

Task Force on Public Participation in Decision-Making
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Statement on behalf of Italy: The public consultation regarding amendments to the market mechanism for the promotion of energy efficiency (so-called “Conto Termico”)

Introduction

This statement briefly describes the main features and challenges faced by the Italian market mechanism for the promotion of energy efficiency and looks at the public consultations under this scheme in the light of the Aarhus Convention Public Participation pillar, with a particular reference also to the Maastricht Recommendations requirements.

The Italian market mechanism for the promotion of energy efficiency

The EU Directive on energy efficiency 2012/27/EU has been implemented in Italy by legislative decree 102 of 2014. Within the national legal framework for the implementation of this Directive, the competent national authorities consider appropriate to strengthen the scheme in order to better ensure the achievement of the energy efficiency targets by 2020.

In this context, the Ministry of Economic Development (MISE) in cooperation with the Ministry for the Environment, Land and Sea (IMELS) are reviewing the effectiveness of this market mechanism with the aim of streamlining and simplifying its procedures, of fostering new technologies and thereby increase access to the scheme by industries, families and public entities.

The review process has showed a constant monitoring of the mechanism coupled by a continuous dialogue between the Ministries and the stakeholders, and the support of the regulatory authority in charge of the scheme, the GSE (“Gestore servizi energetici”). The participation and interaction of these actors has been crucial in identifying the shortcomings of the scheme emerged during its 16 months of operation. Furthermore, they played a key role in contributing to a better understanding of the concerns and needs of the operators and in providing for appropriate responses and solutions.

The public consultations ended on the 28th February 2015.

The Public Consultation process under the mechanism in the light of the Aarhus rules

As suggested by the Maastricht Recommendations (para. 155 (b)), the Italian market mechanism for the promotion of energy efficiency, being an incentive programme, may be considered as falling under article 7 of the Aarhus Convention.

In this regard, it should be recalled that the obligations of authorities are more flexible under this provision and that the rights of the public are less clearly defined than in Article 6 of the Convention. Nevertheless, several provisions of article 6 are incorporated by article 7 and require, in particular, reasonable time-frames and the early involvement to ensure effective participation, and that due account is taken of the outcome of public participation.

With regard to the identification of the public concerned, the guidelines on the public consultation are publicly available to the public at large because they are published on the website of the MISE (available at <http://www.sviluppoeconomico.gov.it/index.php/it/per-i-media/notizie/2032232-conto-termico-al-via-la-consultazione-pubblica-su-semplificazione-e-potenziamento>).

With regard to early public participation, it appears that there has been a timely involvement of the public. Furthermore, as to the modalities of participation (Maastricht Recommendations, para168), it is clearly stated how to submit the comments and the specific matters on which comments are

expected. These are: the proposed simplified measures, the types of eligible projects and the applicable technical requirements.

It remains less clear how the comments will be handled and how they will be taken into account in the subsequent decision-making process. The Italian Ministry for the Environment, Land and Sea will continue in its monitoring role on these aspects.

It is worth noticing that the implementation of other energy-related plans, such as, for example, the decrees regulating the certification of bio-fuels follow a different approach to public participation. In the bio-fuel case, the review of the applicable law takes place without open public consultations, but with the personal involvement of representatives of the business and industries of the relevant sector (for instance, oil companies). This latter approach is also envisaged by the Maastricht Recommendations, para. 167 and although they address a more restricted portion of the public, this may not necessarily mean that their participatory mechanism is less effective.