



# Law Decree No. 13/2023 Boosts the market of renewables

Law Decree No. 13/2023 was published (the **Decree**) on the national Official Gazette No. 47 on 24 February 2023. The Decree implements the National Recovery and Resilience Plan (**PNRR**) and the National Plan for Complementary Investments to the PNRR (**PNC**) and introduces long-awaited simplification measures in the renewable sector.

The Decree entered into force on 25 February 2023 and needs to be converted into law within 60 days from its publication, or its effects will be declared forfeited. The above provisions may therefore still be subject to further amendments and integrations.

In any case, the Decree demonstrates the intention of the Government to promote the renewable energies market, by reducing the regulatory constraints that have delayed the permitting process so far.

Among the above simplification measures, reference shall be made, in particular to:

- a) Simplification of the procedure for the issuance of the single authorisation (**AU**);
- b) Exclusion of the Preliminary Verification of Archaeological Interest (**VPIA**);
- c) More areas suitable for the installation of renewable plants;
- d) No-authorisation plants and landscape simplification;
- e) Further simplification of the “simplified authorisation procedure” (**PAS**);
- f) Simplification of the procedure for the construction of electrochemical storage system.



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# 1. Main modifications at a glance

Simplification of the procedure for the issuance of the AU	<p>The procedure for the issuance of the AU (i.e. the authorisation title for the construction and operation of renewable plants pursuant to <a href="#">article 12 of Legislative Decree No. 387/2003</a>, as subsequently amended) in relation to plants located in areas subject to landscape protection and in the neighbouring areas has been simplified. In particular, in relation to plants falling within these areas:</p> <p>(a) the AU also includes the environmental impact assessment (<b>EIA</b>). As a result, the comprehensive procedure for the issuance of the AU has been increased from 90 to 150 days. For the EIA procedures ongoing at the date of entry into force of the Decree, the new AU procedure may commence even before the obtainment of the EIA resolution;</p> <p>(b) the participation of the Ministry of Culture in the AU procedure is no longer required for projects located in areas subject to landscape protection pursuant to <a href="#">Legislative Decree No. 42/2004</a> where such projects are required to undergo the EIA.</p> <p>(c) simplification of the mechanisms of the Steering Committee (<i>Conferenza di Servizi</i>): the meeting where all the competent authorities involved in the authorisation procedure are convened has been simplified by:</p> <p>(i) introducing the <b>obligation</b> (rather than the option) to adopt the simplified Steering Committee (where all the opinions and clearances are digitally shared and the meetings are remote); and</p> <p>(ii) reducing the mandatory term for each authority to issue its opinion, from 60 days to 30 days (45 days only for landscape, environmental and health protection interests).</p>
Exclusion of the VPIA	<p>The issuance of the EIA resolution is no longer subject to the prior obtainment of the VPIA clearance and, accordingly, the latter is no longer a requirement for the EIA application pursuant to <a href="#">article 23 of Legislative Decree No. 152/2006 (Environmental Code)</a>.</p>
More suitable areas for the installation of renewable plants	<p>The <b>suitable areas</b> identified by <a href="#">Legislative Decree No. 199/2021</a> have been <b>increased</b> as a consequence of the reduction of the buffer areas (i.e. the minimum distance that must be complied with when constructing a renewable plant) that are related to assets subject to landscape protection. As a consequence, the buffer area of wind power plants has been reduced from 7 km to 3 km, while the buffer area of photovoltaic plants has been reduced from 1 km to 500 meters.</p>



<p><b>No-authorisation plants and landscape simplification</b></p>	<p>The following plants may be installed without any authorisation being required:</p> <p>(d) agri-photovoltaic plants, provided that:</p> <ul style="list-style-type: none"> <li>(i) plants are located in agricultural areas that do not fall within protected areas, or areas included in the so called "<u>Rete Natura 2000</u>";</li> <li>(ii) plants are built by agricultural entrepreneurs, or by joint venture companies, together with electricity producers;</li> <li>(iii) the photovoltaic modules are installed 2 metres or more aboveground; and</li> <li>(iv) the photovoltaic systems are compatible and integrated with agricultural activities.</li> </ul> <p>(di) wind farms up to 20 kW located outside:</p> <ul style="list-style-type: none"> <li>(i) protected areas or areas included in the so called "Rete Natura 2000"; and</li> <li>(ii) urban areas with significant historical, artistic or environmental value, provided that they have a height that does not exceed 5 metres.</li> </ul> <p>If wind turbines need to be installed in protected areas, in this case a prior authorisation (to be issued in 45 days) must be requested to the competent landscape authority. In case of expiry of this term without any resolution being issued, the project is deemed as approved.</p> <p>(f) ground-mounted photovoltaic plants (including related works and infrastructures) pursuant to the <u>Article 22-bis of Legislative Decree No. 199/2021</u>, provided that said plants are located in areas:</p> <ul style="list-style-type: none"> <li>(i) qualified as industrial, artisanal and commercial or in closed and restored landfills or landfill lots or quarries or portions of quarries that cannot be further exploited; and</li> <li>(ii) not subject to landscape restrictions. If the area is subject to landscape restrictions, the relevant project must be submitted in advance to the competent authority which may reject the project within the following 30 days.</li> </ul> <p>Furthermore, the opinion of the relevant landscape authority (<i>Soprintendenza</i>) is no longer required in relation to plants that will be realized in areas neighbouring landscape protection areas.</p>
<p><b>Further simplification of the PAS</b></p>	<p>The PAS set forth under <u>article 6 of Legislative Decree No. 28/2011</u> has been amended with a view of making the mechanism of the <b>silent-consent much clearer and more transparent</b>. Following 30 days from the submission of the PAS application without any objection raised by the Municipality, the PAS is obtained by virtue of the silent-consent mechanism. Further to the amendments introduced by the Decree, once this term has elapsed the applicant must send a copy of the PAS application to the competent Region, so that the latter may publish it in the Official Regional Bulletin within the following 10 days. The applicable statutory term to challenge the PAS will start to apply from the actual publication of the PAS application in the Regional Official Bulletin.</p>
<p><b>Simplification of the procedure for the construction of electrochemical storage system</b></p>	<p>The construction of <b>electrochemical storage systems may be authorised by means of PAS</b>, regardless of whether new areas are occupied or not, if the relevant storage systems are operated together with renewable energy production plants (whether authorized but not operating or already in operation).</p>

# Key contacts



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