

Law no. 41 of 21 April 2023 (published in the *Official Gazette* no. 94 of 21 April 2023), finally approving with certain amendments, Law Decree no. 13 of 24 February 2023 (also known as the PNRR-ter Decree), setting forth “Urgent provisions for the implementation of the National Recovery and Resilience Plan (PNRR) and the National Plan of Complementary Investments to the PNRR (PNC), as well as for the implementation of cohesion policies and the common agricultural policy”, introduced, *inter alia*, relevant improvements to the authorization process for the construction of plants powered by renewable sources (FER).

Specifically, starting from 22 April 2023 and until 30 June 2024, Article 47, paragraph 1-*bis* of the PNRR-ter Decree provides that the following works are exempted from environmental screening and environmental impact assessment (EIA) procedures under Title III of the Legislative Decree no. 152 of 3 April 2006 (Environmental Code):

- Photovoltaic plants projects with a total power up to 30 MW (also including connected works, storage systems and infrastructures essential for the construction and the operation of the plants), falling within eligible areas<sup>1</sup> (Eligible Areas) and envisaged in plans or programs already positively submitted to a strategic environmental assessment<sup>2</sup> (VAS).
- Storage of electric energy from renewable sources projects (also including connected works and infrastructures essential for the construction and the operation of the plants), falling within Eligible Areas and envisaged in plans or programs already positively submitted to VAS.
- Projects for the refurbishment, upgrading or complete reconstruction of existing photovoltaic plants (eventually including storage systems) (i) which do not involve any variation in the area occupied by the plants, (ii) with a total power, as a result of the aforementioned interventions, of up to 50 MW, (iii) falling within the Eligible Areas, and (iv) envisaged in plans or programs already positively submitted to VAS. Projects for the repowering of existing wind farms (i) that do not involve any variation of the area occupied by the wind farm, (ii) with a total capacity, as a result of the aforementioned interventions, of up to 50 MW, (iii) falling within Eligible Areas, and (iv) envisaged in plans or programs already positively submitted to VAS.

- Projects of offshore renewable energy production plants (i) with a total capacity of up to 50 MW, (ii) falling within areas identified by the maritime spatial management plan (*Piano di gestione dello spazio marittimo*)<sup>3</sup>, and (iii) already positively submitted to VAS.

The abovementioned exemption also applies (i) to electrical infrastructure projects for the connection of FER plants or for the development of the national transmission electricity grid, which are necessary to introduce renewable energy into the electricity system, and (ii) storage of electric energy from renewable sources projects falling within the areas covered by the 10-year national transmission grid development plan (*Piano decennale di sviluppo della rete di trasmissione nazionale*)<sup>4</sup>, that have already been positively submitted to VAS.

Finally, the exemptions also apply to projects for which an environmental screening or environmental impact assessment procedure is currently underway. In such circumstances, the project applicant may choose – at its own discretion and convenience – whether to apply such exemptions or to bring the EIA or environmental screening procedure at its conclusion.<sup>5</sup>

However, since a considerable number of preliminary legislative and administrative measures will have to be enacted in order to make the above exemptions applicable<sup>6</sup>, it should be considered that it appears to be highly unlikely that the exemptions provided in the PNRR-ter Decree will be fully effective from the date it entered into force.

## Contacts

### Daniela Sabelli

Partner, Milan  
T +39 02 72 74 2001  
E daniela.sabelli@squirepb.com

### Matteo Bertocchi

Associate, Milan  
T +39 02 7274 2001  
E matteo.bertocchi@squirepb.com

### Francesco Ghiglione

Trainee, Milan  
T +39 02 7274 2096  
E francesco.ghiglione@squirepb.com

<sup>1</sup> Pursuant to Article 20 of Legislative Decree no. 199 of 8 November 2021.

<sup>2</sup> Pursuant to Title II of Part Two of the Environmental Code.

<sup>3</sup> Pursuant to Article 23, paragraph 2, of Legislative Decree no. 199 of 8 November 2021

<sup>4</sup> Referred to in Article 36 of Legislative Decree no. 93 of 1 June 2011.

<sup>5</sup> The PNRR-ter Decree, however, does not specify whether the exemptions shall apply also to authorization procedures commenced before 30 June 2024 for which an authorization has not been issued. Lacking any clarification, we expect that this specific aspect could give rise to disputes before the administrative courts in the near future.

<sup>6</sup> Including, for instance, the identification of the Eligible Areas and the performance of the VAS procedure in such areas.