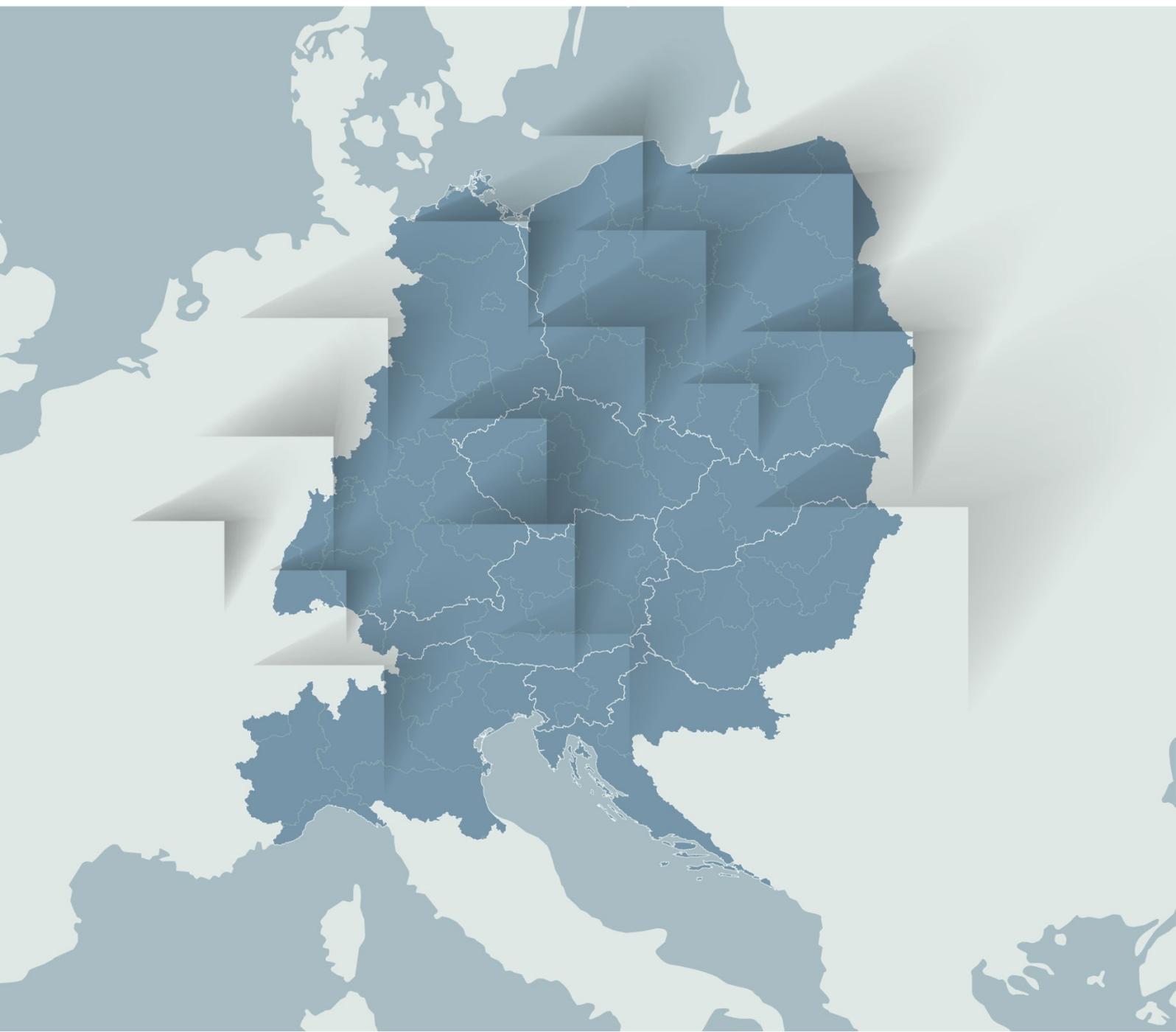




## D.T4.2.2 Analysis of the political and legal framework and the examples Country Report Italy



# Table of Contents

- A. **GENERAL ASPECTS CONCERNING URBAN LIGHTING**.....2
  - I. OWNERSHIP, MAINTENANCE, AND OPERATION.....2
  - II. POLITICAL STRATEGIES AND TARGETS.....2
  - III. ACTORS AND STAKEHOLDERS .....2
  - IV. GENERAL LEGAL BACKGROUND .....4
- B. **PUBLIC AND PRIVATE PROCUREMENT**.....5
  - I. NATIONAL PUBLIC PROCUREMENT.....5
  - II. REGIONAL PROCUREMENT .....6
  - III. INTERNATIONAL PROCUREMENT .....6
  - IV. PRIVATE PROCUREMENT .....6
- C. **DEVELOPMENT OF LIGHTING FACILITIES** .....7
  - I. PLANNING AND AUTHORIZATION .....7
  - II. REFINANCING SOURCES/MECHANISMS..... 10
  - III. CONSTRUCTION ..... 10
  - IV. COST RELEVANT ASPECTS..... 10

## A. General aspects concerning urban lighting

### I. Ownership, maintenance, and operation

#### Ownership, maintenance, and operation

Since 2010, the public lighting network as a service of public areas is identified as a “non-disposable public asset” that state governments and local public institutions officially own.

The current regulatory framework envisages 4 organizational models for network operation and maintenance as per the D.Lgs. 50/2016 - Codice dei Contratti Pubblici – Public Contracts Regulations.

### II. Political strategies and targets

Political strategies, programs, and action plans for making urban lighting more energy efficient and climate friendly in Italy include the DAIE, which is a tool that provides design, installation and sustainability standards.

The DAIE must be frequently updated; for example, each time an implant condition or the intended use of an area undergo a modification. Whoever has a PRIC (Piano Regolatore dell'Illuminazione Comunale – Municipal Lighting Regulatory Plan) must write the DAIE within two years from the time the implemented regulation enters into force; whoever does not have a PRIC, must write the DAIE within five years.

Additionally, the technological upgrading of networks through the use of high-efficiency sources (i.e. TEA SpA “All LED” plan) and remote control platforms is of importance to consider in Italy. In the context of the “All LED” plan, the redevelopment activity will be completed by 2019

### III. Actors and Stakeholders

In Italy, the main actors and stakeholders in the field of dynamic public lighting are Ministries, Regulatory Agencies, Manufacturers and Suppliers, Operators and Owners, as well as others that fall into varying categories. The following subsections below list the actors and stakeholders involved, as well as their respective attitudes towards dynamic lighting.

#### Ministries

The Ministry of Economy and Finance is the single shareholder of CONSIP (CONcessionaria Servizi Informativi Pubblici – Public Information Services Authority, a joint stock company), the procurement center of the Italian Public Administration, and keeps an active agreement for the public lighting management. Moreover, accepting the recommendations included in the European Commission Communication COM (2003)302/F2 “Integrated Product Policy. Building on Environmental Life-Cycle Thinking”, the Ministry of Environment has issued the PAN GPP (Piano



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Seit 1456

d'Azione Nazionale per la sostenibilità ambientale dei consumi della pubblica amministrazione o Green Public Procurement - Action Plan for the Environmental Sustainability of Consumption in the Public Administration Sector or Green Public Procurement).

\* Ministry of Economy and Finance, Ministry of Environment and CONSIP are all listed as “central government authorities” in the **Annex I** to EU Directive 2014/24/EU

## Regulatory Agencies

The authority with legislative functions at regional level is the Lombardy Region.

\* It is not listed as a “central government authority” in the **Annex I** to EU Directive 2014/24/EU

## Operator/Owner

Network owners are the Public Institutions, and network operators and managers are the State Government and Multi-utilities.

## Manufacturers/Suppliers

All companies that are operating in the lighting technology sector.

## Other Actors/Stakeholders

- Mantova Ambiente Srl (TEA Group - environmental subsidiary)
- Carabinieri Ecological Operative Unit
- ARPA (Agenzia Regionale per la Protezione Ambientale – Regional Environmental Protection Agency)
- ATS of Po Valley (Agenzia di Tutela della Salute – Health Safeguard Agency)
- Nature Protection Areas
- Municipalities
- Provinces
- Government Departments

## Attitudes of respective actors/stakeholders towards dynamic lighting

- Ministries - neutral
- Regulatory Agencies - neutral
- Operator/Owner - positive
- Manufacturers/Suppliers - positive
- Other Actors/Stakeholders - positive



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Seit 1456

## IV. General Legal Background

This section details the general legal background in Italy and the relevant guidelines referring to dynamic public lighting.

### Road Traffic Law

UNI 11238/2016, as the transposition of UNI EN 13201

### Public Law

Municipal Regulation

### Further remarks

DAIE, PUT (Piano Urbano del Traffico – Traffic Urban Plan)

PGT (Piano di Governo del Territorio – Territorial Administration Plan)



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Wissen  
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Seit 1456

## **B. Public and Private Procurement**

The following sections on public and private procurement describe the various aspects involved with the procurement of dynamic public lighting facilities in Italy on international and national levels. Topics addressed are the currency used in the country, general legal aspects ranging from the EU level to the national level, national thresholds, central databases utilized and the methods in which lighting systems are acquired.

### **I. National Public Procurement**

#### **Currency**

Italy uses the Euro as its currency.

#### **General Aspects**

Laws in Italy regarding urban lighting that have been implemented due to a legal act on an EU level include Directive 2014/23/EU – on the award of concession contracts, Directive 2014/24/EU – on public procurement, and Directive 2014/25/EU – on procurement by entities operating in the water, energy, transport and postal services sectors.

The nationally implemented law in Italy regarding urban lighting is the D. Lgs. 50/2016 – Public Contracts Regulations, and it adopts the EU directives on the subject of grants and tenders in both ordinary and special sectors.

The D.Lgs. 50/2016 must be enforced with reference to all parts reserved to tenders with values both above and below EU thresholds.

#### **Relevant National Laws in regard to general obligations and procurement**

The D.Lgs. 50/2016 (Public Contracts Regulations) is the basic law in regard to tenders, and it is to be integrated with the Guidelines issued by ANAC (Autorità Nazionale Anticorruzione – National Anti-Corruption Authority); the authority established for surveillance on public tenders.

#### **Legal protection below threshold values**

Legal protection for companies is available by filing an appeal to the Regional Administrative Court. Generally, on the basis of records, this proves to be quite a good level of protection.

#### **National Thresholds**

All tender procedures are regulated by the D.Lgs. 50/2016 (Public Contracts Regulation). There may be exceptions within regional laws of some regions with Political Autonomy in certain matters such as the autonomous Provinces of Trento and Bolzano.

#### **Central, National, and Regional Databases for Public Procurement**



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Seit 1456

The ability to review tender notices is possible via the database available at ANAC (Autorità Nazionale Anticorruzione – National Anti-Corruption Authority) or on the Ministry of Infrastructure and Transport website. It is also possible to find tender notices published on the Regional Observatory website for the Lombardy Region territory.

### **Method of Lighting System Acquisition**

The acquisition of lighting systems is carried out mostly through public tenders.

## **II. Regional Procurement**

All tender procedures are regulated by the **D.Lgs. 50/2016** (Public Contracts Regulation). There may be exceptions within regional laws of some regions with Political Autonomy in certain matters such as the autonomous Provinces of Trento and Bolzano.

## **III. International Procurement**

As a member of the World Trade Organization (WTO), Italy has ratified the Agreement on Government Procurement (GPA).

## **IV. Private Procurement**

Procurement on the subject of private tenders is regulated by the Civil Code. The differences between private and public procurement are that the entire public tender procedure is regulated by the **D.Lgs. 50/2016**, from the supplier selection until the final testing and the private tender procedure is regulated by some articles of the Civil Code (from 1655 to 1677), which regulate only some of the tender stages. For example, in the private field the supplier selection is not regulated by any laws.

There have been no experiences encountered facing any barriers or difficulties with the private procurement of lighting systems in Italy



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Seit 1456

## c. Development of Lighting Facilities

The following section and its subsections on planning and authorization, refinancing sources/mechanisms, construction, and cost relevant aspects with regard to dynamic public lighting in Italy describes the relevant aspects in respect of law, the general planning process before official administrative processes begin, technical standards, the authorization process, the role of land use plans, opportunities for public, civil and other stakeholders' participation in administrative processes, and the possibilities to review authorizations once they have been granted.

### I. Planning and authorization

#### Relevant aspects in respect of law

- L. 847/1964 "Autorizzazione ai Comuni e loro Consorzi a contrarre mutui per l'acquisizione delle aree ai sensi della Legge 167/1962" (National Law 847/1964 "Authorization for Municipalities and Consortia to take out loans for the acquisition of areas in accordance with National Law 167/1962").
- DPR 380/2001 "Testo unico delle disposizioni legislative e regolamentari in materia edilizia" (Presidential Decree 380/2001 "Consolidated Law about building legislative and regulatory provisions").
- D.Lgs. 50/2016 "Codice dei Contratti Pubblici" (Legislative Decree 50/2016 "Public Contracts Regulations")
- CEI 0-2 "Guida per la definizione della documentazione di progetto degli impianti elettrici" (Italian Electrotechnical Committee 0-2 "Guide for the definition of the electrical systems planning documentation"), defined by D.Lgs. 106/09 "Disposizioni integrative e correttive del D.Lgs. 81/2008 in materia di tutela della salute e della sicurezza nei luoghi di lavoro" (Legislative Decree 106/09 "Legislative Decree 81/2008 supplementary and corrective provisions in the field of health protection and safety in workplaces")
- CEI 64-8, Sezione 714 "Impianti di illuminazione situati all'esterno" (Italian Electrotechnical Committee 64-8, Section 714 "Outdoor lighting systems")
- UNI 11630:2016 "Luce e Illuminazione - Criteri per la Stesura del Progetto Illuminotecnico" (Italian National Institution of Standardization, National Law, 11630:2016 "Light and Lighting – Criteria for the lighting planning drawing up")
- UNI 11248:2016 "Illuminazione stradale - Selezione delle categorie illuminotecniche" (Italian National Institution of Standardization, National Law, 11248:2016 "Street lighting – Selection of lighting categories") in place of EN 13201-1:2015, which Italy did not transpose.
- UNI EN 13201-2:2016 "Illuminazione stradale - Parte 2: Requisiti prestazionali" (Italian National Institution of Standardization, standard elaborated by CEN and transposed into National Law, 13201-2:2016 "Road lighting – Part 2: Performance requirements")
- UNI EN 13201-3:2016 "Illuminazione stradale - Parte 3: Calcolo delle prestazioni" (Italian National Institution of Standardization, standard elaborated by CEN and transposed into National Law, 13201-3:2016 "Road lighting – Part 3: Calculation of performance")



- UNI EN 13201-4:2016 "Illuminazione stradale - Parte 4: Metodi di misurazione delle prestazioni fotometriche" (Italian National Institution of Standardization, standard elaborated by CEN and transposed into National Law, 13201-4:2016 "Road lighting – Part 4: Methods of measuring lighting performance")
- UNI EN 13201-5:2016 "Illuminazione stradale - Parte 5: Indicatori delle prestazioni energetiche" (Italian National Institution of Standardization, standard elaborated by CEN and transposed into National Law, 13201-5:2016 "Road lighting – Part 5: Energy performance indicators")
- L.R. 31/2015 "Misure di efficientamento dei sistemi di illuminazione esterna con finalità di risparmio energetico e di riduzione dell'inquinamento luminoso" (Regional Law 31/2015 "Efficiency improving measures of outdoor lighting systems with the purpose of energy saving and light pollution reduction"); until the implementing regulation issue (ex art. 4, c. 2, L.R. 31/2015), it must be considered as in force the L.R. 17/2000 and s.m.i. "Misure urgenti in tema di risparmio energetico ad uso di illuminazione esterna e di lotta all'inquinamento luminoso" (Regional Law 17/2000 and subsequent amendments "Urgent measures in the field of outdoor lighting energy saving and fight against light pollution")
- L. 186/1968 "Disposizioni concernenti la produzione di materiali, apparecchiature, macchinari, installazioni, impianti elettrici ed elettronici" (National Law 186/1968 "Provisions concerning the production of materials, devices, machineries, installations, electrical and electronic systems")

### General planning process before the official administrative processes

At the administrative level, the responsible party for the development of urban lighting is the Municipal Executive Committee as official guiding act (in accordance with Art. 16 DPR 380/2001 and Art. 4 L. 847/1964) and the designated municipal offices (in accordance with D.Lgs. 50/2016) at the administrative level. At the operative level, the multi-utilities, the Public Works sector of the Municipality and all private parties involved in development plans are responsible for the development of urban lighting.

The chronological interdependency of planning public lighting facilities and urban construction plans follows as such: The Municipal Executive Committee provides the technical and urban sector with the guidelines; the involved sections entrust an expert professional with the realization of the DAIE (Documento di Analisi dell'illuminazione Esterna – Outdoor Lighting Analysis Document, which is an integral part of the PGT (Piano di Governo del Territorio – Territorial Administration Plan); the DAIE is taken in by the Municipal Executive Committee and, if accepted, it is sent to the Municipal Council for the approval. The local Public Administration carries the costs which arise from planning at this stage.

### Technical Standards

Technical standards are determined in the DAIE and in company provisions. The main purposes for these respective technical standards are to a homogenous, synergic, and economically favourable network which also reduces waste and all logistical expenses related to maintenance, equipment, and materials.



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Seit 1456

## Authorization

There are permits necessary for proceeding with the various stages in authorization. The SCIA (Segnalazione Certificata di Inizio Attività – Certified Reporting of Activity Start) is the authorization needed to obtain clearance to proceed with building works including the PGT (Piano di Governo del Territorio - Territorial Administration Plan), the VAS (Valutazione di INCidenza Ambientale – Environmental Implications Assessment), the VINCA (Valutazione di INCidenza Ambientale – Environmental Implications Assessment), as well as PAES (Piano d’Azione per l’Energia Sostenibile – Action Plan for Sustainable Energy). The only example of the presence of a concentration effect is in the SCIA.

## Land Use

The role of a general land use plan in the context of grid development is that it acts as a point of reference and provides guidelines and planning drivers. Regarding private property, the Italian government is able to make use of easement, meaning that the Public Administration is allowed to use parts of private properties to realize public utilities services such as public lighting; this means that expropriation is possible and does occur. The owners of plots of land which are involved are entitled to a commensurate compensation.

The financial risks involved with settling claims related to expropriation are defined by the Civil Code, and a percentage of these costs may come at the expense of the end user. The role of land use in the authorization process is binding, and depending on the feasibility of new installations, the financial burdens are potentially carried by the manager. Costs arising from the administrative process are charged to the party responsible for realizing the works. Eventually, the financial burdens linked to the property belong to the owner, the Public Administration.

## Opportunities for public civil and other stakeholders’ participation in the administrative process

Public participation is determined in the regulatory framework in the Civil Code and D.Lgs. 50/2016, Public Contracts Regulation. Stakeholders and target groups entitled to participate include all the managing institutions, citizens, public administrations and trade associations. The responsible party for ensuring public participation is the project developer, and the legal and political aims of participation are to share and communicate what is going on with the community and its stakeholders as well as to protect their interests.

## Possibilities to review the once granted authorization

The main motivating reason for parties to challenge permits is that there are often problems hidden at the moment of the request for a permit that aren’t initially explained or discussed. Further problems that motivate parties to challenge permits are when procedural flaws are found and there is non-compliance with the legal process. When the community feels that their rights or interests have been infringed upon, there the motivation to challenge follows.



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Seit 1456

## II. Refinancing sources/mechanisms

The developer carries the costs arising from the construction of a permitted facility. Public lighting is considered an “indivisible service” in Italy (also things such as safety, civil registry, street maintenance, etc.) and is a municipal service that is not provided “upon request” which means that a percentage of the costs are passed on to consumers through a tax called TASI (Tassa sui Servizi Indivisibili – Indivisible Services Tax).

Loans for Public Administrations, third party financing (multi-utilities), division burdens deductions, and donations are all other ways of support which also serve as incentives for parties to invest in lighting facilities.

## III. Construction

Main barriers/risks associated with the construction of the lighting infrastructure are:

- Bureaucratic
- Administrative
- Logistical
- Technical
- Procedural
- Installation
- Chronological

### Timeframe

The Executive Project includes a document called “Time Schedule”, which establishes times and methods concerning the work realization. The most important steps in the construction process that this time frame refers to are material procurement, setting up of the construction site, execution of infrastructural and electrical works, tuning, technical testing and administrative certification.

### Supervision

In order to ensure compliance with the terms and conditions of the authorization in the execution, there is a person in charge of control and supervision; this person is referred to as the RUP (Repsonsabile Unico del Procedimento – Proceedings Sole Manager). For public works, supervision is provided for by law, and technical standards

## IV. Cost relevant aspects

There are several cost relevant aspects to consider when looking at investments into lighting infrastructures such as technological upgrades, energy savings, urban regeneration as well as determinations of which parts are responsible for missing of deadlines as well as which parties are to assume financial risk for the failure of technical standards meeting expectations.



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Seit 1456

The payment of cost overruns linked to construction is dependent upon the field. For technological upgrades and energy savings, these charges are generally paid by the manager, but for every other type of fee, they are charged to the Public Administration or the owner of the affected area.

The consequences for missed deadlines are generally explained within contracts between parties, and there are typically monetary impacts. The works developer has claims to compensation for damages incurred, as provided for by contract. The conditions of respective claims are defined by the Civil Code and the sector regulations. Claims and fines are also legally limited to a certain amount. When there are missed deadlines and claims to compensation for the damages incurred, converting the financial damages into accessory works is a method that can be used in some cases to rectify the situation, depending on what is agreeable between parties.

Financial risks when technical standards aren't met can often lead to expensive adjustments and these risks are carried by the work designer and developer; sometimes this is defined by law and sometimes it is spelled out only in the respective contract. For situations where lighting facilities show technical defects at their connection points, the designer is responsible in the pre-project analysis and assessment phase, the works developer is then responsible by law under a 2 year full-risk warranty, and the manager is then responsible for the after-warranty time period. If the dismantling of lighting facility is not carried out according to legal or contractual standards, the work developer bares all of the costs.

It is required by law to acquire a specified and professional third party civil liability insurance policy. However, in the case that a private party acts on its own private property, an insurance policy is not required.



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