



Study

Analysis of the Tunisian institutional, regulatory and legal framework required for applying article 9 of Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and for implementing the ELMED project

Executive Summary

This Report deals with a preliminary study, which was assigned to GSE, on the development of the ELMED project and on the applicability of art. 9 of Directive 2009/28/EC thereto. The project was established under a Memorandum of Understanding signed on 24 November 2009 between the Italian “Ministero della Tutela del Territorio e del Mare” (MATTM), the Tunisian “Ministère de l’Industrie et de la Technologie - Direction Générale de l’Energie (DGE)” and the Tunisian “Agence Nationale pour la Maîtrise de l’Energie “ (ANME).

The ELMED project fits within a broader strategy that the Italian Government pursues to comply with its national target by relying, among others, on instruments other than domestic generation, in view of growing integration between the European market and the Mediterranean one. To this end, the Italian Government intends to favour co-operation initiatives under joint projects with third countries, as set forth in art. 9 of Directive 2009/28/EC.

Indeed, in the forecast document submitted to the European Commission in December 2009, Italy explicitly refers to the TERNA-STEG interconnection project, expressing its willingness to widen its co-operation and trade efforts in the electricity sector. The forecast document explicitly mentions the co-operation relationship with Tunisia and makes a conservative assumption of 0.6 TWh/year of imports of electricity from renewables (RES-E) by 2018. This figure was also confirmed in the action plan submitted last July to the Brussels authorities.

By so doing, the Italian Government reiterated its intent and propensity to open up to joint projects with third countries and Member States, in order to supplement its domestic generation. It is in this direction that Italy is moving to establish agreements also with Albania, Serbia, Montenegro, Switzerland and Poland.

GSE was entrusted with a reconnaissance study on the institutional, regulatory and legal framework of Tunisia, as well as of Italy, which is required for an effective application of art. 9 of Directive 2009/28/EC to the ELMED project. This Report thus has a merely informative and non-binding nature.

In particular, the study investigated the following main areas.

1. *Regulatory analysis of the electricity market in Tunisia*

After hinting at the EU market, this chapter analyses the structure of the Tunisian market, comparing it with the Italian power system. To ensure the compatibility of the regulatory frameworks governing the power systems in the two countries, it would be appropriate to undertake a legislative process for access to the international market, permitting the Tunisian RES-E to be exported. In this regard, the ELMED project might be a test case for opening up the Tunisian power system to the international market through the use of export interconnection capacity.

In this perspective, the process proposed to the Tunisian government is as follows:

At regulatory level:

- authorising power generation for export: the analysis of existing provisions indicates limitations in this area; therefore, a new regulation is proposed under which the

Tunisian RES-E should be explicitly allocated for export (now under the monopoly of STEG);

- defining criteria for access to the international market: power generation for export should be fully liberalised or subject to authorisations, after STEG has expressed its favourable opinion on the technical adequacy of the Tunisian transmission grid; for the granting of these authorisations, reference should be made to an explicit criterion, e.g. the time of submission of the application for authorising the overall quantities of electricity that are proportional to the transmission capacity available on the Tunisian grid;
- as regards interconnection, issuing rules on access to transmission capacity and management of congestions, if any; these rules should be shared with the competent Italian and Tunisian institutions; furthermore, a joint interconnection capacity allocation scheme should be set up; the scheme should be: i) based on regulated terms and conditions for both transmission (transit tariff) and congestion relief (auctions); ii) limited to the public-access share of available transmission capacity for the first 20 years; and iii) extended to the overall available transmission capacity subsequently;
- allocating transmission capacity, under criteria to be set out in an appropriate agreement on access to available interconnection capacity, to the joint TERNA-STEG company, which will implement the interconnection (thanks to its independence from commercial operators), under the oversight of the “Autorità per l’energia elettrica e il gas” (AEEG) and the competent Tunisian authorities;
- establishing that STEG may participate in generation of electricity for export, subject to transparent and non-discriminatory rules of access to the European market.

2. Analysis of Tunisia’s environmental legislation and related international commitments

GSE’s reconnaissance study showed that there are no binding rules which exclude some sources on the basis of the carbon content of the kWh generated therefrom. However, some environmental regulations (mandatory environmental impact assessment for power plants above 300 MW and auditing of their energy efficiency) may have an impact on the feasibility of some types of projects, but are not specifically related to the carbon content of the generated kWh.

Based on GSE’s assessments of the use of the Kyoto Protocol flexible instrument CDM (Clean Development Mechanism), this use is not possible for the share of electricity exported to Italy. However, the CDM may be resorted to for the share of electricity generated and consumed at local level.

As a result, the study identified the requirements that the project should meet and its features, notwithstanding the difficulties arising from the case-by-case assessment criterion adopted by the UNFCCC Executive Board.

3. Assessment of technical requirements for benefiting from the Italian schemes of RES-E support and certification of origin

This section of the Report covers the technical requirements that the RES-E generated at local level and exported to Italy should meet in order to benefit from Italian incentives. This is in accordance with art. 9 of Directive 2009/28/EC, under which the Tunisian electricity exported to Italy may

count towards compliance with the national target to be reached by 2020. To this end, the Tunisian Government should satisfy the following requirements:

- identification of an entity independent of the electricity generation, sale, distribution and transmission business; this entity should carry out the qualification of RES-E plants, also in view of granting the possible support in a centralised way.

In Italy, this activity is carried out by “Gestore dei Servizi Energetici” (GSE), which satisfies the independence requirement. A power plant which has been “qualified” by the entity so established may apply for and possibly obtain the RES-E support from the Italian Government. The process of qualification of the RES-E plants should be managed under an appropriate procedure, to be defined by the competent regulator and shared with GSE;

- actual import and traceability of electricity generation. Under art. 9 of Directive 2009/28/EC, the electricity generated in a third country may count towards compliance with the national target only if it is consumed within the EU. In the case of Tunisia, the special support schemes defined by the Italian Government will be applicable, provided that the RES-E generated by power plants in Tunisia is actually imported. Thus, considering the need for completing the interconnection between Italy and Tunisia, an additional procedure should be established between GSE and its Tunisian counterpart, so as to ensure that the above import requirement is satisfied.

4. Analysis of the Italian regulatory framework in view of granting the national support

This chapter describes the Italian current regulatory framework and the opportunities to grant support for RES-E generated abroad and exported to Italy, with a view to assessing their economic impact in the light of Directive 2009/28/EC, to be transposed into the Italian legislation by 5 Dec. 2010.

It is worth stressing that the Legislative Decree implementing the Directive should explicitly empower the competent Ministry to enter into bilateral agreements on the granting of support for RES-E generated abroad. This would clearly apply also to Tunisia. GSE deems it reasonable to define the values of the support and the eligible sources in such agreements. The operational aspects concerning the actual granting of the support for the RES-E exported to Italy may be covered by subsequent procedures, to be defined jointly by GSE and its foreign counterpart.