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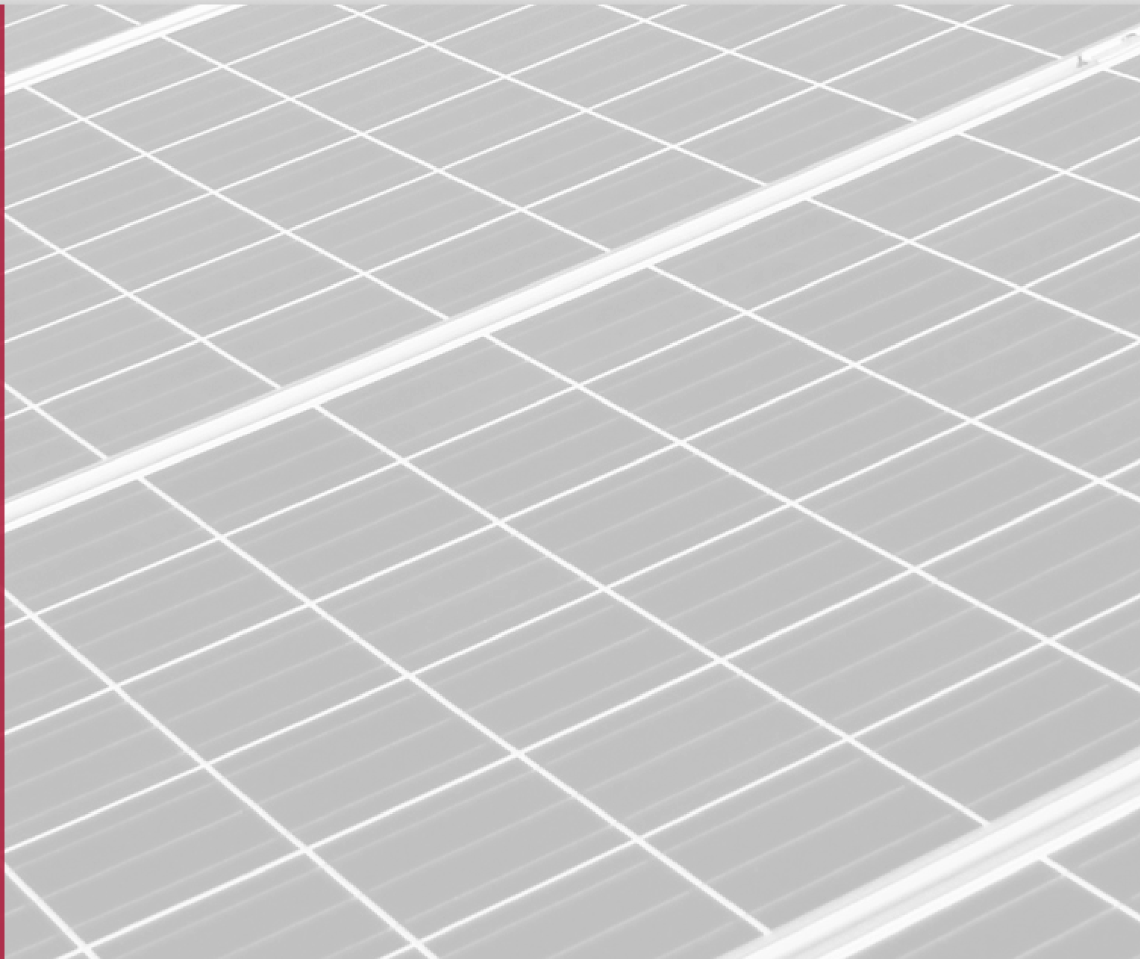
ENERGY LAW
ITALY

ENERGY LAW ITALY OUTLOOK
JULY 2026



1. FER X Decree

On 18 June, the Minister of Environment and Energy Security ("**MASE**") signed the long-awaited decree aimed at regulating the incentive mechanism now known as "**FER-X**", dedicated to the production of electricity from renewable plants with generation costs close to market competitiveness (the "**Final FER-X Decree**" or simply the "**Decree**").

The measure follows the European Commission's decision of 8 June 2026, by which it was declared compatible with the internal market under state aid rules.

The most significant aspect, from a systematic standpoint, concerns the change in legal basis compared to the previous transitional regime introduced by the MASE decree of 30 December 2024 (the "**Transitional FER-X Decree**" or "T**ransitional FER-X**"): the latter had been adopted within an emergency and crisis framework applicable only to aid granted before 31 December 2025, aimed at addressing the consequences of the Russian-Ukrainian conflict.

The Final FER-X Decree, instead, is grounded in the Framework for State Aid Measures in Support of the Clean Industrial Pact, adopted by the European Commission on 25 June 2025 and applicable to aid granted until 31 December 2030.

The new regime therefore no longer presents itself as an emergency bridge measure, but as a structural instrument supporting the energy transition, consistent with the objectives of the Clean Industrial Deal and the Net-Zero Industry Act.

As communicated by the European Commission at the time of the measure's approval, the scheme has a total budget of 23 billion euros and is expected to support the development of approximately 37.15 GW of new renewable capacity, representing around 48% of the RES capacity currently installed in Italy, contributing to achieving the national target of 39.4% of gross final energy consumption from renewable sources by 2030.

The text of the Decree has been examined in depth on Energy Law Italy (**link**), to which reference is made for further details.

2. DL Bollette and the EU Metsaf

The new Middle East Temporary State Aid Framework (“**Metsaf**”) published by the European Commission reshapes the margin for State aid linked to the energy crisis and places a strict constraint on the Italian provision in favour of thermoelectric power generation contained in Article 6 of the Energy Bills Decree ("*Decreto Bollette*").

The European framework allows temporary measures to mitigate the cost of gas in electricity generation, provided they do not alter the merit order, do not restrict cross-border flows, and do not cover compliance costs under the Emissions Trading System (ETS) or use the CO_2 price as a compensation parameter. These are conditions that Article 6, in its current formulation, does not appear to satisfy.

The dialogue between Rome and Brussels remains formally open, but the negotiating space has drastically narrowed.

The most realistic scenario is a deeply reformulated measure, with partial reimbursements (15–30% of the ETS value) and an impact on the single national price ("PUN") in the order of 10 €/MWh, far from the 30–35 €/MWh initially estimated.

In the meantime, regulatory uncertainty is already producing concrete effects: operators are shifting towards regulated instruments, to the detriment of PPAs, merchant models and storage investments.

3. Energy Communities – Recommendation (EU) 2026/1007

The European Commission has adopted Recommendation (EU) 2026/1007 on renewable energy communities.

Published in the Official Journal of 8 May 2026, the act provides Member States with practical guidance to ensure coherent and citizen-friendly implementation of the European framework on energy communities, self-consumption and energy sharing.

The Recommendation covers multiple areas: definitions and governance, simplification of permitting procedures, grid integration, access to energy markets, financing, social inclusion and digitalisation. Among the most notable indications are the elimination of authorisations for small-scale photovoltaic solar installations, the obligation to guarantee timely and proportionate grid connections, and the promotion of enabling frameworks extending to heating, cooling and building renovation.

From a legal perspective, Member States are called upon to clearly distinguish between renewable energy communities and citizen energy communities, to develop national strategies with targets for 2030 and 2040, and to establish dedicated national registries.

Particular attention is devoted to the inclusion of vulnerable households, tenants and individuals in energy poverty.

The Recommendation is accompanied by an Action Plan that sets the target of 90 GW of renewable capacity installed by energy communities.

4. Capacity Market 2028

The capacity market auction for the 2028 delivery period, initially expected before the summer break, has been postponed after the summer.

The delay is linked to the need to update Terna’s rules and technical regulations, particularly to define the derating rate of electrochemical storage systems, i.e. the coefficient measuring how much of the nominal capacity of batteries can be considered effectively usable in competitive procedures of the capacity market.

As confirmed by MASE General Director, Mr. Alessandro Noce, the purpose of updating these rules is to prevent battery energy storage systems (BESS) – increasingly cost-competitive – from ultimately displacing gas power plants in the auction procedures: the transition towards an energy mix less dependent on thermoelectric power “shall take place in an orderly and managed manner” he said.

The MASE decree no. 162/2026 has also established that the procurement requirement for Macse – the dedicated procedure for the procurement of storage capacity– must be reduced in proportion to the storage capacity already allocated through the capacity market, making the interaction between the two procedures a central issue.

On the regulatory front, by means of the reference works no. 141/2025/R/eel, ARERA has proposed reducing the standard specific gas consumption cost from 320 to 264 mc/MWh for the determination of the exercise price ("prezzo di esercizio"), also known as the strike price, i.e. the price threshold above which capacity market participants are required to return to Terna the positive difference between the price obtained through offers submitted on the electricity markets and the strike price itself. The measure therefore aims to minimize the burden on end consumers.

The scenario remains in flux, with the sector awaiting definitive guidance on timelines and participation rules.

5. Biomethane: GSE tender for the 2026–27 thermal year and prospects for a new 2027 Ministerial Decree

The GSE has published the tender for the sale for the 2026–2027 thermal year of biomethane collected by the Grid Operator and injected into networks with mandatory third-party access.

Allocation will take place through a public auction open to shippers.

Compared to previous tenders, the main news is that the associated Guarantee of Origin will be transferred together with the biomethane, in implementation of Article 46(6)(c) of Legislative Decree no. 199/2021. The procedure is structured in two different areas ("transport" and "other uses").

Looking ahead, MASE aims to adopt a new Biomethane Ministerial Decree 2027 to introduce a new twenty-year incentive mechanism to be allocated in favor of the biomethane generators by means of the competitive procedures.

6. Biomethane, “DL Carburanti ter”: postponement of the deadline for application of “DL Bollette” amendments to BPAs

Law no. 113 of 24 June 2026 has converted the Law Decree no. 63/2026 (the so-called “DL Carburanti ter”), which introduces a material amendments for biomethane sale and purchase agreements concluded pursuant to article 5-bis of the Law Decree no. 63/2024 (the so-called DL Agricoltura) aimed at establishing remote self-consumption configurations of biomethane between generators benefitting from the incentives mechanisms of Ministerial Decree of 15 September 2022 and end customers operating in hard-to-abate sectors.

In particular, article 1, paragraph 4-quater of “DL Carburanti ter” amends article 11, paragraph 3, of Law Decree no. 21/2026 (the so-called “DL Bollette”), replacing the word “thirtieth” with “hundred and twentieth”, so that the amendments introduced by DL Bollette to article 5-bis of “DL Agricoltura” will apply only to biomethane purchase and sale agreements (BPAs) for self-consumption entered into as of 17 August 2026.

BPAs entered into by 16 August 2026 remain subject to the rules of “DL Agricoltura” as it set forth prior to the amendments introduced by “DL Bollette”.

7. Overcoming regulatory and non-regulatory barriers to execution of PPAs

The consultation launched by the GSE on 10 June 2026, pursuant to article 4 of “DL Bollette”, closed on 8 July. The article 4 of DL Bollette regulates the creation of a dedicated new section of the "Bacheca PPA" and the involvement of the GSE as guarantor of last call for power purchase agreement concluded through that section.

Through the consultation, the following matters were submitted for stakeholder assessment: (i) requirements for the generators, sellers and buyers (including aggregators) to access the new section of the “Bacheca PPA” and the last call guarantee; (ii) the possibility of also trading virtual power purchase agreements (VPPAs) on the “Bacheca PPA”; (iii) standardization of contract duration (3, 5, 7, 10, 15 and 20 years) and of clauses governing the conditions for activation of the guarantee provided by the GSE; (iv) the relevant contract profile – standard (pay-as-produced, baseload, photovoltaic profile and/or peak load) or customised; (v) the fixed price requirement; (vi) the GSE’s intention to prepare standard contract forms and to develop studies on the economic impact of PPAs and on the exposure assumed by the parties; (vii) the fee for access to the guarantee service; (viii) the modalities of the GSE’s intervention as guarantor of last call.

By resolution no. 223/2026/R/eel of 25 June 2026, ARERA initiated a proceeding for the adoption of future measures aimed, among other things, at allowing end customers to enter into more than one supply contract in respect of their consumption unit, under a multi-point or multi-vendor approach.

The first phase of abovementioned proceeding, expected to conclude by 31 December 2026, will focus on the management modalities of PPA between generators and end customers connected to the high and medium voltage grid; the second phase, to be concluded by 30 June 2027, will assess the possibility of extending the option to enter into multiple supply contracts to all end customers and all contract types (and not only in relation to PPAs).

8. The Council of State declares the nullity of the White Certificates Control Regulation

By judgment no. 5158 of 30 June 2026, the Council of State declared the nullity of the Regulation adopted by the GSE for the classification of violations and the definition of percentage reductions applicable to white certificates.

The defect identified is the absolute lack of attribution pursuant to Article 21-septies of Law no. 241/1990: the GSE, as a joint-stock company with public capital, does not hold autonomous regulatory power with external effect and cannot substitute itself for the Ministry in defining a general framework for controls, which is expressly reserved to a ministerial decree under Article 42, paragraph 6, of Legislative Decree no. 28/2011.

The ruling does not paralyse the GSE's supervisory powers, but circumscribes their limits: the Operator may exercise the functions attributed to it by primary legislation, without however introducing obligations, forfeitures or procedural waivers beyond what is provided for by law or ministerial decree.

Particular attention should be paid to the distinction with the Control Regulation on RES plants in operation, which is based on a more articulated regulatory framework – Ministerial Decree of 31 January 2014 and Article 13-bis of Decree-Law no. 101/2019 – and may therefore not be automatically affected by the same defect.

The text of the judgment has been analysed in an article published on Energy Law Italy, to which reference is made for further analysis (**link**).

9. Balancing territorial restrictions and the deployment of RES plants

By ruling no. 131/2026, the Regional Administrative Court (TRGA) of Bolzano annulled the provisions of the provincial regulation (Provincial Presidential Decree no. 18/2025) that restricted the installation of agrivoltaic plants to agricultural land located within 75 metres above the level of the Adige and Isarco rivers and with a slope not exceeding 10%.

The Court held that those criteria, while falling within the Administration's discretion, were vitiated by a manifest failure of preliminary investigation.

The Province had, in fact, neither produced nor identified the technical and scientific studies allegedly underlying the numerical thresholds adopted.

The panel reiterated that, in a sector governed by the principle of maximum deployment of renewable sources, any territorial restriction must be supported by an objective, proportionate and verifiable justification, based on concrete data and not on general exclusions.

10. Artificial splitting and conditions for a single-plant determination

By ruling no. 1063/2026, the Regional Administrative Court (TAR) of Calabria annulled the municipal rejection of the simplified administrative notification ("PAS") submitted by a company for a 999 kW wind turbine.

The measure contested a purported artificial splitting of the plant into two separate enabling procedures.

The panel clarified that the mere attribution of two plants to a single centre of interests and the signing of project designs by the same professional are not sufficient to constitute artificial splitting.

In accordance with settled case law and Legislative Decree no. 190/2024, three conditions are required: location in adjacent areas, attributability to a single centre of interests and sharing of the grid connection point.

In the case at hand, the two plants were almost two kilometres apart and shared no infrastructure.

11. Adequacy and proportionality of landscape conditions

The TAR Marche, by ruling no. 527/2026, annulled the conditions imposed by the Archaeological and Landscape Superintendency and the Local Landscape Commission in the context of the Single Authorisation for a 5 MW photovoltaic plant in the municipality of Potenza Picena.

The conditions required the exclusive use of panels in shades of brown or green, excluding blue, grey and black, and prohibited compensating for the resulting reduced output by increasing the irradiated surface area.

The Court held that those conditions, read together, amount to a covert refusal of the authorisation, rendering the plant economically unviable with an estimated reduction in output of 27%.

The judgment affirms that landscape conditions attached to authorisations must comply with the principles of adequacy and proportionality and cannot translate into a substantive impediment to the realisation of the project.

The context – a site designated as suitable by law, the presence of the A14 motorway and anthropic settlements – required a site-specific assessment that the Administration omitted in favour of a standardised and peremptory approach to landscape protection.

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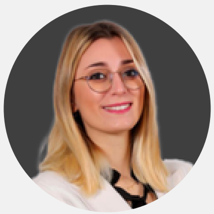

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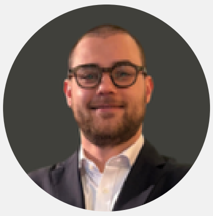

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