suitable areas

In Judgment No. 1083 of June 20, 2025, the Apulia Regional Administrative Court, Lecce branch, upheld the appeal against the P.A.S. denial opposed by the Municipality of San Pancrazio Salentino, concerning a 7.5 MW agrivoltaic plant.
The Tribunal confirmed that, in the presence of projects located in suitable areas, the legislature has provided for a presumed compatibility between such plants and landscape protection, recognizing the need to give absolute priority to the reasons for the development of RES plants, particularly in areas already compromised or lacking in particular value.

➢ TAR Milan: agrivoltaic, Lombardy guidelines partially rejected

In Judgment No. 1825/2025, the Milan Regional Administrative Court partially annulled Lombardy Region Resolution No. XII/2783 of July 15, 2024, concerning the regional guidelines on agri-voltaics, deeming them to be in conflict with national regulations on several points. In particular, the court found the subjective requirements imposed on project proponents to be illegitimate, as the region cannot impose subjective constraints not provided for by state regulations; as for the objective requirements related to the use of agricultural land, they were found to be partially illegitimate, considering that the thresholds adopted in the guidelines do not comply with the criteria of the 2022 MASE Guidelines.

➢ TAR Tuscany: suitable areas *ex* art. 20 D.Lgs. 199/2021, interpretation

The Tuscany Regional Administrative Court clarified that an area can be considered suitable for the installation of plants powered by renewable sources even if it meets only the requirements indicated in letter c-ter, Article 20, paragraph 8, of Legislative Decree 199/2021, and regardless of any exclusions provided by the subsequent letter c-quater. The case addressed by the Administrative Judge concerned the construction of a photovoltaic plant in an area located less than 500 meters from

an area subject to landscape constraints. Despite this, since it was an agricultural area close to industrial settlements, the area was among those considered suitable under c-ter. The court thus clarified that the provision contained in letter c-quater, in fact, introduces additional cases of suitability, without excluding or limiting those already identified by letter c-ter.

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Gregorio Gitti, Managing Partner
Email: *gregorio.gitti@grplex.com*

Francesca Bogoni, Partner
Email: *francesca.bogoni@grplex.com*

Matteo Patrignani, Counsel
Email: *matteo.patrignani@grplex.com*

Mattia Peretti, Counsel
Email: *mattia.peretti@grplex.com*