

Asset Decree: news on foreign investment programs in Italy

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On October 3rd, 2023, the Decree-law no. 104 of August 10th, 2023 (the “Asset Decree”), was converted into law. The Asset Decree provides the appointment by the Italian Government of extraordinary government commissioners to coordinate the authorization procedures relating to national strategic interest programs in Italy financed by foreign investments.



I. Implementation of foreign investment programs of national strategic interest

According to the Asset Decree, the Italian Council of Ministers can declare the **national strategic interest of foreign investment programs in Italy, whose value is equal to at least Euro one billion (“Investment Strategic Programs”)**, which require authorization procedures involving local authorities, regions, provinces, state administrations, and any other public entity.

The President of the Council of Ministers, in agreement with the President of the relevant region, appoints the **extraordinary government commissioners** (the “**Extraordinary Commissioners**”) to ensure the coordination of the authorization procedures relating to the above mentioned programs.

II. Extraordinary Government Commissioners

The Asset Decree provides that:

- the Extraordinary Commissioners can derogate from any legal provision other than criminal law;



- the orders issued by the Extraordinary Commissioners are immediately effective;
- all the authorizations, permits and any other administrative act necessary for the implementation of the Investment Strategic Programme are issued under a single procedure which ends with the issuing of a single authorization (the “**Single Authorization**”);
- the Single Authorization is issued by the Extraordinary Commissioner at the end of a *Steering Committee* meeting (“*Conferenza di servizi*”), along with the competent public administrations;
- the Single Authorization has the value of a declaration of public utility and urgency of the works necessary for the project’s realization, even for the purpose of expropriation procedures of the lands under Presidential Decree no. 327/2001.

III. Golden Power

The Asset Decree is without prejudice to the application of the provisions of Regulation (EU) 2019/452, where applicable, on foreign direct investments in the European Union and in Decree-Law no. 21/2022 on special powers (the “**golden power regulation**”).

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