

**Conversion into law of the Simplification Decree:**  
**innovations regarding renewable energies, the environment and public**  
**contracts**

*(Law No. 108 of July 29, 2021, Conversion into law, with amendments, of Decree-Law No. 77 of May 31, 2021, containing "governance of the National Recovery and Resilience Plan and initial measures to strengthen administrative structures and accelerate and streamline procedures")*

Law no. 108 of July 29, 2021 converted Law Decree no. 77 of May 31, 2021, the so-called "Simplification Decree".

Below is an illustration of the main innovations introduced with regard to renewable sources, the environment and public contracts.

**1. RENEWABLE SOURCES**

**1.1. Interventi localizzati in aree sottoposte a tutela e in aree contermini** (art. 30)

For projects having as their object the installation of plants powered by renewable sources located in areas subject to protection, as well as for related works and infrastructures essential to the construction and operation of the same, the participation of the Ministry of Culture in the single authorization procedure is mandatory; the provision also applies to proceedings in progress.

If the aforesaid plants are to be located in areas adjacent to areas subject to landscape protection, the Ministry of Culture intervenes by means of a non-binding mandatory opinion.

**1.2. Simplifications for photovoltaic and storage systems** (art. 31)

(i) introduction of the PAS for authorizing electrochemical storage plants to be operated in combination or not with electricity production plants powered by renewable sources, where the production plant is already existing and authorized, even if not yet in operation, and the electrochemical storage plant does not involve occupation of new areas;

(ii) extension of the PAS for the authorization of photovoltaic plants  
- of power up to 20 MW connected in medium voltage and

- located (i) in areas for commercial, productive or industrial use, as well as in landfills or landfill lots closed and restored or in quarries or quarry lots not susceptible to further exploitation, for which it has been certified the completion of recovery and environmental restoration activities;

- iii) the exclusion of obtaining acts of consent - however denominated - for the installation of solar panels adhering to or integrated into roofs with the same inclination and orientation of the pitch and whose components do not change the shape:

- on buildings (as defined in Item 32 Annex A of the Building Regulations-Type of the Consolidated Building Act); or

- on structures and items above ground other than buildings.

The rule in question also applies to the installation, by any means, of solar photovoltaic systems on structures and artifacts other than buildings not falling within those referred to in 'Article 136, paragraph 1, letters b) and c) of Legislative Decree 22 January 2004, n. 42.

- iv) derogation from the prohibition for photovoltaic systems with modules placed on the ground in agricultural areas to access state incentives. In particular, it has been foreseen that this prohibition does not apply to agrovoltaic systems that adopt innovative integrative solutions with the assembly of the modules elevated from the ground, such as not to compromise the continuity of agricultural and pastoral cultivation activities, also allowing the application of digital and precision agriculture tools. The recognition of the incentive is subject to the simultaneous implementation of monitoring systems that allow to verify the impact on crops, water saving, agricultural productivity for different types of crops and continuity of activities of farms concerned. The benefits cease if subsequent checks reveal that the above conditions do not exist.

### **1.3. Biogas and methane plants** (articles 31bis and 31ter)

- (i) Recognition of the status of "advanced biofuel" (pursuant to the Decree of the Minister of Economic Development of March 2, 2018) for by-products used as feedstock for biogas plants used to produce biomethane through the purification of biogas.

### **1.4 Revamping and repowering** (art. 32)

The technical prerequisites are identified on the basis of which revamping and

repowering interventions of existing photovoltaic, hydroelectric and wind power plants can be considered "non-substantial" and therefore subject to authorization simply through PAS.

**1.5. Small hydroelectric plants** (art. 32 bis)

Hydroelectric and geothermal plants with a generating capacity not exceeding 500 KW of concession power are subject to the regime of free building activity.

**1.6. Electric recharging infrastructures** (art. 32 ter)

The installation of charging infrastructures for electric vehicles with public access is considered a free building activity and, therefore, is not subject to the issuance of a building permit. The person who carries out the installation of the infrastructure for the recharging service of electric vehicles on public land is required to submit to the body owning the road the application for the occupation of public land and the construction of the recharging infrastructure and the related works of connection to the distribution network agreed with the concessionaire of the competent electricity distribution service. The authorization measure has a minimum duration of 10 years.

**2. ENERGY EFFICIENCY: Superbonus 110%** (articles 33 and 33 bis)

On the subject of energy efficiency, it is provided that;

- i) the increased deduction also regards works aimed at removing architectural barriers
- ii) in order to obtain the so-called "superbonus" it will no longer be necessary to obtain the certificate of legitimate status and in order to carry out the interventions it will be sufficient to issue the Certified Communication of the start of works (CILA). In the CILA are attested to the details of the title that has provided for the construction of the property subject to intervention or the measure that has allowed the legitimacy or is certified that the construction was completed prior to September 1, 1967.

The CILA can be requested for all interventions, including interventions concerning the elevations and structural interventions, except for reconstruction and demolition interventions.

In case of works already classified as free building activities, only the description of the intervention is required in the CILA. Upon completion of the works, the certified report of commencement of activities is not required.

iii) merely formal violations that do not prejudice the exercise of control actions do not lead to the forfeiture of tax benefits limited to the irregularity or omission found. In the event that the violations found during the controls by the competent authorities are relevant to the disbursement of incentives, the forfeiture of the benefit applies only to the individual intervention subject to irregularities or omissions;

iv) the interventions of sizing of the thermal coat and seismic curb do not contribute to the calculation of the distance and height, as an exception to the minimum distances.

### **3. ENVIRONMENT**

#### **3.1. Environmental Impact Assessment (EIA)** (articles 17 and 19)

- i) a special EIA Technical Commission is established for the projects of state competence of the Pnrr and Pniec;
- ii) the timescales for Screening and EIA are shortened (which in the case of projects linked to the Pnrr and Pniec must be concluded within a maximum of 130 days overall).

#### **3.2. Single regional authorisation measure** (articles 23 and 24)

i) a **preliminary phase** has been introduced to the procedure for obtaining the so-called PAUR (single regional authorization measure), which aims to allow the proposer to interact more quickly and easily with the competent authority regarding the documentation to be submitted. In particular, it is foreseen that:

1. the proposer transmits to the competent authority: a) the preliminary environmental study; and b) the project (having a level of detail equivalent to the technical-economic feasibility project referred to in Article 23 of Legislative Decree No. 50 of April 18, 2016);
2. within five days, the documentation submitted by the proponent is published on the website of the competent authority, which communicates the publication to all administrations and entities potentially interested and in any case competent to express themselves on the implementation and operation of the project; at the same time, the competent authority calls a preliminary services conference pursuant to Law No. 241 of August 7, 1990, with the same administrations and entities;
3. the preliminary services conference pursuant to art. 14, paragraph 3, of Law

no. 241 of August 7, 1990, is carried out according to the procedures set out in art. 14-bis of the same law and the terms are reduced by half (the reduction is optional);

4. the administrations and bodies involved in accordance with paragraph 2 express themselves during the conference, on the basis of the documentation produced by the proposer, with regard to the definition of the information to be included in the preliminary environmental study, the relative level of detail, compliance with the requirements of the law where a change in town planning is also required and the methodologies to be adopted for the preparation of the study, as well as the definition of the conditions for obtaining the acts of consent, however named, necessary for the implementation and operation of the project. Within five days of the end of the work of the preliminary conference, the competent authority transmits the acquired decisions to the proposer;
5. The determinations expressed during the preliminary conference can be modified or integrated with reasons only in the presence of significant elements that emerge in the subsequent procedure, also following the observations of the interested parties as per paragraph 4 of article 27-bis;
6. The administrations and bodies that do not express their opinion in the preliminary services conference may not set conditions, make observations or highlight reasons for refusal to carry out the intervention during the procedure as per article 27-bis, except in the presence of significant new elements that have emerged in the course of said procedure, also following the observations of the interested parties.

*ii)* Certain provisions regarding the timing and manner of issuance of the PAUR are also amended.

### **3.3. Remediation procedure** (art. 37)

i) in the case of contamination of the environmental matrices of the soil and subsoil as well as the water table, if the remediation objectives for the soil and subsoil are achieved in advance of those set for the water table, it is possible to obtain certification of completion of remediation in advance, without prejudice to the obligation to achieve all the remediation objectives. In this case, however, it is

necessary to demonstrate that the contamination of groundwater does not pose a risk to users of the area.

- ii) The projects of the Pnrr can also be carried out in sites subject to reclamation, including sites of national interest;
- iii) halving of the terms for issuing discharge authorizations for the treatment of emitted water;
- iv) with regard to the obligations of intervention and notification on the part of parties not responsible for potential contamination, the reclamation procedure initiated at the request of the aforementioned parties is interrupted if the party not responsible for the contamination voluntarily carries out the characterization plan within the peremptory term of six months from the approval of the plan. In this case the procedure must necessarily be concluded within 60 days from the date of receipt of the results of the characterization validated by ARPA;
- v) in terms of control, should the Province fail to issue the certificate of reclamation within thirty days of receipt of the technical report prepared by the regional agency for the protection of the environment, the Region will issue a warning within the next sixty days.

## **5. PUBLIC CONTRACTS** (Articles 47-56)

### **4.1. Equal opportunities** (art. 47)

Obligation for Contracting Authorities to include in calls for tender specific clauses aimed at including, as necessary and as additional rewarding requirements for the offer

criteria aimed at promoting youth entrepreneurship, gender equality and the hiring of young people under thirty-six years of age, women and the disabled.

### **4.2. Transitional regulations adopted for the COVID-19 emergency by Decree Law 76/2020** (art. 51)

The transitional rules apply until June 30, 2023.

### **4.3. Negotiated procedure** (art. 48)

Contracting stations may resort to the negotiated procedure without notice referred to in Article 63 of Legislative Decree 50/2016 in cases of extreme urgency arising from unforeseeable circumstances.

### **4.4. Obligation to outsource to parties chosen without a tender** (art. 47 ter)

The deadline by which holders of works, services and supplies concessions awarded without a tender must assign 80% of the related works, services and supplies contracts via a public procedure was extended to December 31, 2022.

**4.5. Precautionary measures** (art. 48)

The provision contained in art. 125 of the Administrative Procedure Code (regarding infrastructures and facilities considered strategic and a priority for the country), pursuant to which, in order to grant precautionary measures, the judge must give weight not only to the irreparability of the prejudice alleged by the claimant, but also to the "pre-eminent national interest in the prompt carrying out of the work", is extended to all contracts financed by the National Reform Programme and the National Reform Programme.

**4.6. Subcontracting** (art.49)

A limit on subcontracting equal to 50% of the total contract amount has been introduced until October 31, 2021.

It has also been provided for the elimination, as of November 1, 2021, of the percentage limit on activities that may be subcontracted. Contracting authorities will be able to indicate in the tender documents the services or work to be carried out by the contractor on the basis of the specific characteristics of the contract, the need, taking into account the nature or complexity of the services or work to be carried out, to strengthen the control of worksite activities and, more generally, of workplaces, and to ensure greater protection of working conditions and the health and safety of workers, or to prevent the risk of criminal infiltration.

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