



NEWSLETTER – ENERGY LAW

On 24 June 2014, Law Decree 24 June 2014 no. 41 (the so called *DL Taglia Bollette*) was published in the Italian Official Gazette no. 144. It concerns, *inter alia*, the reduction of the incentives for PV plants with power capacity higher than 200 kW (Section 26).

The abovementioned PV plants will be subject to an extension of the relevant incentive period from 20 to 24 years, together with a 17%-25% reduction of the applicable incentive, depending on the remaining incentive period.

In particular, Annex 2 of the Law Decree imposes the following reductions :

Remaining Incentive Period	Incentive reduction
12	25%
13	24%
14	22%
15	21%
16	20%
17	19%
18	18%
19 or more	17%

The owners of PV plants could access to bank loans for a maximum amount equal to the difference between the amount of the incentive due until 31 December 2014 and the amount resulting by applying the above remodulation. Based on agreements to be entered into between banks and *Cassa Depositi e Prestiti*, the above mentioned bank loans could benefit from funding or guarantees by *Cassa Depositi e Prestiti*. The latter's obligations will in turn be guaranteed by the Italian State. Implementation modalities will be defined in a decree of the Ministry of Economics and Finance.

Moreover, local entities (Regions, Provinces and Municipalities) shall extend the duration of the relevant permits for those plants which will achieve the new incentive period.

Alternatively, the owners of PV plants can prevent the mandatory extension of the incentive by accepting, within 30 November 2014 on a voluntary basis, an 8% reduction of the incentive, which will apply to the entire remaining incentive period starting from 1st January 2015.

In addition to the above and starting from the second half of 2014, the GSE will pay the incentives

each month in the amount of 90% of the average annual production of the plant. An adjustment of the due incentive amount will occur each 30 June of each following year.

The Law Decree (Section 30) also provides a simplification of the authorization proceedings for energy plants with low capacity.

The above Law Decree may have some profiles of non conformity with constitutional rules since it causes unlawfully the breach of the agreements executed by the PV plants' owners with GSE (the State owned entity that actually pays the incentives). In particular, in our opinion, the new provisions threaten the constitutional principles of non retroactivity and certainty of law as well as the international provisions of the European Energy Charter Treaty.