

ITALY – RECENT DEVELOPMENTS

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Recent Developments in relevant legislation

Natural Capital Committee

The framework Law 221/2015 (named “Environmental Act for the promotion of the green economy and the containment of natural resources use”) has introduced several provisions of a certain relevance for environmental protection. One of them deserves to be mentioned here. It is represented by art. 67 of the named Environmental Act, which establishes the national “Natural Capital Committee”. Such a new Committee will be chaired by the Italian Ministry for the Environment and will be composed by several representatives of various Ministries and other relevant public authorities. Its main aim will be the preparation of an annual Report on the state of the natural capital in Italy. The Report ought to contain detailed information and data on the natural capital in the national territory, expressed both in physical as well as in monetary terms. The annual Report will represent the reference document for promoting the achievement of social, environmental and economic objectives, in coherence with the national annual financial and budget planning activities.

Green Public Procurement

Several provisions aimed at promoting green public procurement have been adopted by the Italian legislature in 2015 and 2016. The two most relevant legal sources in this sense are: Law 221/2015 (the 2015 framework Environmental Act mentioned above) and Legislative Decree 50/2016 (New Public Tenders and Public Procurement Code). The latter Act, in particular, contains several relevant provisions, which aim at “greening” public procurement in Italy.

In particular, art. 95 contains the criteria for the award of public tenders. To this effect, art. 95(3) determines that the contracts are to be awarded on the basis of a “cost-effectiveness” analysis. The criteria for such an analysis are determined by art. 95(6), which refers inter alia to (a) the quality of the offer, including social and environmental characteristics, as well as energy and natural resources consumption; (b) the availability of an Eco-label certification, with respect to the goods or service offered by the tenderer; (c) the use and maintenance costs, calculated on the basis of a life-cycle analysis (disciplined at art. 96 of the Public Procurement Code), taking into account energy and natural resources consumption, as well as polluting emissions; (d) the GHG emission offset measures. It is expected that, following the introduction of such environmental oriented criteria, the green dimension of public procurement will be highly improved in the years to come.

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Health Protection – Health Impact Assessment

A new procedure for the preventive evaluation of the possible impacts on public health caused by the construction and operation of new industrial plants has been introduced in the Italian Environmental Code (Legislative Decree 152/2006, and following amendments) by means of art. 9 of Law 221/2015 (the mentioned 2015 framework Environmental Act). The new procedure is called “Health Impact Assessment” and will be mandatory for new thermal power stations and other combustion plants with a nominal power exceeding 300 MW, as well as for refineries, gasification and liquefaction plants. The procedure will need to be performed in the framework of the EIA procedure and will follow the technical guidelines determined by the National Health Institute (*Istituto Superiore di Sanità*), on the basis of the relevant WHO recommendations and criteria. The introduction of the “Health Impact Assessment” procedure to a limited number of plants only is meant to be a first step; it may be extended in the future also to other types (and sizes) of industrial plants.

Waste

A quite peculiar provision which reinforces the existing provisions on the prohibition to discard waste has been introduced in the Italian Environmental Code (Legislative Decree 152/2006, and following amendments) by means of art. 40 of Law 221/2015 (the mentioned 2015 framework Environmental Act). The new provision follows and extends to the whole Italian territory similar norms that are already in force in several Municipalities (adopted through Municipal orders).

The new provision introduces a specific prohibition to discard (and a related pecuniary sanction) with regard to cigarette butts and other small waste (such as small tickets and receipts, paper tissues and chewing-gums). It is prohibited to discard such types of waste on the soil, in the water, in the drainage systems and in the sewage.

The discard of such types of small waste is punished with a pecuniary sanction ranging from 30 to 150 euro, which is doubled in the case of cigarette butts.

Prevention of soil consumption

On 13 May 2016, after a lengthy debate, the Chamber of Deputies has approved the legislative Draft No. 2093/2014, which aims at introducing in the Italian legal order some framework provisions to monitor and reduce the so-called soil consumption phenomenon. This expression refers to the widespread consumption of non-built areas for new constructions activities or infrastructures, which is reducing over time the fertile land available. The soil consumption phenomenon is said to be quite high in Italy, as compared to other European countries, according to the data issued by the Italian Environmental Research Agency, namely ISPRA (*Istituto Superiore di Ricerca Ambientale*). In order to limit such a soil consumption trend, the new provisions intend to create monitoring mechanisms, introduce limitations to prevent soil consumption and promote a priority in the reuse of already built areas. The legislative draft just approved by the Chamber of Deputies now awaits to be approved by the Senate, in order to become law.