

Info-brief: EUTR enforcement in Italy

The EU Timber Regulation (EUTR) is implemented in each Member State via national legislation and enforced by national authorities. This means that differences exist in penalty regimes and enforcement practices. It also means that the opportunities for EU (and non-EU) civil society to support enforcement differ. Here we provide key information on the Italian implementing legislation for the EUTR, as well as top-line information on the enforcement approach in Italy as of August 2016. This document is designed as a first point of reference – not a comprehensive source of information. It will be updated as new information becomes available.

Implementation status

- The EUTR is implemented in Italy through *Decreto legislativo n°178/2014*. It entered into force on 25 December 2014.
- Additional rules regarding 1) the registration of operators, 2) the establishment of a multi-stakeholder FLEGT Board, and 3) confiscated timber were to be adopted by 23 February 2015. The decrees setting up these rules have been drafted by the Ministry of Agriculture, but have not yet been adopted to our knowledge.
- The *Ministero delle Politiche Agricole Alimentari e Forestali* (MiPAAF) has been designated as the Competent Authority (CA). It is supported by the *Corpo Forestale dello Stato* (CFS), which carries out checks on operators and Monitoring Organisations.

Resources

- There are eight people available for the implementation and enforcement of the EUTR (two from the MiPAAF working three months per year; three CFS staff members working eight months per year; two CFS for enforcement, working six months per year).
- According to *Decreto legislativo n°178/2014*, no additional specific resources are provided for EUTR enforcement. However, it provides that proceeds from fines for EUTR infringements are allocated to the State's budget. That said, CFS already carries out checks as an ordinary institutional activity.

Penalty regime

- Criminal penalties apply to operators placing illegal timber on the market and can include fines (ranging from € 2,000 to € 50,000) and/or detention (from one month to one year) and/or seizure of timber.
- Administrative penalties apply where an operator fails to put in place or maintain a due diligence system (fines ranging from € 5 to € 5,000 for each 100kg of merchandise with a minimum fine of € 300 and a maximum fine of € 1,000,000). In practice, such fines may be combined with administrative penalties applying to operators for lack of record keeping (ranging from € 1,500 to € 15,000).
- Breach of the traceability obligation by a trader is subject to an administrative fine ranging from € 150 to € 1,500.

Checks by the Competent Authority

- CFS began carrying out checks in June 2015. As of mid-July 2015 approximately 20 checks have been carried out on operators, and one check was undertaken on a Monitoring Organisation.

Substantiated concerns (SCs)

- SCs can be submitted by NGOs to the CA.
- Best practice on how to maximize chances of obtaining a response to a substantiated concern: it should take the form of a 'formal notice to take action' (*diffida*) and include a reasonable deadline (e.g. 30 days) for a response, a request to be informed on the CA's decision, as well as a notice that legal action will be taken in case of inaction.
- To institute administrative action against the CA, it must be shown that administrative law has been breached (e.g. violation of time limits).
- The CA has an obligation to submit a denunciation to the public prosecutor if it finds that an operator has acted criminally.

Possibilities to challenge operators in legal proceedings

- NGOs may file criminal complaints autonomously against an operator to the public prosecutor on the basis of a well documented NGO report. This complaint may be based on the EUTR or the recently enacted law on eco-crimes (the latter option is relevant for cases of domestic illegal logging only).
- NGOs may, under certain circumstances, also bring civil actions against operators.
- For all options, foreign NGOs should co-file with Italian NGOs and be evidently active in the area of combating illegal logging.

Other key elements

- A multi-stakeholder FLEGT Board - a consultative body - to facilitate involvement of relevant stakeholders (including the *most representative* environmental NGOs) in the implementation of the EUTR at the national level is due to be established. To our knowledge, further rules concerning this issue have yet to be adopted.
- Registration is mandatory for operators (administrative fines up to € 1,200 apply).
- On 1 January 2016, CFS has merged with the Carabinieri police corps. This could have an impact on decisional and organisational processes related to enforcement.

Key implementation/enforcement strengths

- Appropriate overall implementation on paper.
- Possibilities for NGOs to take legal action against CA or operators.

Key implementation/enforcement weaknesses

- Low number of checks undertaken to date.
- Fines for breach of the due diligence obligation could potentially be relatively low, depending on enforcement practice.

Resource information

Law:

- [Decreto legislativo n°178/2014 recante attuazione del regolamento \(CE\) n. 2173/2005 del Consiglio](#) (pages 1-7 of the Official Gazette n°286)

Subsidiary regulations:

- [Explanatory note on EUTR controls](#)

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