

WFW OBTAINS ARERA SANCTION ANNULMENT FOR MADE IN ENERGY

22 JUNE 2021 • PRESS



Watson Farley & Williams (“WFW”) advised Made in Energy, a company operating in the electricity and natural gas market, before the Regional Administrative Court of Milan (“TAR”) on its request for the annulment of a sanction from the Italian Regulatory Authority for Energy, Networks and Environment (“ARERA”) regarding electricity imbalances.

The TAR upheld Made in Energy’s appeal against the €130,500 penalty imposed by ARERA in June 2020 in a proceeding initiated almost three years earlier in July 2017.

The arguments in the judgment upholding the appeal expressed principles of particular guarantee for operators affected by sanctions imposed with a significant delay; the grounds of the judgment were even more favourable than those expressed in the most recent other TAR judgments upholding appeals in similar cases.

In fact, with the judgment in the Made in Energy case, the TAR clearly aligns itself with the most recent jurisprudence of the Council of State (Italy), according to which the deadline set by the Authority for the conclusion of the sanctioning procedure is to be considered peremptory, stating:

“Regardless of an express qualification in this sense in the law or in the regulation that provides for it, there is a close correlation between compliance with the said period and the effectiveness of the right of defence of the accused, having constitutional importance (Articles 24 and 97 of the Constitution), and also emerges an inescapable need for certainty of legal relations and subjective positions affected by the sanctioning power.”

The WFW Italy Regulatory team advising Made in Energy consisted of Partner Francesco Piron and Of Counsel Antonio Colavecchio.

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