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DOTTORATO DI RICERCA IN INGEGNERIA INDUSTRIALE

CICLO XXXIII

ECOLABEL: FROM SUSTAINABLE PRODUCT CERTIFICATION TO FINANCIAL PRODUCT CERTIFICATION

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SUMMARY

INTRODUCTION

The European Union through a copious documentation composed of regulations, directives, communications and recommendations, for the near future, has set itself a series of extremely ambitious environmental policy objectives such as climate neutrality passing through the economic model of the economy circular.

Consequently, it has identified a series of areas and tools through which to concretely apply environmental policies and achieve the objectives identified.

Among the areas, he paid particular attention to the goods and services market and the financial market and, among the tools available, he highlighted the quality certifications aimed at both goods and services and financial products: the EU eco-label.

The regulatory documents of the European Union then recognize the potential of the eco-label in favoring sustainable development, the circular economy and environmental policies in general.

However, while the EU Ecolabel relating to goods and services already has its own legal connotation, the financial Ecolabel is a welcome change with the HLEG Recommendations and the Action Plan for sustainable finance.

Therefore, the regulation of the financial Ecolabel originating from the product Ecolabel is in any case all in progress.

The path outlined in the following chapters, after tracing the theoretical-legal framework within which the European Union moves to implement its environmental policies, recalling the essential regulatory documents, will try to clarify the path that in the last two years launched the European Union to arrive at the still evolving application standardization of the financial Ecolabel.

Then, within the same path, an attempt will be made to grasp the common elements of the product and financial ecolabels to establish whether there is a possible interconnection between the two certifications capable of actually creating a synergy in favor of circular sustainable development.

CHAPTER I

ENVIRONMENTAL ECONOMY, SUSTAINABLE DEVELOPMENT, CIRCULAR ECONOMY

INTRODUCTION

Environmental economy, sustainable development and circular economy characterize the environmental policies of the European Union and its member states.

There Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "*A Europe efficient in the use of resources*"[1] identifies these elements in its content. This Communication represents one of the flagship initiatives within the Europe 2020 Communication "*A strategy for smart, sustainable and inclusive growth*"[2].

The Communication *A Europe efficient in the use of resources* recognizes that in recent decades the production processes of the various states have generated an intensive use of resources, in particular non-renewable resources.

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1 For the complete document see the following link: https://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:52012IP0223&from=PL

2 The other flagship initiatives proposed by the Commission were:

- "The Innovation Union"to improve general conditions and access to funding for research and innovation, making sure that innovative ideas are transformed into new products and services that stimulate growth and employment.

- "Youth on the move" to improve the efficiency of education systems and facilitate the entry of young people into the labor market.

- "A digital agenda for Europe" to accelerate the roll-out of high-speed internet and reap the benefits of a digital single market for households and businesses.

- "An industrial policy for the globalization era" to improve the business climate, especially for SMEs, and to foster the development of a solid and sustainable industrial base capable of competing on a global scale.

- "Anagenda for new skills and new jobs" to modernize employment markets and enable people to improve their skills throughout their lives in order to increase participation in the labor market and to better reconcile supply and demand for labor, including through the mobility of workers.

- The "European Platform against Poverty" to ensure social and territorial cohesion so that the benefits of growth and jobs are equally distributed and that people who are victims of poverty and social exclusion can live in decent conditions and actively participate in society .

Therefore, this initiative aimed to foster the shift to a resource efficient and low carbon economy, to help states and the EU to: enhance economic performance while reducing resource use ; find and create new opportunities for economic growth and more innovation and strengthen the EU's competitiveness; guarantee the security of supply of essential resources; fight against climate change and limit the effects that the use of resources has on the environment.

It also included a strategy to make the EU a "*circle economy*", based on a society that recycles, with the aim of reducing waste generation and using it as a resource. The flagship initiative "*A Europe efficient in the use of resources*" called for a road map[3] "*to define the medium and long-term objectives and the means necessary to achieve them*" subsequently implemented with the Communication of 20.9.2011 COM (2011) 571.

The roadmap defined milestones that indicated what elements would be needed to move the EU and its member states forward towards sustainable and resource-efficient growth. Therefore, it too recognized that the current economic growth was based on an intensive use of resources and that a similar pressure on the latter would lead to having two planets available by 2050 to be able to maintain this rate of exploitation of natural resources.

3 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Roadmap towards a resource efficient Europe - Brussels, 20.9.2011 COM (2011) 571 final

Each section then described the actions needed in the short term to bring this process to life. The roadmap provided a framework that illustrated how policies interact and build upon each other, a framework within which future actions could be designed and implemented in a coherent way.

The links between sectors and key resources and the associated EU strategic initiatives were described in the table in the annex.

So it was necessary to both encourage growth but ensure that it was quality and sustainable. In this regard, it was necessary to start transforming the economic system so that it would be able to advance towards sustainable and efficient growth through better management of resources throughout their entire life cycle.

This involved changing the consumption patterns of private and public buyers through a demand for more resource-efficient services and products and consequently new business models, which could meet the needs of consumers with less use of resources.

To support the transition, financial investments from both the public and private sectors would have been necessary towards activities that favored resource efficiency oriented to the long term since the results for sustainability are not obtained in the short term as the current financial markets are oriented.

The roadmap also highlighted the three aspects of EU environmental policies, namely the need to decouple resources and economic growth inspired by the environmental economy, sustainable development and the transformation of the

economic framework towards a circular economy. Another EU document related to the Communication

A Resource Efficient Europe is the *Resolution* European Parliament of 24 May 2012[4] which clearly supports the flagship iniziative *Resource Efficient Europe*as also the roadmap and the climate neutrality goal for 2050.

Therefore, the Resolution calls on the Commission to rapidly present all legislative and other initiatives necessary to achieve the objectives set out in the associated documents and recalls that the decoupling between economic growth and resource consumption is essential to improve Europe's competitiveness and reduce its dependence on resources.

Still among the Action Programs for the Environment launched by the EU, in particular in the Sixth[5], the strategy for the sustainable use of natural resources is one of the thematic strategies[6] adopted.

Therefore, the plan states that in order to promote and stimulate economic growth, while at the same time avoiding environmental degradation, it is necessary to integrate

4 Resource efficient Europe P7_TA (2012) 0223 European Parliament resolution of 24 May 2012 on a resource efficient Europe (2011/2068 (INI)) (2013 / C 264 E / 10)

5 Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, of 24 January 2001, on the Sixth Environment Action Program of the European Community "Environment 2010: our future, ours choice"[COM (2001) 31 final. . https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=LEGISSUM%3Al28027

6 The other thematic strategies of the Sixth program concern: Climate change - Objective - stabilize atmospheric concentrations of greenhouse gases at a level that does not generate unnatural variations in the earth's climate; Nature and biodiversity: protect a unique resource - Objective: protect and restore the functioning of natural systems and halt the loss of biodiversity in the European Union and in the world; protect the soil from erosion and pollution; Environment and health - Objective: to obtain a quality of the environment by virtue of which the level of contaminants of anthropogenic origin, including the different types of radiation, does not give rise to significant impacts or risks for human health.

environmental protection profiles into other policies that affect the environmental impact of the use of natural resources. Indeed, if an efficient use of resources contributes to growth, on the other hand the inefficient use of resources and the over-exploitation of renewable resources represent a long-term brake on growth.

Therefore, it is necessary to reduce the negative environmental impacts produced by the use of natural resources in an expanding economy (according to the concept of "*decoupling*"), developing the means capable of identifying the negative environmental impacts of the use of materials and energy through their life cycles (this is the so-called "*cradle to grave*" approach according to the circular economy.)

Finally, the Green Deal[7] approved by the Commission in 2019 renews a strategy aimed at transforming 'EU in a just and prosperous society, with a modern, clean and circular economy, which in 2050 will not generate greenhouse gas emissions, and resource efficient and competitive, in which economic growth will be decoupled from use of resources.

In this regard, it attaches to the Communication a roadmap in which it identifies a series of key actions for an efficient use of resources aimed at achieving the objectives of the Green Deal itself.

7 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions The European Green Deal - COM / 2019/640 final
https://eur-lex.europa.eu/legal- content / IT / TXT /? Qid = 1596443911913 & uri = CELEX: 52019DC0640 # document2

The comparative reading of these documents allows us to still identify the decoupling theory dictated by the environmental economy, sustainability and the circular economy as constants in the EU policies that lead us towards the future.

It seems obvious that between these 3 elements there is a synergistic relationship whereby they mutually influence each other in their actions to achieve future goals. Furthermore, their actions directly affect production and indirectly affect products and their ecological labels. To understand these last statements it is necessary to pass to the analysis of each of the three elements.

1. ENVIRONMENTAL ECONOMICS THEORIES

Man has lived for billions of years in the earth environment. To live, man needs to satisfy his needs by exploiting the planet's resources.

The relationship between man and the environment has always been a relationship of hate love as man, although aware of limited resources, cannot help but exploit them often in an incorrect and unequal way.

Each year, Earth Overshoot Day[8] marks the day when humanity has consumed all the biological resources that

8 Earth Overshoot Day https://www.overshootday.org/ In 2020 for the Earth it fell on 22 August while for Italy on 15 May. The calculation of the day of the land overexploitation of a country is carried out by comparing the

natural ecosystems can renew throughout the year. Humanity currently uses 60% more than it can renew. In practical terms, it is as if the resources of 1.6 planets Earth were used.

Hence, from the Day of Earth Overexploitation until the end of the year, humanity will increase its ecological deficit with the Earth. This deficit has steadily increased since Ecological Overexploitation began in the early 1970s[9].

The lack of balance between the resources used to cope with a lifestyle based on a socio-economic development that generates excessive consumption and the ability to regenerate the planet's resources is thus highlighted.

In this way we consume more than the earth is able to produce, risking to run out of resources without leaving anything for future generations. Therefore it is necessary to

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ecological footprint of its inhabitants and the global biocapacity, that is the ability of the planet to regenerate natural resources for each of its inhabitants. The ecological footprint indicates the amount of biologically productive land and aquatic surface that would be needed by an individual to produce all the resources it consumes and absorb the waste or emissions it produces (Calculate your ecological footprint: http://www.footprintcalculator.org/) and in a nation's ecological balance sheet, it represents "expenses". As the Global Footprint Network, an international non-profit organization that develops tools to promote environmental sustainability and that calculates the Overshoot Day, the ecological footprint "...*includes the biologically productive areas necessary to produce food, fibers and wood that the population of that country consumes, to absorb waste materials (such as CO2 emissions) produced to generate the energy that a country uses and to sustain the infrastructures that the country builds*". Biocapacity, on the other hand, is the ability of ecosystems to *"...meet our exorbitant demands and regenerate the resources we ask for to live, eat, produce energy, absorb our polluting gases*." In the ecological balance, it represents "income". 'ecological footprint, biocapacity is also expressed in global hectares (gha): it calculates, in practice, the planet surface necessary to provide everything that a person requires from nature for the food, the fibers and the wood consumed, the occupied by urban infrastructures, the plants necessary to absorb the CO2 we emit.

9 Data provided by according to the National Footprint & Biocapacity Accounts (NFA) based on the United Nations database (with 15,000 data per country per year)

restore a sustainable balance between conservation and consumption of resources.

This is a problem that has been affecting man for some time and to which the environmental economy is also trying to respond. Environmental economics is the "Discipline which aims to evaluate the relationships between the economic system and the natural environment.

In particular, the e. to. focuses its attention on the behavior of economic agents (individuals and businesses) that are at the origin of environmental problems, in order to identify elements useful for constructing solutions to such problems "[10].

The economy of the environment uses the same tools as political economy to build an economic theory capable of managing the scarcity of natural resources and all those economic-environmental phenomena otherwise excluded from the market. For example, the control of pollution, or, more generally, the analysis of the flow of waste products released into the environment.

Therefore, environmental economics identifies the economic causes of environmental degradation and proposes possible interventions of economic policy and environmental policy to the policy maker.

10 T. Tietenberg, L. Lewis *Environmental economics and policy*, Ed. Pearson, Milano, 2009; A. D'Amato, *Dizionario di Economia e Finanza*,Treccani,2012 https://www.treccani.it/enciclopedia/economia-ambientale_%28Dizionario-di-Economia-e-Finanza%29/#:~:text=economia%20ambientale%20Disciplina%20che%20si,sistema%20economico%20ed%20ambiente%20naturale.&text=Il%20controllo%20dell'inquinamento%2C%20o,ambientale.

Currently, the environmental theory that according to EU policy makers and world organizations best responds to the search for solutions and tools capable of resolving the inequitable relationship between natural resources and economic growth is the theory of resource decoupling.

However, before giving a definition of the theory of resource decoupling and the consequences it has generated and continues to generate in environmental, international and national policies, it is right to briefly construct the theoretical framework that generated it.

The Report of the Club of Rome[11], published at MIT, entitled "*The limits of development*", highlights the problem of resources - economic development and drastically proposes the elimination of growth.

According to a systemic model, the Report compared 5 variables worldwide, showing the probable trends based on the pace of increasing growth and the reserves still available.

Given the exponential rate of growth, whatever the concrete limit of resources was, it would still have been exceeded with catastrophic results for human society. And the

11 Club di Roma - Non-profit civil association, founded (1968) and chaired (until his death, 1984) by A. Peccei and then by the Scottish scientist A. King, based in Paris. The Club of Rome was created to address the multiple crises that humanity and the planet face. Drawing on the unique and collective know-how of its 100 members - prominent scientists, economists, business leaders and former politicians - it seeks to define comprehensive solutions to the complex and interconnected challenges of our world. Based on in-depth scientific analysis, the Club of Rome formulates holistic proposals to address these immense and interconnected problems. It does this through research, concrete policy proposals and the calling of meetings, debates, conferences, lectures and other high-level events. His seminal and best-selling 1972 report, The Limits to Growth, alerted the world to the consequences of interactions between human systems and the health of our planet. Since then, more than 45 relationships have strengthened and expanded this intellectual base. https://clubofrome.org/

technological improvements would only have allowed a slowdown in the exhaustion of resource stocks but in any case, over time, they would have run out.

Therefore, to preserve resources, the Club proposed zero growth, ie hypothesize a substantially stationary society that minimizes the consumption of resources and its rate of development, achieving what was called "*zero growth*".

Another author Daly[12] reworks John Stuart Mill's theory of the steady state by defining the steady state as the situation in which the overall stock of physical wealth and inhabitants is kept at low levels of flow and material energy that must be controlled and minimized. Steady-state economics requires that critical natural capital be kept intact by avoiding its replacement by man-made capital beyond a certain point.

To obtain these conditions, for satisfying the needs of a given population, it is necessary to make a maximally efficient use of natural resources, an aspect of efficiency known as eco-efficiency[13].

According to another author, Kuznets, the direct positive correlation between economic growth (per capita

12 H. E. Daly, J. B Cobb Jr, J. B Cobb, "*For the common good: Redirecting the economy toward community, the environment, and a sustainable future*", Beacon Press, Washington, 1994; H. E Daly,"*Steady-state economics: with new essays*", Island Press, Washington, 1991; H. E Daly,"*Beyond growth: the economics of sustainable development*",Beacon Press, Washington, 1996 ; H. E Daly, J. Farley, "*Ecological economics: principles and applications*",Island press, Washington, 2011

13 The World Business Council for Sustainable Development (WBCSD) was the first to coined the term "eco-efficiency", which is achieved through the supply of "*Goods and services at competitive prices that satisfy human needs and bring quality of life by progressively reducing environmental impacts of assets and the intensity of resources throughout their life cycle*"

income) and environmental degradation (pollution) stops when a certain level of well-being is reached[14].

In the richest societies, environmental quality is transformed into a scarce commodity and society is therefore willing to exchange a part of its economic growth to obtain an improvement in environmental quality (willingness to pay for the environment). The company adopts an environmental policy to reduce the level of pollution from its consumption and production activities.

Furthermore, technological development allows us to affirm that as income increases, the research and development that can be made available both for the resources and for the ideas that spread the most increases.

So technology becomes more and more efficient in fighting environmental degradation. Therefore, it is possible to control and reduce waste through technology and an adequate environmental policy.

Finally, Harwick's rule[15] borrowed from environmental economics and applied to the environment allows us to understand better.

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14 The Kuznets Curve is a function of the distributive effects of pollution and environmental damage. S.Kuznets ,"*Population, technology, development*", Il Mulino, Bologna, 1991; S. Kuznets, "*Towards Theory of Economic* Development*", ISEDI,*Torino,1973; A.Vercelli*, S. Borghesi,"The sustainability of global development"* ,Carocci editore, Roma, 2008

15 See T. Tietenberg *Economia dell'Ambiente*, McGraw-Hill, Milano 2006. See too:: K. R.Turner, *Economia ambientale*, il Mulino, Bologna 2003, I. Musu, *Introduzione all'economia dell'ambiente*, Il Mulino, Bologna 2003, C.Cenci, *Economia Ambiente e sviluppo sostenibile*, Patron, Bologna 2003, J. G. Piero, *Elementi di economia ambientale per lo sviluppo sostenibile* ,Aracne, Roma 2017; G. Rossi , M. Monteduro, *L' ambiente per lo sviluppo. Profili giuridici ed economici*, Giappichelli editore , Torino 2020

It states that: the capital available to the present generation can be seen as a legacy consisting partly of natural resources (natural capital) and partly of physical capital (buildings, equipment, schools and so on) and that using this capital in a manner sustainable means keeping its value intact.

Since, between the two, natural capital deteriorates and is consumed more and it is impossible to replace it with physical capital, if not at enormous costs, in order to have a sustainable allocation of resources, natural resources must be conserved.

Thus, political and economic decisions, for a sustainable use of resources, must refer to an economic model that satisfies this condition: the circular economy model In the circular economy, the use of resources is minimized since the materials of which they are compounds, the products are reused and their value is maintained longer[16].

All together these theories show us that resources are exhaustible but it is possible to control their exploitation through adequate environmental policies so as to ensure sustainable economic growth in terms of resources.

Thus, the theory of decoupling (or decoupling) makes its way. This term is generally used in economics to indicate the loss of correlation or the decrease in dependence between

16 The circular economy works by combining the following modalities: the product life cycle, the hierarchy of the 3 R (Reduce, Reuse, Recycle) and short / closed cycles. In fact, in the design of a product it takes into account the impact that it generates on the environment at every stage of its life cycle so that the materials that make up the product can be reduced, reused and recycled so that at the end of the product life cycle waste becomes the starting material for a subsequent process, in a chain that eventually returns ideally to the starting point and closes the circle.

variables, with reference to a variety of different contexts[17].

With regard to the environmental economy, decoupling refers to the reduction of the impact on the environment generated by economic and demographic growth, as a consequence of a more efficient use of resources or the introduction of technologies that make it possible to reduce the consumption of resources or training. of waste at certain production levels.

We talk about d. absolute when the pressure on the environment decreases with the increase of economic activities and d. relative when the impact on the environment rises at a less sustained rate than that of the economy[18].

It is a short step from environmental economics to environmental policy for the decoupling theory and is adopted by the major industrialized countries aware of the criticality of the available resources and looking for answers[19] to conserve these resources in the best possible way

17 *Decoupling e sostenibilita ambientale*, Lessico del XXI Secolo, Treccani, 2012; E. Di Giulio e S. Migliavacca "*Il mito del decoupling: un mondo a due velocità scritto*",*Prosperity without Growth: Foundations for the Economy of Tomorrow (English Edition*) in Rivista Energia 1/18; S. Fabbrini "*Europe's future, Decoupling and reforming*", Cambrige University Press, Cambrige, 2019; *Decoupling Natural Resource Use and Environmental Impacts from Economic Growth*, UNEP, 2011

18 Definition reported by Dictionary of Economics and Finance (2012), Treccani online https://www.treccani.it/encyclopedia/disaccoppia_%28Dtionary-di-Economia-e-Finanza%29/

19 The main contributions from this point of view have indicated two categories of tools: command and control, based on the drafting of laws and regulations that oblige individuals and companies to choose behaviors with a low environmental impact (e.g. with bans on the use of a certain type of fertilizer in agriculture); incentive-based tools, designed to encourage virtuous behavior by 'correcting' costs and benefits related to pollution (by taxing polluting production and consumption - an example is the carbon tax - or by subsidizing 'green' production and consumption). A. Crosetti, R.Ferrara, F.Fracchia, N.Olivetti Ranson "*Introduzione al diritto dell'ambiente*" - Laterza Editions - Bari - 2017; P. Dell'Anno, "*Diritto*

without giving up to economic growth. The decoupling theory underlies the new paradigm of "*sustainable development*" summarized in the Bruntland report.

Among international organizations, the OECD seems to have been the first to have adopted the concept of decoupling of resources, considering it as one of the main objectives in its policy document "*Environmental strategy for the first decade of the 21st century*"[20].

OECD defines decoupling simply as breaking the link between environmental damage and "*economic assets*."

In 2005, the European Union (EU) adopted the Lisbon strategy for growth and jobs in which it gave top priority to use more sustainable than natural resources and called on the Commission to take the initiative towards more sustainable consumption and production in the business world.

This was followed by the adoption of the EU Thematic Strategy on the Sustainable Use of Natural Resources in the of the Sixth Environmental Action Program (6th EAP)[21].

This strategy aims to achieve a more sustainable use of natural resources by reducing the the negative environmental impacts generated by the use of natural resources while ensuring economic growth.

The sixth EAP strategy recognizes the decoupling of resource use and its impacts on economic growth. Finally, the very recent Green Deal, approved in 2019, also states in its

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dell'ambiente" - Cedam - Padua - 2016; B.Caravita "*Diritto ambientale*" - Il Mulino- Bologna - 2016

20 Document adopted by the OECD Environment Ministers in 2001

21 CFR previous paragraph

introduction, that "... .. *aims to transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy in where there are no net greenhouse gas emissions in 2050 and where economic growth is decoupled from the use of resources* ".

Therefore, the path towards a new type of economy and the framework outlined by the theories of environmental economics towards decoupling, are the background to the introduction of the concept of sustainable development that permeates the policies of States around the world in an attempt to generate active responses to the problem of scarcity of resources and economic growth.

2. LEGAL FRAMEWORK OF SUSTAINABLE DEVELOPMENT

The concept of sustainable development resulting from the theories of environmental economics seeks to find a balance between the sum of natural and artificial capital and economic growth trying to maintain a stock of resources sufficient for the survival and well-being of generations following. The search for this balance has generated two approaches to sustainability: strong sustainable development and weak sustainable development.

Strong sustainable development according to ecological economists[22] postulates that in most production processes

22 K.E. Boulding "The Economics of the Coming Spaceship Earth" in Environmental Quality in a Growing Economy, John Hopkins University Press, Baltimora, 1966; N. Georgescu-Roegen " The entropy Law and the Econmics Process" - Harvard University Press - Cambridge - 1971; N. Georgescu-Roegen

natural capital is a complementary factor that cannot be substituted for artificial capital.

Therefore a continuous and progressive economic development can be limited by the scarcity of natural resources. Therefore natural resources are irreplaceable and there is no remedy for their degradation even with the increase of other values such as social or economic ones.

Therefore it is necessary to preserve resources by limiting consumption so that their capacity to restore is not exceeded. The weak sustainable development supported by traditional theory[23] in the context of environmental economics states that natural capital and artificial capital are quite replaceable.

In particular, according to weak sustainable development, natural capital consumed for productive purposes can be replaced with artificial capital.

Therefore, an economy is sustainable if the economic system manages to have the necessary financial means to invest in the restoration of the ecosystem in order to produce new capital and compensate for the losses suffered

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" Analisi economica e processo economico" – Sansoni – Firenze – 1971; N.Georgescu-Roegen, "La Décroissance: Entropie – Écologie" , Économie - Paris: Sang de la terre , 1995; K. E. Boulding, (1966) "Economic Analysis"in Harper and Row. 2 Volumes. vol. 1, New York, K. E. Boulding,. "Towards a New Economics," number 59, Edward Elgar Publishing, Cheltenham, 1992.

23 R.Solow *" A Contribution to the Theory of Economic Growth*" in Quarterely Journal of economics, vol 70, Oxford, 1956; R.Solow , "*La teoria della crescita: un'esposizione*", Edizioni di Comunità, Milano,1990; S. Kuznets "*Economic Growth and Structure, Selected Essays*". in. New York: W. W. Norton, Published online by Cambridge University Press , 2011; S. Kuznets " *Economic Growth of Nations: Total Output and Production Structure Hardcover*" ,Harvard University Press,n.1 ,Harvard, 1971; J. M. Hartwick, "*Intergenerational Equity and the Investment of Rents from Exhaustible Resources*". American Economic Review, Esther Duflo,1977

when natural resources are over-exploited and the environment compromised.

Therefore, the policy maker will have to apply the necessary policies on the one hand to preserve natural capital to make a more efficient use of it by switching to new technologies and at the same time increase investments so that technologies make the use of resources increasingly efficient towards economic development and the welfare of society.

The legal framework of sustainable development will show us that international and EU policy makers have adopted environmental policies that support the weak sustainable development approach to efficiently use resources without giving up economic growth.

The concept of sustainable development became popular in 1987 with the publication of the Brundtland Report (also known as Our Common Future) by a study commission (World Commission on Environment and Development) chaired by the Norwegian Prime Minister Gro Harlem Brundtland.

The Bruntland Commission was established following a 1983 resolution of the United Nations General Assembly, which aimed to elaborate "*a global agenda for change*" and entrusted the Bruntland Commission with the task of suggesting environmental strategies for a long time deadline for achieving sustainable development by 2000 and beyond.

The Bruntland Report[24] was divided into three broad sections which indicated the challenges to which humanity was called.

The first section entitled "*Common Concerns*" examined the reasons that threatened the future by analyzing how to move towards sustainable development, indicating the role that the international economy should have had.

In the second section, "*Collective challenges*" examined the population and human resources, food security, species and ecosystems, the energies chosen for the environment and development, the industry aimed at producing more with less and urban problem.

The third part, "*Common Efforts*" indicated strategies for the management of international common goods, for peace, security, development and the environment and guidelines for common action.

The now internationally accepted definition of sustainable development that comes out of the Bruntland Commission is the following[25]: "*Humanity has the ability to make sustainable development to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs. The concept of sustainable development does imply limits - not absolute limits but limitations imposed by the present state of*

24 World Commission On Environment and Development "*Our Common Future*" - Oxford University Press - 1990

25 See the Bruntland report "Our Common Future From One Earth to One World", section I, paragraph 3 Sustainable Development https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf

technology and social organization on environmental resources and by the ability of the biosphere to absorb the effects of human activities.

But technology and social organization can be both managed and improved to make way for a new era of economic growth" that means humanity has the ability to make development sustainable to ensure that it meets the needs of present without compromising the ability of future generations to meet their own needs. The concept of sustainable development[26] implies limits, not absolute limits but limitations imposed by the current state of technology and social organization on environmental resources and the ability of the biosphere to absorb the effects of human activities.

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26 For further information see: R. Bifulco, "*Diritto e generazioni future. Problemi giuridici della responsabilità intergenerazionale*",Franco Angeli, Milano, 2008; C. Videtta, "*Lo sviluppo sostenibile. Dal diritto internazionale al diritto interno*", in R. Ferrara, M.A. Sandulli, Trattato di diritto dell'ambiente, Vol. I, Giuffrè editore, Milano 2014; A. Lanza, "*Lo sviluppo sostenibile*",Il Mulino, Bologna, 2002; P. Greco, "*Lo sviluppo insostenibile: dal vertice di Rio a quello di Johannesburg*", Mondadori , Milano, 2003; S. Borghesi, A. Vercelli, "*La sostenibilità dello sviluppo globale"*, Nuova Cultura Editore, Roma, 2005; F. La Camera, "*Sviluppo sostenibile: origini,teoria e pratica*", Editori Riuniti, Roma; F. Fracchia, "*Il principio dello sviluppo sostenibile*", in M.Renna, F. Saitta (a cura di), Studi sui principi del diritto amministrativo, Giuffrè editore Milano, 2012; F.Fracchia "*Il principio dello sviluppo sostenibile*", in G. Rossi (a cura di), Diritto dell'Ambiente, Giappichelli, Torino 2017; M. Cafagno, F. Fonderico, "*Riflessione economica e modelli di azione amministrativa a tutela dell'ambiente*", in P. Dell'Anno, E. Picozza (diretto da), Trattato di diritto dell'ambiente, Vol. I, Cedam, Padova 2012; G. Fidone, "*Ecoefficienza e sviluppo sostenibile nell'attività di diritto privato della pubblica amministrazione*" in P.Dell'Anno Vol. III, Cedam ,Padova, 2015; Annalisa di Giovanni "*L'ambiente sostenibile nel nuovo Codice degli appalti: green public procurement e certificazioni ambientali*", in Rivista Giuridica Il diritto e l'economia, n.1/2018 https://www.ildirittodelleconomia.it/; Fenni, "*Il Green Public Procurement come strumento di sviluppo sostenibile*", in Rivista Giuridica Ambiente Diritto, n.5/2014; www.AmbienteDiritto.it; V. Pepe, "*Lo sviluppo sostenibile tra diritto internazionale e diritto interno*", in Riv. giur. amb., n. 2/2002; S. Borghesi, A. Vercelli, "*La sostenibilità dello sviluppo globale*", Nuova Cultura Editore, Roma, 2005; M. Cafagno, "*Principi e strumenti di tutela dell'ambiente come sistema complesso,adattivo, comune*", Giappichelli, Torino, 2007;

But technology and social organization can be managed and improved for a new era of economic growth.

The concept of sustainable development by the Brundtland Commission includes two fundamental elements: the environment as a dimension of economic development and intergenerational responsibility in use of natural resources.

Therefore, according to the first element, it is necessary to accept that economic growth is partially limited by the need to protect environmental resources and the ability of the biosphere to absorb the consequences of human activity in order to achieve sustainable development.

Instead, the second element affirms the need for respect between generations since future generations also have the right to enjoy environmental resources and to benefit from them like current ones.

If we then pay further attention to the definition of sustainable development resulting from the Bruntland Report we can distinguish the elements of the concept of weak sustainable development: awareness of the scarcity of natural resources, responsibility in organizing resources efficiently through the help of technology to preserve the most possible, continuity in economic development for the benefit of current and future generations.

Therefore, States will have to define economic development policies while preserving as much as possible the natural resources available.

Other documents that are decisive for sustainable development policies and demonstrating the adoption of weak sustainable development emerge from the Rio de Janeiro

Conference held in 1992 entitled "*United Nations Conference on Environment and Development*", also known as "*Eco '92*" or "*Earth Summit*"[27]. Following it, 4 documents were approved: Rio Declaration[28], Agenda 21[29], the Convention on Climate Change[30], the Convention on Biological Diversity[31].

Among these documents, Agenda 21, still relevant today , formulates concrete indications for the application of policies by states compatible with sustainable development[32].

It is made up of 40 chapters and, like an action program, proposes sustainable development goals and the tools necessary to achieve them.

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27 United Nations Conference on Environment and Development, Earth Summit, Rio de Janeiro, 1992. https://sustainabledevelopment.un.org/milestones/unced

28 The declaration was made up of 27 principles focusing on the concept of integration between environment and development. https://sustainabledevelopment.un.org/milestones/unced

29 Agenda 21 identifies among its fundamental objectives: the assessment of environmental costs related to the decisions of producers and consumers, the use of economic principles capable of encouraging the creation of new market segments and work areas for the sectors that deal with environmental control and protection of natural resources, the need to link the prices of goods to the scarcity of natural goods and their actual value. https://sustainabledevelopment.un.org/milestones/unced

30 The United Nations Framework Convention on Climate Change (UNFCCC) also known as the Rio Accords, is a treaty that aims to reduce greenhouse gas emissions, based on the global warming hypothesis, signed on June 4, 1992 and entered into force on March 21, 1994 https://sustainabledevelopment.un.org/milestones/unced

31 The Convention on Biological Diversity (CBD) is an international treaty adopted in 1992 to protect biodiversity, the sustainable use of its elements and the fair distribution of the benefits deriving from the exploitation of genetic resources. https://sustainabledevelopment.un.org/milestones/unced

32 In the documentation proposed in the following chapters, it will be possible to ascertain that the tools used for sustainable development are atypical acts which, although not having immediate regulatory value, have effects equivalent to those of the law for significant participation by the associates. These are instruments used by the Community Institutions which, although not normative, according to the provisions of the treaties, or even though they are envisaged as instruments of a non-binding nature, they produce legal effects in the Community system, between States and States, between States and the Union and towards of EU citizens. See S. Magra, "*The Soft Law*" in Camminodiritto Magazine, n.10, 2016- https://rivista.camminodiritto.it/ Articolo.asp?id=1683

Agenda 21 states that in order to make economic development compatible with nature protection, it is also necessary to harmonize economic, social and environmental policies in the interest of future generations.

Therefore it is important to determine and apply not only action strategies based only on the issuance of laws and regulations, but also those related policies that can be defined as soft law, such as economic and fiscal incentives, pricing policies. and voluntary agreements.

Among the strategies indicated in particular, the one defined as soft law characterizes the application of a weak sustainable development.

Soft law is a term of doctrinal elaboration of international law which indicates a set of acts, documents or other instruments used by community or international institutions and which, although not binding, produce effects in the legal system.

Soft law instruments include opinions, recommendations, charters of rights, communications, white and green papers, action plans, codes of conduct and acts of independent authorities.

In particular, with regard to sustainable development, it can be said that it is a typical case of soft law[33].

In fact, it arises as a legal principle in international declarations[34] that do not produce precise

33 See the article by V. Pepe "*Lo sviluppo sostenibile tra diritto internazionale e diritto*" in Riv. giur. ambiente, fasc.2, 2002; A. Poggi, "*Soft law nell'ordinamento comunitario*", Relazione tenuta al convegno annuale dell'Associazione italiana dei costituzionalisti, *L'integrazione dei sistemi costituzionali europeo e nazionali*, Catania, 2005

obligations and rights and is then established in the Constitutional Charters and in the legislations[35]

Finally, in the document of the Convention on Biological Diversity we find in Article 2 the concept of sustainability so expressed "*sustainable is the use of biological resources in ways and at a pace that do not involve a long-term reduction, and that at the same time safeguard the ability to meet the needs of present and future generations*", also refers to the elements of weak sustainable development.

The Johannesburg Summit changed the structure of the sustainable principle by identifying three pillars at the foundation of the principle: economic development, social development and environmental protection.

Therefore, the ability to generate income and work in order to be a source of sustenance for the population determines economic sustainability; being able to guarantee conditions of human well-being, in a uniform manner for all social classes, outlines social sustainability; the ability to guarantee the maintenance and quality of natural resources represents environmental sustainability.

These 3 elements supporting and influencing each other give rise to sustainable development according to which

34 In 1997 the sentence of the International Court of Justice Gabcìkovo - Nagymaros between Hungary and Slovakia takes into consideration the concept of sustainable development which has now become in effect a principle of International Law. In the judgment, the Court affirms that the need to reconcile economic development with environmental protection must not only be an inspiring principle for the creation of new rules, but must also be a criterion for interpreting existing rules both locally and internationally.

35 Following the Rio de Janeiro Conference (1992), the basic principles of environmental management were gradually incorporated into the national Constitutions. See for example article 45 of the Spanish Constitution and article 3 paragraph 3 of the European Union Treaty.

economic advancement cannot ignore the consideration of social and environmental needs.

With regard to the European Union, a first explicit reference to sustainable development is found mainly in the 1999 Amsterdam Treaty[36]. In the preamble it was stated that the Member States were "... *determined to promote the economic and social progress of their peoples, taking into account the principle of sustainable development and in the context of the completion of the internal market and the strengthening of cohesion and environmental protection, as well as to implement policies aimed at to ensure that the progress made on the path of economic integration is accompanied by parallel progress in other sectors*".

In the following article 2 it was said that the Union had the task of promoting activities aimed at achieving a "*balanced and sustainable development*".

Another document in which the environmental issue and the principle of sustainable development emerges is the Charter of Fundamental Rights of the European Union of 2000 in which art. 37 reads "*Protection of the environment: A high level of environmental protection and the improvement of its quality must be integrated into the policies of the Union and guaranteed in accordance with the principle of sustainable development*". with other Community policies based on the

36 The Treaty of Amsterdam modified the Single European Act of 1986 ratified in 1987 which dedicated Title VII to the environment so that, even without an explicit reference to sustainable development, it made environmental protection a central element of community policy and a limit to European action also with reference to economic policy choices

principle of sustainable development to improve the quality of the environment.

Subsequently, the 2007 Treaty of Lisbon, in taking up what has already been stated in the Charter of Fundamental Rights in Article 3, paragraph 3, states that the Union "... *works for the sustainable development of Europe, based on balanced economic growth and stability of prices, on a highly competitive social market economy, which aims at full employment and social progress, and on a high level of protection and improvement of the quality of the environment*... "

The sustainable development thus formulated and contained in TUE assumes a more specific prerogative at the level of primary law and greater strength within European policies. Nor is it escaping that although the reference to weak sustainable development is not explicit, it transpires in balanced economic growth understood as capable of preserving natural resources to make the quality of the environment better.

Naturally, Article 3 of the TEU constitutes the legal basis of the strategies for sustainable development and together with Articles 7 and 11 of the TFEU[37] the necessary

37 Articles 7 and 11 of the TFEU are set out below. Art.7 "*The Union ensures coherence between its various policies and actions, taking into account all its objectives and complying with the principle of attribution of competences. Art.11 The requirements connected with environmental protection must be integrated in the definition e in the implementation of Union policies and actions, in particular with a view to promoting sustainable development*"

connection between policies and environmental protection in the perspective of sustainable development.

Finally, a look at the Italian situation for the legal framework ofdevelopment sustainable.

Italy as a member state of the EU naturally does not remain indifferent and adapts to EU policies for which the principle of sustainability enters Italian legislation through Legislative Decree no. 152/2006 regulations "*Environmental*" which in its general application to paragraph 1 art.2 "... *has as its primary objective the promotion of the quality levels of human life, to be achieved by safeguarding and improving the conditions of the environment and the wise and rational use of natural resources*".

While the explicit reference to sustainable development is found in article 3-quater which states that "*Every human activity legally relevant under this code must comply with the principle of sustainable development, in order to ensure that the needs of current generations cannot compromise the quality of life and the possibilities of future generations"*.

Therefore, Italy also fully accepts the concept of weak sustainable development: efficient use of natural resources and protection of future generations. Furthermore, always art. 3 -quater affirms that "*The activity of the public administration must also be aimed at allowing the best possible implementation of the principle of sustainable development, so that in the context of the comparative choice of public and private interests characterized by discretion, the interests in protecting the environment and cultural heritage must be given priority consideration*. "

Therefore, the environmental policy choices of the Italian State in their discretion will privilege sustainable development in the comparison and protection of environmental interests.

At the beginning of the paragraph it was stated that sustainable development, in order to take place, needs a new economic system that, from a production point of view, is able to generate an efficient and cost-effective production of natural resources.

Then it must be a system that does not generate or as little as possible external costs for the environment, that in the long run proves to be competitive in the long run, that makes people's living environment a quality environment, that stimulates consumers and producers to change consumption patterns and their behaviors and makes them aware that a better environment improves the quality of life.

This economic system has been identified by the international and European government apparatuses in the circular economy.

3. CIRCULAR ECONOMY REGULATORY FRAMEWORK

In the last decade the debate on the need to establish a new economic model, based on a more sustainable and rational management of natural resources, given the growth in demand for raw materials, the increase in inequalities and the demographic expansion.

The conventional economic model based on growth, in a world of finite resources, can no longer hold its own in the

long run, continuing to generate inequities, imbalances and profound social differences. Furthermore, sustainable development has contributed, as a guiding factor of economic activities, to the elaboration of the concept of circular economy which is based on a new production and consumption model different from the traditional economy[38] which also requires a different approach on an institutional level and a different approach to public intervention in the economy.

3.1 CONCEPT AND PRICIPLES OF CIRCULAR ECONOMY

The most common definition of circular economy[39] is that provided by the Ellen MacArthur Foundation[40] the circular

38 By traditional economy we mean the linear economy model that is no longer able to satisfy the demands in terms of resources of the current society. In fact, in the document drawn up by the European Environment Agency (2016), entitled "*Circular economy in Europe*", the critical points of a linear economy: the continuous growth of the world population and the consequent increasing need for resources; Europe's dependence on imports of natural resources from other countries with the consequent rise in prices that leads some sectors and companies, unable to cope with these increases, to lay off workforce and give up supplying certain types of goods and services; consumerism that leads consumers to buy more than their real needs and discard these products despite being objects that are still usable and in good condition.

39 The concept of circular economy began to spread in the 1970s. Several authors have dealt with different aspects of developing the concept of circular economy. Walter R. Stahel, the architect and industrial analyst, together with Reday Genevieve in 1976, published a research in which he proposed a cyclical economy capable of reducing the use of natural resources and the emission of waste and, at the same time, to increase the use of the workforce. Then with the expression “Economics of performance” in 2006, he wants to demonstrate the effectiveness of an economy which, instead of selling products, provides the consumer with a service. Robert Frosch and Nicholas Gallopoulos at the beginning of the 90s elaborated the discipline of “Industrial Ecology” according to which the production process becomes compatible with the environment through the reorganization of an industrial system capable of respecting ecological constraints. John Tillman Lyle (1994) develops a systemic approach that makes use of resilient models present in nature, to design real closed-loop systems capable of satisfying the basic needs of man, without compromising those of future generations. Janine Benyus in 1997 exposes her idea of observing nature and emulating strategies and mechanisms that regulate its functioning, in order to find sustainable solutions, from an environmental point of view, to problems concerning man. Paul Hawken in 2001 demonstrates how economic and environmental interests can be pursued: by increasing the productivity of natural resources; making use of biologically inspired models and materials; moving to a business model that provides services rather than products; reinvesting in natural capital to continuously restore the resources found in nature. Michael Braungart and Bill McDonough in 2002 develop the concept

economy " *is a generic term to define an economy designed for to be able to regenerate by itself. In a circular economy the flows of materials are of two types: the biological ones, capable of being reintegrated into the biosphere, and the technical ones, destined to be revalued without entering the biosphere*». The circular economy is therefore an economic

"Cradle to Cradle", ie "From the Cradle to the Cradle" According to this theory, the materials are composed of technical components and biological components. The former refer to all those materials which, after their recycling, can be reintroduced into the production process and give life to new products, while the latter represent materials capable of being part of the natural environment without polluting. According to the two authors, it is therefore important to eliminate the concept of waste and design materials that make it possible to recover the value of the resources they are made of. Furthermore, the Cradle to Cradle theory, in its practices, pays particular attention to the use of renewable energies and to the support of diversity in all its forms. Gunter Pauli in 2010 founder of the movement "The Blue Economy - 10 years, 100 innovations, 100 million jobs" determines the following objectives: to exploit the resources present in nature to make fewer investments, eliminate pollution, increase jobs and increase total profits. This becomes the evolution of the Green Economy since, while it aims to reduce CO2 emissions within a certain limit, the Blue Economy tries to eliminate them completely.

40 The Ellen MacArthur Foundationis the 10th largest private foundation in the United States and is headquartered in Chicago. The Foundation works to strengthen and communicate ideas and opportunities around the circular economy and in this regard publishes a variety of materials such as reports, case studies, educational resources. According to the Foundation, the circular economy is therefore a system in which all activities, starting from extraction and production, are organized in such a way that someone's waste becomes resources for someone else unlike the linear economy where instead, once consumption is over, the cycle of the product that becomes waste also ends, forcing the economic chain to continuously resume the same pattern: extraction, production, consumption, disposal. Reference: www.ellenmacarthurfoundation.org. Regarding the Circular Economy, see also: M. Cocconi, *La regolazione dell'economia circolare*, Franco Angeli, 2020, P. Lacy, J. Rutqvist , B. Lamonica, *Circular economy. dallo spreco al valore*, EGEA, 2016 , D. Bianchi (a cura di), *Economia circolare in Italia. La filiera del riciclo asse portante di un'economia senza rifiuti*, Edizioni Ambiente, 2019, I. De Benedictis, *Economia Circolare: Verso un modello economico ad impatto zero*, Edizioni Accademiche Italiane, 2019, Francesco de Leonardis (a cura di), *Studi in tema di economia circolare*, Edizioni Università di Macerata, 2019, S. Capelli (a cura di) *Verso un'economia realmente circolare – norme, voci, storie*, Associazione comuni virtuosi, Esper, 2019, F. iraldo, I. Bruschi, *Economia circolare Principi Guida e Casi di Studio*, Osservatorio sulla Green Economy, IEFE Bocconi,2016 https://www.assolombarda.it/servizi/ambiente/documenti/rapporto-geo-sulla-circular-economy, E. Scotti , *Poteri pubblici, sviluppo sostenibile ed economia circolare*, Rivista giuridica Il diritto dell'economia, n.1/2019, F. de Leonardis, *Economia Circolare: saggio sui suoi tre diversi aspetti giuridici. Verso uno Stato Circolare ?*, in Rivista giuridica di Diritto Amministrativo, Giuffrè, n.1/2017, R. Ferrara, *Brown economy, green economy, blue economy: l'economia circolare e il diritto dell'ambiente*, in Il Piemonte delle Autonomie, Rivista quadrimestrale di Scienze dell'Amministrazione, n.2/2018.

system planned to reuse materials in subsequent production cycles, minimizing waste.

This Foundation has also identified the three fundamental principles[41] on which the circular economy is based. The first principle affirms the need to preserve and increase natural capital by controlling stocks and flows of renewable resources. Therefore, when a need for resources arises, the circular model selects those with a higher performance rate or those coming from renewable sources.

The second principle involves optimizing the yield of resources with an optimal circulation of products, components and materials both in the technical cycles as well as in the biological ones. Technical cycles lead to the creation of durable goods which, once rendered unusable, must be disassembled to give life to new durable goods.

Biological cycles concern all those consumer goods designed to decompose once their use is finished. In order to close the circle, it is necessary to adapt the flows coming from biological cycles to the limits imposed by the planet and to minimize or even eliminate the emissions from technical cycles.

The third principle favors the effectiveness of the systems by trying to eliminate negative externalities for

41 The principles are identified in the document entitled "*Growth within: a circular economy vision for a competitive Europe*" (2015) prepared by the EllenMcarthur Fondation https://www.ellenmacarthurfoundation.org/assets/downloads/publications/EllenMacArthurFoundation_Growth-Within_July15.pdf

which it is necessary to reduce CO2 emissions to preserve the natural environment.

These 3 interrelated principles determine the functioning of the circular economy.

In addition to these 3 principles, there are other elements/situations that play an important role in the realization of the circular economy. These include the design of durable products that allow them to extend their life cycle to optimize resource returns.

With regard to products, the role of the 3R is important and is respected in a circular economy.

Reduce refers to the reduction of materials used in the production of a product, but also to the reduction of consumption and waste by users, so as to reduce the environmental impact of the individual product.

Reuse that is to abandon the disposable practice and think, through the use of technology, of a second life to give to products.

Recycling attaches importance to the process that leads to the disassembly of the various parts that make up a finished product so that they can be used to create a new product.

3.2 THE LEGAL FRAMEWORK OF THE CIRCULAR ECONOMY

The objective of sustainable development now included in numerous international documents implies the

implementation of a new economic model that is identified with the circular economy.

In 2015, at the 70th United Nations General Assembly, world leaders adopted a new Global Agenda[42] which identifies 17 Sustainable Development Goals (SDGs) and 169 related targets. The objectives contained in the agenda are aimed at guaranteeing development that meets today's needs without compromising the ability of future generations to meet their own. These objectives are universally applicable and interconnected and guarantee a dignified life for all, respecting the limits of the planet, in societies characterized by inclusion and social justice.

Although the entire 2030 Agenda includes concepts belonging to the circular economy model: social inclusion, environmental protection, sobriety in the use of resources, multi-stakeholder collaboration, it is objective 12 "Guaranteeing sustainable models of production and consumption" which deals with the circular economy specifically.

SDG 12 invites all subjects (from supranational bodies passing through States up to individuals) to overcome the linear logic (production-consumption-waste) that is no longer sustainable to undertake circular paths according to the logic of the 3 R he Paris Agreement[43] approved on 12 December

42 See the link https://unric.org/it/agenda-2030/

43 See for the full text at the link https://unfccc.int/process-and-meetings/the-paris- agreement / what-is-the-paris-agreement

2015 is a global agreement that includes an action plan aimed at tackling climate change and limiting global warming.

According to the Paris agreement, a real possibility to reduce industrial emissions and, consequently, global warming is represented by the new circular economic model together with the development of renewables and energy efficiency.

With regard to Europe, the circular economy appears in a 1976 report by the European Commission "The Potential for Substituting Manpower for Energy"[44] in which the adoption of a circular economy is envisaged, underlining its positive impact on the creation of jobs of work, on saving resources and reducing waste.

In reality, the legal documents that favor the circular economy at the European level are more recent. The European Commission in 2011 with the communication "A Europe efficient in the use of resources - Flagship initiative within the Europe 2020 strategy", aims to promote the transition to an efficient economy in the use of resources and low carbon. In this way it aims to: enhance economic results, while reducing the use of resources; creating and finding new opportunities for economic growth, more innovation and strengthening the EU's competitiveness; guarantee the security of supply of essential resources; combat climate change and limit the effects of the use of resources on the environment.

44 *The Potential for Substituting Manpower for Energy*: Final Report 30 July 1977 for the Commission of the European Communities -Geneviève Reday-Mulvey -Battelle, Geneva Research Center, 1977

Again the Commission with the Communication of 2015 "*The missing link - European Union action plan for the circular economy*" clearly expresses the interest of the European Union towards a new economic structure based on the model of the economy circular.

The Plan takes into consideration 5 areas of action typical of the value chain of a product or service: product design; product production; consumption dynamics; waste management; secondary raw materials market.

Furthermore, it identifies specific priority sectors on which to intervene, including plastics and food waste and a series of actions horizontal to all sectors, to support the transition, including the push for innovation and investments, underlining the importance of definition of a framework for monitoring the progress made which makes it possible to evaluate the effectiveness of the actions undertaken.

The plan also reiterated the importance of respecting the waste hierarchy and provided for an update of current legislation. Therefore, among the first actions of the European Plan the revision of six fundamental directives on waste was included: the Framework Directive 2008/98 / EC, the Packaging Directive 94/62 / EC, the WEEE Directive 2012/19 / EU, the Directive on end-of-life vehicles 2000/53 / EC, the Battery Directive 2006/66 / EC and the Landfill Directive 1999/31 / EC. Finally, the most recent Green Deal approved in 2019 aims to make the climate challenge and ecological transition an opportunity for a new development model for the EU to become the first climate neutral continent by 2050.

Other key elements of the Green Deal are the protection of the natural environment and biodiversity, a strategy for sustainable food, a new action plan for the circular economy.

The new Plan[45] for the circular economy was approved in March 2020 and in the annex provides a road map in which for each of the main actions: a strategic framework for sustainable products, main product value chains, less waste more value, transversal actions, defines the initiatives necessary to move towards a fully circular economy.

In Italy, a reference to the circular economy is contained in Legislative Decree No. 4 of 2008, which integrates Legislative Decree 152 of 2006, which adopted a legislative formulation based on the priority of environmental interest and sustainable development[46] .

The environmental link ln 221 of 2015 is on the same line and encourages the creation of products deriving from post-consumer materials or the disassembly of complex products, establishing specific measures to increase separate collection and recycling through the possibility for some by-products of enter into new life cycles linked to biomass and /or biogas plants for the production of electricity. Finally, with regard to the circular economy for Italy it is correct to point out these last two documents: *The National Strategy*

45 We also recall the Resolution of the European Parliament of 15 January 2020 on the European Green Deal which contains a series of proposals to accelerate the transition to a circular economy. https://www.europarl.europa.eu/doceo/document/TA-9-2020-0005_IT.html

46 See d.lgs n.4/2008 "*Ulteriori disposizioni correttive ed integrative del decreto legislativo 3 aprile 2006, n. 152, recante norme in materia ambientale*"

for Sustainable Development (SNSvS) developed by the MATTM in October 2017 and the subsequent Towards a circular economy model for Italy: document of classification and strategic positioning.

The SNSVS document has as its primary objective the improvement of socio-economic well-being conditions in Italy: to reduce poverty, inequality, discrimination and unemployment; ensure environmental sustainability; rebuild trust in institutions; strengthen opportunities for professional growth, study, training; restore competitiveness to businesses through a fourth industrial revolution based on innovative and sustainable technologies.

It represents the declination of the strategic objectives (SDGs) of the United Nations 2030 Agenda for sustainable development in the context of economic, social and environmental planning.

It is structured in five areas: People, Planet, Prosperity, Peace and Partnership. Each area is made up of a system of strategic choices declined in national strategic objectives specific to the Italian reality and complementary to the 169 targets of the 2030 Agenda.

The document Towards a circular economy model for Italy: framework and strategic positioning document[47]

47 This document recognizes the challenge that Italy will have to face in order to respond to the complex environmental and social dynamics, while at the same time maintaining the competitiveness of the production system. Hence the need to convert the Italian industrial fabric made up largely of SMEs into new business models that know how to make the most of Made in Italy. Therefore, the transition to a circular economy seems to be the correct way to face future economic challenges but requires a profound review of consumption models and a great incentive for innovation. The document therefore seeks to suggest the tools and processes necessary to favor the transition to a circular economy for a competitive economy. With regard to consumers, it suggests *"... developing a" National Environmental Education and Communication Plan ", locally developed that, starting from*

constitutes an important tool for the implementation of the National Strategy for Sustainable Development whose objective is to provide a general framework on the circular economy and to define Italy's strategic positioning on the issue.

4. RELATIONSHIP BETWEEN ENVIRONMENTAL, ECONOMICS, SUSTAINABLE DEVELOPMENT AND CIRCULAR ECONOMY

The relationship between environmental economy, sustainable development and circular economy emerges from the arguments discussed in the previous paragraphs.

The solution of the balance between the limitation of natural resources and economic growth becomes the central

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compulsory schools up to families, contributes to forming a generation of critical, aware and informed citizens capable of consciously decide and affect the various economic-productive and social mechanisms of the country with their choices." In the document, on the basis of a precise analysis, other tools are enumerated to encourage the transition towards the circular economy, for example measures such as taxation on carbon emissions (carbon tax), landfill disposal (landfll tax), pollution in general (pollution tax) that favor the transition to less impacting technologies, promoting reuse, recovery and recycling. Then incentives to companies for the extraction of raw materials, research and innovation, design and production and to families in the consumption phase. Instead, the incentives that favor recycling/recovery and discourage landfill disposal can affect both categories: households and businesses. A space is dedicated to the PAN SCP - The National Action Plan on Sustainable Production and Consumption which identifies 6 areas of intervention (SMEs, production chains and districts; Agriculture and agro-industrial chains; Construction and housing; Tourism; Organized distribution; Consumption and behavior sustainable) considered strategic production sectors for our country and/or more impacting from an environmental point of view, also attributing a significant role to consumption, and secondly to distribution, as indispensable levers on which to intervene to guide production. Finally, the document does not neglect the public sphere for which it identifies the GPP together with the mandatory application of the Minimum Environmental Criteria (CAM), it has become one of the main environmental and production policy tools capable of reducing environmental impacts, rationalizing and reduce public spending in the long term with a view to Life cycle costing (LCC) and able to promote innovative companies from an environmental point of view.

pivot on which the relationship between these 3 elements is built.

The environmental economy with the decoupling theory is the background to the concept of sustainable development while the circular economy model becomes the tool by which to achieve its objectives. Sustainable development, circular economy and environmental economy through the decoupling theory constantly emerge in the documents of the policy makers of the last decade and even the most recent documents report them.

For example, the Communication from the European CommissionEuropean *TheGreen Deal* defines it as a strategy "... *in which economic growth is decoupled from the use of resources*."

Then he says the Commission will put sustainability at the heart of economic policy and sustainable development at the heart of EU decision-making and action.

Finally, through a series of actions, he hopes for greater mobilization of industry for the transition to the circular economy as an opportunity to expand sustainable economic activity.

Again in the Circular Economy Plan resulting from the Green Deal strategy, we read that "*The extension of the circular economy ... will contribute significantly ... to the dissociation of economic growth from the use of resources*..." and that*this transition, which also takes into account the potential of digital technologies, progressive but irreversible, towards a sustainable economic system is an*

absolutely necessary element for the new EU industrial strategy"

So in both documents the circular economy inserted in the industrial circuit, through the application of its principles and the use of new technologies will result in a production capable of providing high quality, functional, safe, efficient and economically accessible products, which last longer and are designed to be reused, repaired or subjected to processes of high quality recycling.

This will generate savings and a more efficient use of resources as well as a consequent improvement in the quality of life. In the dynamics just described, the problem concerning theis solved reconciliation between scarcity of resources and economic growth.

Decoupling separates natural resources from economic growth as at certain levels of economic growth, greater investments in better technologies make the use of resources more efficient so as to preserve them in their exploitation (the circular economy allows the saving of resources, it does not stop the production and thus achieves a development of the sustainable economy) and the consequent development is determined in the perspective of weak sustainable development.

The latter, as already reiterated in the previous paragraphs, affirms that an economy is sustainable when, despite the over-exploited natural resources and the compromised environment, it manages to replace natural resources for the restoration of the ecosystem so as to guarantee an environment of quality life also to future

generations. Hence, the circular economy achieves weak sustainable development from the perspective of decoupling theory.

There are, however, studies that affirm that green growth, which currently guides the environmental policies of the countries of the world, based on the theory of decoupling, which can be achieved through an increase in efficiency, without limiting economic production and consumption, does not it has been and will not be sufficient to reduce the pressure on the environment to the extent necessary to preserve it and to allow unlimited economic growth.

The studies conducted by the European Environment Bureau in July 2019 entitled *Evidence and argument against green growth as a sole strategy for sustainability* (Evidence and arguments against green growth as the only strategy for sustainability) give a reasoned account.

The aim of this work was to verify the validity of the decoupling hypothesis in the light of the empirical researches carried out so far through a comprehensive literature review of empirical studies that have tested the decoupling hypothesis.

The study identifies at least 7 reasons that raise doubts that decoupling can enable economic growth without increasing pressure on the environment.

The increase in energy costs occurs because generally the most convenient options for the extraction of resources are used first, for which the process of extracting the

remaining ones requires a more intensive use of resources and energy and increases environmental degradation per unit of extracted resource.

The rebound effect according to which greater efficiency means partial or total reallocation of the resources and money saved either in the same or greater consumption of the same resource or in other impacting consumption.

Technological solutions to an environmental problem can generate new ones or aggravate others. Services often have an impact that adds to, rather than replaces, that of the goods produced.

Current recycling rates are still low and recycling processes still require a significant amount of energy and raw material.

Technological progress does not always affect the factors of production that affect ecological sustainability so it does not lead to the kind of innovation that reduces environmental pressure.

Finally, in some local cases what has been observed and defined as decoupling was only apparent, resulting from an externalization of the impact from high-consumption countries to low-consumption countries, favored by international trade.

Therefore, on the basis of these evidences, the authors of the study argue that it is necessary to combine the policies aimed at efficiency with policies of sufficiency[48],

48 In the last two decades, the movements of the global North (transition towns, degrowth, eco-villages, slow cities, fair and supportive economies, common goods economies, etc.) have begun to organize themselves around the concept of sufficiency, which can inspire an approach transversal political. What these movements say is that more is not always better, and that in a

with a transfer of priorities from the first to the second and the reduction of production and consumption for a transition to sustainable development strong.

Despite the evident results of these studies, the orientation of current policy makers remains anchored to the theory of decoupling and weak sustainable development as well as to the circular economy with the resulting application policies.

However, an economic path oriented towards a strong sustainable development can still pass from the circular economy through a pedagogical implementation[49] of the tools that policy makers have at their disposal.

Therefore, it would be necessary to orient the tools of command and control, of programming and planning, of market regulation, to educate and stimulate the consumer towards forms of responsible use of products and services.

For example, the application of the 3R principle of the circular economy to product policy together with ecological certifications can help to move faster towards an economy of sufficiency.

In fact, although ecological certifications are a voluntary instrument of environmental policies, they are

climate-threatened world, enough can be abundant. Many of these actors argue that sufficiency is not a choice of sacrifice, unemployment, growth in inequality, poverty and *"slimming*" of the welfare state, but it is the choice of a just economy that remains within the carrying capacity of the biosphere, as defined by the 7th EU Environmental Action Program "*living well within the ecological limits of the planet*". What must be decoupled is not economic growth from pressures on the environment, but prosperity and the "good life" from economic growth.

49 On this position see E. Scotti, *Poteri pubblici, sviluppo sostenibile ed economia circolare* in Rivista «Il diritto dell'economia», n.1/ 2019

able, through information on the product, to influence consumer choices.

The certification of a product as disassembled in its parts, recyclable and repairable can lead the consumer to reduce the quantities purchased and to reuse the same product.

Therefore, the inclusion in the ecological certification criteria of the principle of the 3R of the circular economy in order to educate consumer behavior to reuse and demand on the market for an ever greater quantity of products with those characteristics, represents a way to move to an economy of sufficiency based on strong sustainable development.

Therefore, the relationship between the circular economy, sustainable development and the environmental economy is not broken. Only the theoretical framework of the latter changes the point of view from a decoupling economy to an economy of sufficiency for a strong sustainable development[50].

50 G. Franz "*Approssimandosi ai limiti: dai Planetary Boundaries alle Ecological Minds. Argomentando intorno alle Culture della sostenibilità*" in Rivista di Economia, Cultura e Ricerca Sociale, n.13/2019; W. Sachs e M. Morosini (a cura di), "*Futuro sostenibile, le risposte eco-sociali alle crisi in Europa*", Edizioni Ambiente, Milano, 2011; G. Brunori, ,A Rossi, F Guidi "*On the New Social Relations around and beyond Food. Analysing Consumers'* Role and Action in Gruppi di Acquisto Solidale (Solidarity Purchasing Groups), Sociologia Ruralis, vol. 2 issue 1, 2012; A. Segrè,"*Elogio dello spreco. Formule per una società sufficiente.*" in Agriregionieuropa, Bologna, n.30/2012; G. Brunori, A. Lari, "*Strategie per il consumo sostenibile: dall'efficienza alla sufficienza*", in Agriregionieuropa, Bologna, n. 30/2012; S. Latouche, "*Il paradosso dell'Economia ecologica e lo sviluppo sostenibile come ossimoro*" Université de Paris XI Intervento del 30 settembre 1998 al Seminario internazionale di studio dell' Università di Padova - https://www.edscuola.it/archivio/interlinea/paradosso.html

CHAPTER II

TOOLS FOR THE CIRCULAR ECONOMY:PRODUCT CERTIFICATIONS

INTRODUCTION

In line with what was stated in the previous chapter to achieve the objectives set by sustainable development as well as for a concrete application of the circular economy and therefore the protection of the environment, the States have a series of of tools that are well identified in a study conducted by the OECD, on behalf of the G7, on the occasion of the Schloss Elmau summit in June 2015.

In this study entitled "*Policy guidance on resource efficiencyon resource efficiency*", aimed at elaborating political guidelines, for the implementation of environmental policies : adjustment tools (Command and Control)[51]; economic instruments[52]; certification and labeling schemes and environmental management systems[53].

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51 "*The adjustment tools they prohibit or bind, through collective decisions, activities deemed potentially harmful to the environment and set standards in which they refer to prohibitions and sanctions aimed at a dissuasive effect proportionate to the conduct opposed. These tools are centralized in the hands of the public decision-maker and are carried out through administrative measures (for example permits, authorizations, etc.). They are effective but not always economic since incorrect decisions in effect or excess can produce polluting effects or waste of resources and it is difficult for public apparatuses take into account the countless variables and obtain the information necessary to deal with the various situations, thus costs are generated due to the generalized imposition of an obligation or a standard*"in"*Policy Guidance on Resource Efficiency*", OECD Publishing, Paris, 2016 (http://dx.doi.org/10.1787/9789264257344-en).

52 "*Economic instruments they are also the result of institutional collective decisions and through them public institutions demand the payment of a price by those who use services or natural resources"in"Policy Guidance on Resource Efficiency*", OECD Publishing, Paris, 2016 (http : //dx.doi.org/10.1787/9789264257344-en).

53 The environmental certifications relating to the organizations of their management systems and / or their activities and production processes; focus on the correct management of the activities that fall under the management control of the organization or that can significantly influence it (EMAS) In particular, the EMAS certification - Eco Management Audit Scheme - falls within the certifications of the Management Systems that certify the compliance of a company or an entity to the standard to which it refers, according to the PDCA methodology, with a view to improving and rationalizing resources and energy. In fact, the EMAS model, according to Article 1 of Regulation 1221/09, promotes: the continuous improvement of the environmental performance of organizations through the establishment and application of environmental management systems, which imply a systematic

In particular, the certification and labeling schemes are aimed at the product. Products are essential for the wealth of our society and for the quality of life we know on the one hand, but on the other hand, a greater consumption of products generates, both directly and indirectly, a large part of the pollution and reduction of the resources of the our company.

Therefore, for sustainable growth that maintains a good quality of life, it will be necessary to focus on greener products that know how to use fewer resources, have a lower impact and lower risks for the environment and avoid the

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and periodic evaluation of the system; a following offer of information on the environmental impact of performance; an open dialogue with the public and other interested parties; active involvement and adequate staff training. EMAS, which is part of the voluntary instruments activated under the 5th European action program for the environment and subsequently included in the 6th and current 7th program, was established by regulation in 1993 by the European Community and was originally conceived only for industrial sites. In 2001, with EC Regulation 761 it was extended to all types of organizations and companies that carry out activities and generate an environmental impact. From January 2010, the EC Regulation no. 1221/09, known as EMAS III, came into force which, among the requirements of the environmental management system, includes the ISO 14001 standard in annex II. By means of Regulation 1505/2017, the European Commission updated the requirements regarding the environmental analysis (Annex I), the internal environmental audit (Annex III), the elements of the Environmental Management System (Annex II), adapting them to the requirements of the new ISO 14001: 2015. The PDCA method, also known as the wheel of Deming named after its author, is a technique that has universal validity, and that comes from the initials of the four phases in which it divides the problem solving process: Plan(Plan):setting goals and design business processes to achieve results that comply with the organization's policy; Implementing (Do) consists in activating the human, technical and financial resources to achieve the objectives with improvements to the company structure;Verify (Check) supervise and monitor the methods of development of business processes; Act (Act) to implement the necessary actions to correct and continuously improve the performance of the management system which provides that the environmental management of an entity or company is not limited to solving problems in the short term but prepares actions with regular intervals that are long-term prevention according to a programmatic commitment aimed at the future capable of triggering a virtuous spiral towards continuous improvement.The path to obtain EMAS certification involves several steps, described in the article of Regulation 1221/09: Initial environmental analysis, Environmental Management System, Internal Audit performs audits at least once a year; Environmental declaration subject to Annex IV of the Regulation, revised with EU Regulation 2026/2018. To these specific documents are added: the policy and the environmental program. Finally, for the process to obtain EMAS certification to be complete, verification and validation and registration submitted to the competent body of the state where the organization applying for registration is located is required. In Italy, the application for EMAS registration must be addressed to the Committee - EMAS section of the Ecolabel Ecoaudit Committee established pursuant to Ministerial Decree no. 413/95.

production of waste right from the design stage: products greens. A definition of green orproduct *green product* we can identify it in the research entitled "*In Search of a Green Product Definition*"[54] in which the authors try to give a definition of green product.

Therefore they analyze 3 points of view; the literature on the academic definitions of green product, the point of view of producers/industrialists and the point of view of consumers.

In the academic field, from the codification of 35 definitions, the green product is determined as follows: "*A green product is a product whose design and/or features (and /or production and/or strategy) use recycling resources (renewable/free of toxic/biodegradable substances) and that improves the environmental impact or reduces toxic damage to the environment during the entire life cycle*"

According to the industrial perspective, a green product is the product that complies with the 3 R: reduce, reuse, recycle, certified by an official body, not tested on animals and biodegradable.

Finally, according to the consumers' point of view, a green product is non-toxic to nature; good for health; socially responsible; good for the planet.

This means that consumers are more interested in the concrete aspects of a green product, in particular, those

54 F. Durif C. Boivin C. Julien "In Search of a Green Product Definition."In JOURNAL" Innovative Marketing ", FOUNDER LLC Consulting Publishing Company, Business Perspectives, 2010

that can have an impact on the protection of the environment and on people's health. the definitions included in the 3 positions described above are not irreconcilable but each of them emphasizes aspects of the product that are linked to sustainability and circularity.

In all three positions we find the will to protect the environment. The academic position focuses on a product that is able to efficiently use the resources involved in the production process such as the industrial position that requires a product that respects the 3Rs and, although in a different way, however, also indicates a respectful product for the environment since it makes efficient use of resources.

The consumer's position aims at a product capable of protecting health but also socially responsible and therefore also capable of preserving the environment and its resources. Considering now the active subjects of the economic policies producers and consumers among the instruments of the environmental policy mentioned above, the certifications or environmental labels or ecolabels seem to satisfy the defining content of green product described in their positions.

Environmental labels certify aspects or characteristics of a product according to ecological criteria present in their reference frameworks that can also satisfy those expressed by the positions of producers and consumers. In this way, the certifications indirectly satisfy the objectives of environmental policies: environmental protection and resource saving.

Then again the certifications are able to intervene on the actions of consumers, directing them towards the purchase of green products, and of producers pushing them to produce green, thus achieving the objectives of sustainability and circularity.International environmental policies and in particular the EU have realized the potential of environmental certifications and have introduced them among the instruments of their policies.

1. REGULATORY FRAMEWORK OF PRODUCT CERTIFICATION

The certifications, although important for the purposes of government policies, are part of the voluntary application tools and do not find a precisely codified definition. Therefore, for this purpose it is necessary to contact internationally recognized bodies that deal with certification.

A definition[55] of ecolabel is the one developed by GEN[56] - *The Global ecolabelling network* that is the

[55] Other ecolabel definitions can be found at the following links:
http://www.ecolabelindex.com/glossary/
https://www.resourceefficient.eu/en/measure/green-labelling-and-certification-infrastructure-products-packaging

[56] The Global Ecolabelling Network (GEN) is a non-profit association of leading eco-labeling organizations around the world. GEN was founded in 1994 to help protect the environment by improving, promoting and developing the eco-labeling of green products and sustainable services. https://www.globalecolabelling.net/about/gen-the-global-ecolabelling-network/

internationally recognized network of ecological labeling organizations according to which "*Ecological labeling is a voluntary method of certification and labeling of environmental performance practiced all over the world. An eco-label identifies products or services that have been shown to be environmentally preferable within a specific category*. "

Therefore, the definition given by Gen, specifies the voluntary Ecolabel and specifies that the quality mark is assigned to the products or sevices that compared to others, of a specific category, have been shown to further environmental protection characteristics.

CEN certifies these characteristics based on standards that address multiple environmental criteria throughout the life cycle of a product or service.

The standards are public and transparent and the verification of assignment of label is carried out by independent third parties.

Therefore, the certification understood according to the definition of the GEN is transparent and reliable. Features of no small importance since the certifications are entrusted with the achievement of the objectives of government environmental policies.

L'however, attention falls on those that are the standard of comparison in order to determine the features that make appreciable ecologically a product.

Because the labels are widespread[57] both at the local level (local and national) and international can be predicted that the certification of the environmental characteristics of a product for fall within the framework of the criteria of a'labelto happen on the basis of territorial standards different. In this way it becomes difficult to compare the labels with each other and there is a risk of disadvantaging the achievement of the objectives set by environmental policies.

Therefore, a regularization of the certification standards would be necessary to allow a comparison between the various labels in terms of information provided, transparency and saving of resources.

The ISO- International Standards Organization[58] is an international organization that develops and publishes standards that have international value.

It develops standards that gather in the certification of products frameworks or services belonging to different categories including the environment.

The ISO 14000 family represents the certifications aimed at improving the environmental management of business

[57] There are many environmental labels that insist on the local and national territory of a State or that have value beyond that territory at an international level for a summary see the site http://www.ecolabelindex.com/ecolabels/Index is the largest global directory of ecolabels, which currently tracks 456 ecolabels in 199 countries and 25 industries

[58] ISO is an independent and non-governmental international organization, founded in 1946, to which 165 national standardization bodies adhere. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based, market-relevant international standards that support innovation and provide solutions to global challenges. It is based in Geneva. https://www.iso.org/home.html

processes[59] and productionby the ISO / TC 207 International Technical Committee of the Environmental Management ISO. The ISO product standards to understand the product environmental impact using the methodology of the life cycle assessment of a product, and so make a comprehensive study of its environmental impact, considering the whole life cycle (*"cradle to grave*")[60].

Regarding product standards, there are two main ISO reference standards: ISO 14040/2006 "*Environmental management - Life cycle assessment - Principles and reference framework*"

[59] The system standards are intended to specify the requirements for implementing a management system that allows a company organization to formulate an environmental policy and establish objectives, taking into account the legislative aspects and information regarding significant environmental impacts. The acronym ISO 14000 identifies a series of international standards relating to the environmental management of organizations, established by the International Organization for Standardization.

[60] The life cycle is an approach promoted in the document Communication from the Commission to the Council and the European Parliament "*Integrated product policy" "Developing the concept of" environmental life cycle*" of 18.6.2003 COM (2003) 302 final. an integral part of the Community strategy for sustainable development. It highlights that all products and services have an environmental impact both during production and use and final disposal that is difficult to quantify but capable of influencing economic growth and well-being. The LCT model is also linked to the LCM and LCA models LCM. - Life cycle management is the methodology according to which the product / service system is redesigned according to the life cycle with the pursuit of economic, social and environmental sustainability and has as its objective the management of entire product life cycle through sustainable production and consumption. The main operational tool of the LCM is the LCA. LCA - Life Cycle Assessment is an objective method of identifying and quantifying the consumption of matter, energy and emissions into the environment and assessing the potential impacts in physical terms that these generate throughout the entire life cycle of the product. This procedure is standardized by the UNI EN ISO 14040-2006[6]. Its approach consists in evaluating all the phases of a production process, which involve different potential impacts on the environment depending on the phase of the life cycle, as related and dependent, providing a complete picture of the interactions with the environment. In this way it is possible to intervene on the critical phases of the production process associated with the entire life cycle to improve its environmental performance. G.L.Baldo,M.Marino,S.Rossi, *Analisi del ciclo di vita LCA*, Edizioni Ambiente, Milano, 2008

and ISO 14020/2000 "*Environmental labels and declarations - General principles*" .

ISO 14020 establishes the guiding principles for the development and use of environmental labels and declarations.

It then determines rules and guidelines useful for classifying Ecolabels worldwide.

Furthermore, this group of standards has identified common elements of the environmental labels that have allowed them to be divided into 3 major groups: Type I, Type II and Type III Ecolabel.

The characteristics common to these certifications concern the scientific nature of the criteria used to assess the environmental impact, the transparency of the methodology adopted, the accuracy of the procedure used, the use of an approach based on the analysis of the cycle life span of products[61].

Type I labels are based on a multi-criteria system, are voluntary and authorized in the use of the label on products that indicate environmental preferability of the goods as a whole by a third party organization.

The environmental characteristics of the goods are found using the LCA methodology[62].

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[61] According to the life cycle of the products it is necessary to consider each phase: the extraction and processing of raw materials, the manufacturing phase of the product, transport and distribution, the use and eventual reuse of the product or its parts, collection, storage, the recovery and final disposal of related waste.

[62] CFr note n.60

These labels are governed by ISO 14024/2018 "*Environmental labels and declarations - Type I environmental labeling - Principles and procedures*" It establishes the principles and procedures for the development of type I environmental labeling programs that can be managed by bodies public or private or have a national, regional or international character and for the assessment and demonstration of conformity.

The standard includes the selection of product categories, product environmental criteria and functional characteristics of the product, also establishing certification procedures for the assignment of labeling.

The new 2018 edition establishes a rigorous framework and a performing guide for type I eco-labels.

Its aim is to ensure transparency in the sense that all the elements and functional characteristics of the product can be verified by an external body. (eg Ecolabel Committee), using the standards proposed by the ISO 14024 standard and requiring that any approach other than the global one is amply justified.

So the identification of criteria that apply to all ecolabels this category make selective certification programs because they prefer products that possess certain environmental characteristics compared to those of the group.

Furthermore, the ISO 14024 standard establishes that Type I labels are applied to products and services also in compliance with the provisions of environmental legislation.

Type II labels are regulated by ISO 14021/2016, entitled “Labels Environmental and declarations - Self-

declaredclaims environmental (Type II environmental labeling).

They specify the requirements for self-declared environmental claims without the intervention of a third party for which the responsibility lies solely with those who affix them to the products or services.

This category includes the declarations, graphics and symbols of environmental significance present on product packaging, packaging or advertising used by the producers themselves as an environmental information tool.

The standard describes the terms that are commonly used in environmental claims of this type and provides indications for their use, so as to make the information homogeneous. Land ecological labels of the type II relate to a single aspect, with a single criterion of judgment (reuse, recycling, toxicity, biodegradability, the absence of substances harmful to the environment).

However, to verify and certify that one environmental impact has not been reduced at the expense of another, it remains necessary to carry out an examination of the entire life cycle. ISO 14021 also describes a general assessment and verification methodology for self-declared environmental certifications and specific assessment and verification methods for the certifications selected in the standard.

The assessment methodology used by those who carry out these environmental certifications must be transparent and documented because those who purchase the products must be reassured of the validity of these statements.

Furthermore, the statements must be specific and clear and not subject to errors of interpretation.

Type III labels[63],too they volunteer programs are having standardized by ISO 14025/2010,"*Environmental labels and declarations - Type III environmental declarations*".

With reference to predetermined categories of parameters, they provide quantified environmental data of a product.

The indicators are based on the assessment of the life cycle and established by a qualified third party which is generally also responsible for verifying them, which in any case can also be performed by another person.

Among the type III certification programs there is the DAPalso known as EPD[64] (Environmental Product Declaration). The main objective of an EPD is to provide relevant, verified and comparable information relating to the impact environmental of a product or service.

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[63] To the outside of these types identified by ISO standards, on the international market they are the so-called "*sector brands*" are also increasingly present, which unlike the above-mentioned brands which concern groups of heterogeneous products. They apply to products that belong to a specific product sector. The best known are the FSC (Forest Stewardship Council) and PEFC (Pan-European Forest Certification) brands which apply to products in the wood sector, which guarantee the origin of this material and its derivatives from forests managed in a sustainable manner through the application of high environmental, social and economic standards. https://it.fsc.org/it-it/certificazioni/i-marchi-fsc/i-marchi-fsc-sui-prodotti; https://www.pefc.org/

[64] EPD certification is spreading fast in the field of products. It is applicable to all products or services, regardless of their use or positioning in the production chain. The EPD allows quantitative information on a given product to be presented in a standardized form, based on its life cycle, for example on CO2 emissions. While no judgment is made on the greater or lesser environmental friendliness of the product, on the other, the quantitative information can be used by potential buyers to form their own judgment or be integrated into the life cycle analysis. To learn more about all'EPDsee https://www.epditaly.it/epd-2/

The EPD is applicable to all products or services, regardless of their use or positioning in the production chain; allows comparisons between functionally equivalent products or services; it is verified and validated by an independent body which guarantees the credibility and truthfulness of the information contained in the LCA study and in the Declaration.

Therefore, the standardization of environmental labels through ISO standards guarantees comparable choices at an international level, which are important for measuring the effects on the achievement of the objectives set by environmental policies.

In recent years, the preference for environmental policies has shifted from a "command and control" attitude to one of "*soft law*" [65] in which we prefer to operate through voluntary instruments such as certifications. The command and control mechanisms provide for supervision of compliance with the rules and that non-compliance is punished with sanctions that require important centralized bureaucratic apparatuses, often long disputes and the need for funds for their resolution.

The certification schemes, on the other hand, are not only linked to compliance with rigid limits imposed at the regulatory level but aim to increase the

[65] Regarding the soft law See note 33

awareness of consumers and producers in making eco-compatible choices, in order to steer the market towards a greener direction.

Consequently they aim to protect the environment and promote the efficiency of resource management as well as facilitate innovation to protect ecosystems.

In this way the product's normal policy by international bodies and in particular'theEuropean Union, through the environmental certifications give an account of this framework.

2.THE INTEGRATED PRODUCT POLICY

The integrated product policy approach outlines the framework within which environmental certifications have had a development input that has not yet finished but promises further room for growth and can contribute to the efficient use of resources and the transition to the circular economy.

The documents relating in particular to the integrated product policy strategy refer to the Green Paper on the integrated product policy (COM / 2001/0068 final) and the Communication from the Commission to the Council and the European Parliament - Integrated product policy. Develop the concept of "environmental life cycle" (COM (2003) 302).

The interest of European policy makers towards the products is clearly expressed in the Communication and stems from the awareness that the products and services impact on environment during production, use and final

disposal, and therefore consume resources at the expense of future generations.

Furthermore, production and consumption of products are strongly influenced by the continuity of economic growth and well-being as well as by consumer behavior[66].

Therefore it is necessary to find winning solutions according to which environmental improvement goes hand in hand with the improvement of product performance and favors the competitiveness of the industry in the long term. Aiming to create a market with the most environmentally friendly products possible through the strategy of an Integrated Product Policy seemed like a good solution to European governors.

The concept of Integrated Product Policy (IPP) is defined for the first time in the Green Paper in February 2001[67], as the strategy that "... *intends to integrate*

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[66] According to the Communication, there are also other characteristics of the products that lead to take them into account for measures to reduce pollution: "…*the overall quantity of products is increasing... Therefore any product policy must have as its objective the reduction of environmental impacts of greater quantities of products; ever-increasing variety of products and services. … Any product policy must be flexible enough to be able to simultaneously consider multiple varieties of the same product;innovation constantly creates new types of products. … A product policy must exploit this creativity in the interests of the environment as well as the economy; the products are marketed all over the world.... A product policy must take into account the international nature of trade and respect the international agreements in force, and in particular the rules of the World Trade Organization; products are increasingly complex. … For this reason, any product policy must make manufacturers and designers responsible for their products to meet the agreed health, safety and environmental criteria; a product can be used or disposed of improperly, causing significant environmental impacts. …. A product policy has to be able to take into account the different actors involved, and the fact that a product may be assembled, marketed or used many thousands of kilometers away, in societies characterized by completely different value systems. Factors time indicated put highlights the need to introduce a product dimension in environmental policy, which will have to consider products globally, involving as many players as possible and making them responsible for their choices*".

[67] For further information see the link: https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=LEGISSUM%3Al28011

existing environmental policies by exploiting potential so far neglected to improve a wide range of products and services throughout their life cycle, from the extraction of raw materials to production, distribution, use and waste management. It revolves around a central element: how to obtain, as efficiently as possible, greener products and how to make consumers use them. There is no single preferred instrument for an integrated product policy and must therefore use a combination of tools to use and refine carefully to ensure maximum effectiveness".

Still the Green Paper focuses on terms that make up the'acronym IPP and offers further elements to delineate the'approachto integrated product policy.

The term Policy is intended as an intervention of public policies in the elaboration of a regulatory framework suitable for achieving the objectives identified by the IPP.

Integrated, on the other hand, highlights how attention to the product life cycle is integrated with the tools that will make it environmentally friendly by intervening on the individual segments of the life cycle of the same product in cooperation with the interested parties (consumers, producers, politicians) each for its skills.

Finally, the term Products indicates that since the IPP approach, in reality, aims at a global improvement of the environmental impact of products, it considers whether to intervene in relation to all products or only some selected ones, according to their importance or predictable

possibilities for improvement without excluding services a priori.

Hence, the IPP approach introduces itself to the steps of decision making that influence the environmental impact of the product life cycle and offer room for improvement, in particular on ecological product design and informed consumer choice.

The IPP strategy is also characterized by a series of principles. First of all, the consideration for the life-cycle thinking[68] of a product in every phase aimed at reducing the overall environmental impact ("*from the cradle to the grave*") and promoting the integration of the most appropriate interventions.

Then the collaboration with the market that allows to intervene on the demand and supply of greener products and to encourage the market itself towards more sustainable solutions through research.

To this end it is appropriate to involve the parties interested in the products (industries, consumers and public authorities) so that they can cooperate with each other according to their sphere of influence.

Finally, the IPP approach aims at continuous improvement and does not set a quantitative result threshold to aspire to but acts through a multiplicity of action tools

[68] E.Fregonara "*Valutazione sostenibilità progetto. Life cycle thinking e indirizzi internazionali*",Franco Angeli, Milano, 2016

ranging from regulatory tools to voluntary ones privileged in the IPP approach since they are considered more effective in the realize the principle of continuous improvement.

The IPP Green Book focuses attention on ecological demand which, if well oriented, becomes an incentive to the productive economic interest of companies and a driving factor for environmental policy.

Strengthening demand to obtain more ecological products means pushing the industry to improve the production process taking into account the product life cycle, research and technological innovations for the purpose of continuous ecological improvement of the product in favor of the environment. Furthermore, a continuously improving production process can generate resource savings and contribute to the circularity of the economy.

The process to strengthen the ecological demand provides for a relationship of mutual stimulation between consumers and companies characterized by the exchange of information aimed at illustrating the ecological characteristics of the product in a virtual circle that, increasing, leads to both quantitative and qualitative production of ecological products.

In essence, the consumer, through the information affixed to the product, regarding its ecological characteristics, is able to exercise his power of choice which, within the market, consequently stimulates companies to improve ecological production by constantly informing the consumer in a continuous and profitable virtuous circle.

A tool recognized by the Green Book as well as by Communication 302/2003 capable of guiding the consumer towards ecological information on products are the environmental labels: the Ecolabels.

Surely information about the products can also be found in consumer associations, on the web but they force the consumer to search for them and then they must be understandable, relevant and credible: research and reliability require costs in terms of time and the consumer often does not have the possibility.

Eco-labels offer this possibility through ISO certifications and the EU Ecolabels equivalent to the ISO type I.

The Communication, in the wake of what is stated in the Green Paper, declinesin a more operational way[69] the product policyand with a view to making available and promoting at European level tools and structures intended in providing consumers with information on products, it also entrusts this role to environmental labels and labels.

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[69] The Communication on the Integrated Product Policy to achieve the objectives that starts from the tools already in use in government policies. Therefore in relation to the tools necessary to create an adequate legal and economic framework it includes: Taxes and subsidies; voluntary agreements and training; legislation on public procurement; any other accompanying regulatory instruments. Then it aims to promote the application of the life cycle concept by stating that for the integrated product policy to be effective, the life cycle concept must become a habit for all those who come into contact with the products. Educational and awareness-raising measures are most effective if they are adopted at the level closest to the citizen, ie on a national and regional scale. Regarding access to life cycle information and interpretative tools, he mentions the use of the following tools: Environmental management systems, Product design obligations, Providing consumers with the information they need to decide, Integration of environmental needs in procurement public, Integration of environmental needs in the purchasing policy of companies, Environmental brands and labels. Finally, it focuses attention on some specific products by identifying the products with the greatest potential for environmental improvement. Finally, he hopes for coordination and integration among all the instruments listed.

Among these[70] recognizes that the European Ecolabel has the ability to indicate to the consumer that that product is more ecological than most similar products during its entire life cycle and that "... *it is the best brand available from the point of view of integrated community product policy.* " as there are no comparable brands extended to the entire Community market.

In the EU product policy, together with labels[71], two elements emerge which, in addition to characterizing the

[70] .There are other labels indicated in the Notice. The Community energy label (*Council Directive 92/75 / EEC of 22 September 1992*), concerning the indication of the consumption of energy and other resources of household appliances, by means of labeling and uniform information relating to products, now appears on numerous products, especially in the household appliances sector, where energy consumption generally represents the main environmental impact along the product life cycle. Its level of recognition is particularly high, essentially due to its mandatory presence on products. The European car labeling system (*Directive 1999/94 / EC of the European Parliament and of the Council of 13 December 1999*) relating to the availability of information on fuel economy and CO2 emissions to be provided to consumers as regards the marketing of new cars.

[71] In fact, the use of environmental certifications is favored by the EU, as can be seen from the five-year programs through which the legislative proposals and future objectives of the Community are defined, as well as the tools to achieve them. The current program, the Seventh, "*Living well within the limits of our planet*", adopted in 2013 and in force until 2020, is an important political planning document that defines common objectives and clear actions for the realization of a policy of concurrent and subsidiary competence between the various levels of government of the Member States. The seventh program includes 9 objectives, developed and accompanied by suggestions on actions and tools to achieve them. In recital 34 which states that the improvement of resource use models and the reduction of emissions of the main industrial plants will be encouraged "...*with the implementation of environmental management systems, such as EMAS, by the industry*. and 35 which states that "...*Consumers should receive accurate, easily understandable and reliable information on the products they purchase, through clear and consistent labeling, including in relation to environmental claims ..... Product legislation in force ,…. the Ecolabel regulation will be reviewed with the aim of improving the environmental performance and efficiency in the use of product resources throughout their entire life cycle* ... "highlights how the tools of environmental and quality certifications, in particular EMAS and Ecolabel, can contribute to the achievement of objective 2 "...*transform the Union into a low-carbon economy, efficient in the use of resources, green and competitive*". The Sixth Program, which covered the period between 2002 and 2012, favored the instrument of environmental certifications. He stated that to face environmental challenges it was necessary to go beyond the legislative approach to a strategic approach. Therefore, he advocated the use of tools and measures to influence the decisions taken by business circles, consumers, policy makers and citizens. In the context of the strategic action axes regarding collaboration with the market, he indicated the following points: to encourage a wider adoption of the Community eco-management and audit scheme (EMAS); promote the use and evaluation of the effectiveness of the eco-label. Then he identified in the Integrated Product

management of labels, are transversal to EU policy and important in the policy of the environmental sector: the consumer and information.

These elements are interdependent and affect the orientations of environmental policies.

In the green book and in the Communication, the role of the consumer[72] regarding sustainable production appears clear and unequivocal: consumers must be equipped with tools capable of informing them in a precise, clear and transparent way on the characteristics of the products so that their choices are oriented towards products sustainable and stimulate green production.

In general, however, the figure of the consumer is dear to European policy starting from art. 169[73] of the TCFUE which

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Policy (IPP) an approach capable of making a strong contribution to environmental protection. IPP is not a new intervention tool for the decision maker, public or private, but rather as a new approach aimed at analyzing and linking existing policies focused on various phases of the life cycle or on the adoption of particular instruments. The latter are represented by environmental certifications, in particular eco-label and EMAS, which, clearly defined by statute, are still not required by law but to implement them rely on the will of alltraders'insideof market relations.

[72] An interesting definition of the green consumer is found in research conducted by Patrizia de Luca and Giovanna Pegan " *Prodotti verdi: uno studio sperimentale sugli atteggiamenti e sulle scelte del consumatore* " in Micro & Macro Marketing , il Mulino, Bologna, issue 2, 2011, according to which: "*The green "consumer is defined as the one who, in his purchasing and consumption choices, avoids products that can produce the following effects: damage his own health or that of others; cause significant damage to the environment during production, use or disposal; consuming a disproportionate amount of energy; cause unnecessary waste; use materials deriving from endangered animal or plant species; be based on acts of animal cruelty. In summary, green consumption is generally pursued by those consumers who believe they can influence business choices through their purchasing and consumption decisions and thus be able to contribute to the improvement of the environment and society in which they live*" See also D. Dalli, S. Romani. "*Il comportamento del consumatore*". Milano: Franco Angeli, 2003; E. .Giaretta "*Business ethics e scelte di prodotto.*" Padova: Cedam, 2000.; J. Rivera-Camino "*Re-Evaluating Green Marketing Strategy: A Stakeholder Perspective.*" in European Journal of Marketing, vol. 41, n. 11/12; G.Troilo, "*L'orientamento ecologico del marketing: una scelta etica.*" in Micro & Macro Marketing, n. 5, 1996.

[73] Article 169 of the TCFUE is reported: CONSUMER PROTECTION - Article 169 (ex article 153 of the TEC)

promotes the right to information and education of consumers as well as their right to organize for the protection of their interests.

The regulatory framework built by the EU regarding the consumer includes several acts which refer to the sustainable choices of the consumer within the market.

The art. 2 of Regulation[74] EU no.254/2014 of the European Parliament and of the Council of 26 February 2014 on a multiannual program for consumer protection for the period 2014-2020 states that the general objective of the program is: to give greater power to consumers and place them at the center of the internal market, within the framework of a global strategy for smart, sustainable and inclusive growth, also promoting their right to information, education and their organization to protect their interests.

The Consumer Agenda[75] 2012 in its strategic vision aims to adapt policies to the evolution of society and to everyday

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1. In order to promote consumers' interests and ensure a high level of consumer protection, the Union contributes to protecting health , the safety and economic interests of consumers as well as to promote their right to information, education and organization for the protection of their interests.

2. The Union shall contribute to the achievement of the objectives referred to in paragraph 1 by: (

a) measures adopted pursuant to Article 114 in the context of the completion of the internal market;

b) measures to support, supplement and monitor the policy pursued by the Member States.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall adopt the measures referred to in paragraph 2 (b).

4. The measures taken pursuant to paragraph 3 shall not prevent individual Member States from maintaining or introducing more stringent protective measures. Such measures must be compatible with the treaties. They are notified to the Commission.

[74] In reference to the Regulation see https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX:32014R0254

[75] Referring to the Consumer Agenda, see https://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:52012DC0225&from=EN

life in order to adapt consumer rights to the digital age and address the problems encountered by online consumers, take into account the needs of vulnerable consumers and facilitate sustainable choices.

However, the New Consumer Agenda appears even more interesting with regard to the consumer which presents a perspective of EU consumer policy from 2020 to 2025 approved by the European Commission on 13 November 2020[76] and which clearly spells out the active role of the consumer in the green transition.

The agenda states that consumers are willing to pay more for longer lasting products. When consumers get better information on product durability, sales of longer product versions can nearly triple.

Therefore, it is necessary: to better inform[77] consumers about the environmental sustainability characteristics of

[76] The other areas on which the New Consumer Agenda focuses are: Digital Transformation The Commission intends to tackle online business practices that violate consumers' right to make an informed choice, abuse their behavioral inclinations or alter their decision-making processes. Effective enforcement of consumer rights - The Commission will help Member States to implement and enforce consumer law in a timely manner, including through the Consumer Protection Cooperation Network. Specific needs of certain groups of consumers - Some groups of consumers in certain situations may be particularly vulnerable and need specific safeguards, for example children, the elderly or people with disabilities. The Commission will examine the requirements to be introduced for product standards for these categories. International cooperation In 2021, the Commission will develop an action plan with China to improve the safety of products sold online. From 2021, the Commission will also develop regulatory support, technical assistance and capacity building for EU partner regions, including those in Africa. Furthermore, the EU can rely on a robust consumer protection framework, developed over many years and recently strengthened with various legislative initiatives that EU consumers will benefit from in the coming years, including the New Deal for consumers of the 2018. The new consumer agenda, which builds on the 2012 agenda, is the result of intense preparations and discussions with stakeholders. The agenda complements other Commission initiatives such as the Green Deal and the Circular Economy Action Plan. Link to the document https://ec.europa.eu/transparency/regdoc/rep/1/2020/IT/COM-2020-696-F1-IT-MAIN-PART-1.PDF

[77] Regarding information to consumers, see also: A.Pettina, "*Il diritto del consumatore all'informazione*", Ed Kimerik, Messina, 2008; T. Febbrajo, "*L'informazione ingannevole nei confronti del consumatore*", Edizioni

products, such as their durability or repairability; protect consumers from certain practices, such as *"greenwashing"*[78] or premature obsolescence, guarantee them access to reliable information; repair products and encourage the purchase of more sustainable and circular products; promote the commitments of businesses in favor of sustainable consumption actions, which go beyond legal obligations.

With regard to the existing tools to achieve the transition through the active role of consumers, reference is still made to environmental labels that provide information on products and in particular to the EU Ecolabel as a reliable and credible brand that should be strengthened through communication actions and partnerships with relevant stakeholders, including retailers, in order to promote it also on electronic markets.

The position of the consumer provides, as a constant for knowledge of the product, information.

The latter has an important function since it allows the consumer to know the ecological characteristics of a product and therefore guides him in the process of choosing the most ecological product.

While for the producer the information becomes functional in the production process as it allows him to improve the product ecologically, at the same time exposed to the consumer it helps to determine the reliability of the

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Scientifiche Italiane, Napoli, 2006 https://scholar.google.com/scholar?hl=it&as_sdt=0%2C5&q=Informazione+ed+etichette+ambientali&btnG=

[78] See note n.239

product and to conquer new market shares. Indeed, the Green Paper reads "… *Consumers will benefit from greater information and transparency regarding the environmental characteristics of products. With more accurate, more reliable and easier to understand information, consumers will be able to make informed choices in favor of compatible products the environment*."And again *"For the market to orient itself in a sustainable way towards the consideration of environmental aspects, all the parties involved must have, and use, information on the environmental impacts of products and components over the entire life cycle, before making a decision on the matter*".

In the Communication, an entire paragraph is dedicated to the tools and structures through which the Community provides consumers with information on products and a further paragraph states that "*It is necessary to proceed with a systematic collection of data on the life cycle, which will serve as a basis for departure for analyzes, both for design purposes and for product labeling purposes*".

Finally, the Consumer Agenda reiterates the need to provide consumers with better and more reliable information on aspects relating to the sustainability of goods and services to allow for an optimal diffusion of new goods and services as well as new approaches to consumption and to facilitate the transition.

The question of consumer access to information on the environmental characteristics of products, including their durability, repairability or potential for improvement, as well as the question of the reliability and comparability of

such information, must be integrated into sectoral legislation.

In all the documents cited, the information and certification report highlights the ability of environmental certifications to provide consumers with reliable and easily understandable, standardized and comparable information, on which to base their choices.

The regulatory framework outlined in the paragraph highlights the elements (standardized criteria, life cycle, resource efficiency, research and innovation, information) that characterize environmental certification and that are systematically linked to each other, generating integrated product policy actions, capable of directly influencing the market for ecological products and the players who are part of it (state, industry, consumer) and indirectly on the circular industrial system to which the states currently tend.

3. REPORT PRODUCT CERTIFICATIONS AND CIRCULAR ECONOMY

Environmental certifications, like all environmental labels, are not only tools for applying the integrated product policy but also tools that favor the development of the circular economy. The stimulus to the development of the circular economy by environmental certifications is clearly obtained through the analysis of the New circular economy plan.

The New Plan[79] was launched by the European Commission in March 2020 and represents a stage in the road map[80] established by the Green Deal[81] The New Action Plan for the Circular Economy establishes a future-oriented program to build a Europe that aims to achieve climate neutrality by 2050 and use resources efficiently, while ensuring the EU's long-term competitiveness, leaving no one behind, in co-creation with economic operators, consumers, citizens and civil society organizations.

The plan accelerates the change required by the European Green Deal, with actions that favor the transition towards the circular economy.

The Plan focuses on sustainable production since the transformation of resources is at the origin of half of the total emissions of greenhouse gases.

Therefore, focus on functional products, safe, efficient that last longer and are designed to be reused,

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[79] The first action plan for the circular economy, contained in the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - "*The missing link - Union action plan European Union for the Circular Economy*"COM / 2015/0614 final, expresses a series of declarations of intent for the transition towards the circular economy according to some macro guidelines such as: Production, Consumption, Waste Management, Waste and Resources, Innovation and Investments. https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A52015DC0614

[80] The Green Deal Road map represents the action plane promote the efficient use of resources by moving to a clean and circular economy; restore biodiversity and reduce pollution. The plan outlines the necessary investments and funding tools available and explains how to ensure a just and inclusive transition.

[81] The Green Deal is the European Commission Communication approved on 11.12.2019 which defines itself as "... *a new growth strategy that aims to transform the EU into a just and prosperous society, with a modern economy, efficient in terms of competitive resources where there are no net greenhouse gas emissions in 2050 and where economic growth is decoupled from the use of resources. It also aims to protect, conserve and improve the EU's natural capital and protect the health and well-being of citizens from risks and impacts related to the environment ...* "

repaired or subjected to recycling processes respects the efficiency in the use of resources, the principles of the circular economy and promotes its development.

In this perspective, the Plan recognizes that EU legislation already partly includes aspects concerning the sustainability of products, both on a mandatory and voluntary basis, including: the Ecodesign Directive[82] and tools such as the quality label EU Ecolabel (EU Ecolabel)[83] or EU Green Public Procurement Criteria[84].

The latter two are broad in scope but as they are voluntary tools they have little impact.

The Plan, however, recognizes, in general, the eco-label as a tool that, applied to products, indirectly supports sustainability and therefore a circular economy. Furthermore, the Plan, specifically, favors the EU Ecolabel as an ecological quality certification.

The latter, to which the next chapter is dedicated, is now consolidated in European legislation and through the standardization of its criteria, as well as allowing comparability between different products and labels, supports the circular economy.

In any case, the Plan proposes a legislative initiative to make products suitable for a neutral, resource efficient

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[82] Directive 2009/125 / EC of the European Parliament and of the Council of 21 October 2009 on the establishment of a framework for the development of ecodesign requirements for energy related products

[83] Regulation (EC) n. 66/2010 of the European Parliament and of the Council, of 25 November 2009, relating to the ecological quality label of the European Union (EU Ecolabel)

[84] Regarding the criteria for public procurement see https://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm

and circular economy, to reduce waste and ensure that performance towards sustainability progressively becomes the norm.

The legislative initiative will concern the extension of the Ecodesign Directive to go beyond energy-related products but in compliance with the principles of circularity it can be applied to the widest range of products possible.

The revision of the Eco-compatibility Directive[85] will incorporate, where appropriate, criteria and rules established under the EU Ecolabel Regulation, the environmental footprint method of products[86] and the EU criteria for procurement green audiences.

Furthermore, the Commission in drafting the legislative initiative will consider introducing mandatory requirements to increase the sustainability not only of goods, but also of services.

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[85] The European Union has begun to regulate the placing on the market and putting into service of energy-consuming products with Directive 2005/32 / EC, (Eco-design Directive for Energy-using Products - EuP), which provides for the adoption of specific design criteria, in order to reduce the environmental impact and improve energy efficiency. Over the years, this directive has undergone several and substantial changes. On the occasion of new changes, aimed at expanding the scope of application. All this with the aim of standardizing European production in terms of environmental compatibility, thus ensuring the proper exercise of free competition and the correct functioning of the rules of the free market. Directive, thehave been issued implementing Regulations which define specific rules for each product category. Manufacturers must adhere to these standards for products that are first placed on the market for distribution and use in European Community countries. Only the adoption of the parameters indicated by the Regulations gives the right to the CE marking

[86] The Product Environmental Footprint (PEF) is an LCA-based method used to calculate the environmental performance of a product or service over its entire life cycle

Ecodesign of energy-related products[87] provides European consumers with valuable information enabling them to make an informed choice and expand the market for energy-efficient products.

At the basis of this Directive, from a declaration by the EU Commission, there is the awareness that the environmental impact that the product will cause during its life cycle is determined precisely in the design phase.

Therefore the Directive requires that manufacturers of energy-consuming equipment develop products by adopting criteria aimed at reducing environmental impacts along all phases of the product life cycle, through the use of the Life Cycle Assessment[88].

Given that the purpose of the eco-label is to certify the low environmental impact of products in the phases of their life cycle as well as their sustainability on the basis of standardized criteria, assuming the latter, where possible, by the law on eco-compatibility of products means putting highlighting the contribution that certifications are able to offer for the transition towards a circular economy.

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[87] Regarding eco-compatibility see C. Vezzoli, *Design di prodotto per la sostenibilità ambientale*, Zanichelli, Milano, 2016; A.R. Soragnese, *Progettazione ecocompatibile dei prodotti che consumano energia*, Legislazione Tecnica, Roma 2012; G. Moriani, "*Manuale di eco compatibilità*", Marsilio, Venezia, 2001; S. Terzi, *Ecocompatibilità: metodi e strumenti per uno sviluppo e una gestione sostenibile* in Scenari Macroeconomici, 2012 https://www.fabbricafuturo.it/ecocompatibilita-metodi-e-strumenti-per-uno-sviluppo-e-una-gestione-sostenibile/

[88] We remind you that LCA (Life Cycle Assessment). LCA is an analysis method that evaluates the environmental impact of a product along all stages of its life cycle: from the extraction and transformation of raw materials, through production and use, to the management of the end of life of the product. product (i.e. reuse, recycling and ultimate disposal of the resulting waste). See also note 60-61

The Plan for the circular economy, then, refers to certifications when dealing with the consumer[89].

It states that in order to make his choices, the consumer needs to obtain reliable and relevant information on the products, including on the life span and the possibility of repair.

In the Plan, the Commission will propose that companies provide additional elements in support of their environmental claims, using so-called "*methods for measuring the environmental footprint of products and organizations*"[90].

Therefore the Commission "*will test the integration of these methods in the EU Ecolabel and will more systematically include durability, recyclability and recycled content in the criteria for the EU Ecolabel*".

In particular, the integration of durability and recyclability criteria into the EU eco-label opens the way to certify products that are able to increase resource savings by making the life of a product longer over time.

In this way, through the Ecolabel certification, which integrates its certification criteria with the 3R principle, the transition towards the circular economy is supported,

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[89] The Plan also provides for further interventions in favor of the consumer. " *The Commission will also consider proposals to further strengthen consumer protection against facade greening and premature obsolescence, set minimum requirements for sustainability brands / logos and information tools. The Commission will also work to establish a new "right to repair" and will consider substantive new horizontal rights for consumers, for example as regards extended warranties, the availability of spare parts or access to repair and, in the case of ICT and electronics, upgrading services. As regards the role that guarantees can play in offering more circular products, the Commission will also examine possible changes in the context of the revision of Directive 2019/771.*"

[90] For environmental footprint of products See note 86. With regard to environmental footprint of OEF organizations (Environmental Footprint Organization) use method and LCA approach to calculate the environmental performance of an organization

prefiguring an evolution towards the economy of sufficiency[91] that does not need overproduction but what he has is sufficient by keeping the product as long as possible.

Therefore, the relationship that is established, through the products, between the circular economy and certifications is clear.

It is clear from the Plan that the production of goods consumes resources and that an eco-design linked to their life cycle, through the refinement of technologies, leads to an efficient use of resources at every stage of their life cycle. The ecological certification can certify, through the criteria, that it takes into consideration these steps and therefore their veracity.

Therefore, the eco-label can provide information to the consumer who chooses the best ecological products without having to do a complicated and costly research himself. Furthermore, the certification helps the entrepreneur to make himself known and conquer previously inaccessible parts of the market and at the same time it encourages him to improve products in an ecological sense.

All this leads to circularity with a view to continuous improvement. Another attention to the criteria that determine the certifications allows us to affirm that the latter contain normalized / standardized criteria that allow us to

[91] See paragraph 4 in the Chapter I

establish whether the product has environmental characteristics or not.

The choice of the criteria to be included in the reference frameworks of a certification, as in the case of the recyclability and durability criteria, therefore affects the transition to the circular economy.

Finally, the Plan's preference for the EU Ecolabel is clear, in particular in the choice of assigning the EU Ecolabel also to financial products that favor environmental protection and the transition to the circular economy.

The Plan, in fact, expresses the need to adopt measures capable of directing public and private funding towards more sustainable production and consumption.

Ecolabels applied to funds that finance environmentally friendly activities in line with the circular economy seem suitable for this task. They are able to inform the saver so that he can move his savings towards funds that finance ecological activities and for the managers of financial activities, having an ecological label on their funds means informing investors of their goodness and reliability towards a sustainable economy.

In line with these last considerations in the following chapters the analysis of the EU Ecolabel on products and the focus on the financial Ecolabel, currently in progress, will help us to understand the preference of the EU towards this ecological label for the realization of the policy objectives. environmental.

CHAPTER III

ECOLABEL PRODUCT CERTIFICATION

INTRODUCTION

In the previous chapter we tried to understand why the European EU needed to determine its own ecological label.

The answer is already written in the very definition of Ecolabel whose purpose is beyond to promote the design, production, marketing and use of products with a lower environmental impact during the entire life cycle of the product is aimed at providing consumers with better information on the environmental impact of products.

Several EU countries had adopted national product certifications to respond to their consumer citizens in a product market, and others were considering setting up their own or had already had them for some time.

This is the case, for example, of the French brand NF[92] which has existed on products since the 40s, which also developed for the certification of ecological products since the 90s.

European Union for information on ecological products and with a view to avoiding certification schemes built on different criteria used in different EU countries that could ultimately be barriers to the free movement of goods, the EU gave life to the Ecolabel .

This label was intended to ensure uniform application of the criteria and assignments of the label throughout the

[92] See chapter V and https://marque-nf.com/nf-environnement/

Community. Furthermore, from a legal point of view, two Resolutions preceded the issuing of the Ecolabel Regulation.

The Parliament Resolution of 19 June 1987[93] on waste management and old waste landfills which supported the need for a Community eco-label to be introduced to certify environmentally preferable products. The Resolution of the Council of 7 May 1990[94], in which the Commission was invited to present the proposal for a Community eco-labeling system that would take into account the environmental impact during the entire life cycle of the product.

1. ECOLABEL REGULATORY FRAMEWORK

Ecolabel[95] is the official European ecological quality label and is regulated by the European Union Regulation n.66 /2010.

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93 See Parliament resolution of 19 June 1987 on waste management and old waste landfills in GU n.C 190 of 20. 7. 1987

94 See Council Resolution of 7 May 1990 on waste policy https://eur-lex.europa.eu/legal-content/IT/ALL/?uri=CELEX%3A31990Y0518%2801%29

95 For more information on the Ecolabel see F. Iraldo,E. Cancila *Le certificazioni ambientali per le imprese. Metodologie, approcci operativi e casi di eccellenza*, Il Sole 24 Ore, 2010; G. Calabrò *La certificazione nel settore turistico,* Francoangeli, Milano, 2009; F. Rubik, D. Scheer, F. Iraldo *Eco-labelling and product development: potentials and experiences*, in J. Product Development, Vol. 6,2008, A. Mastronardi *Certificazioni ambientali. Norme, procedure e modelli d'azione*, Giapeto Editore, 2018;F. Iraldo, M. Barberio Fattori, *Barriere e vantaggi del marchio Ecolabel UE nella percezione delle aziende europee*, IEFE Marc A. Rosen, Milano, 2017; M. Cordella, F. Alfieri, J. Sanfelix, S. Donatello, R. Kaps &O. Wolf , *Migliorare l'efficienza dei materiali nel ciclo di vita dei prodotti: una revisione dei criteri del marchio Ecolabel UE,* in The International Journal of Life Cycle Assessment, 2019; E. Burgin, E. Cancila, C. Franco (a cura di), *Qualità e territorio - La certificazione ambientale negli enti locali*, Edizioni Ambiente, Milano, 2008.

The Ecolabel mark, born in 1992, represents the European Union's attempt to determine with a single symbol the products manufactured in compliance with the environmental criteria established among all EU countries.

The system for the award of the eco-label with voluntary participation was created "… *to promote products with a lower impact on the environment during the entire life cycle and to offer the consumer accurate and not misleading and scientifically based information on the environmental impact of the products*. "(Recital 1 of Regulation no. 66/10). The recital just mentioned includes the expression "life cycle" - LCT - Life Cycle Thinking[96] which underlies a way of thinking that characterizes the product policy developed by the EU which was discussed in chapter II.

However, it is necessary to remember that for the EU Ecolabel the modality expressed by the life cycle is of considerable importance since the criteria to which products must comply in order to be awarded the EU Ecolabel consider the most significant environmental impacts of products during the phases of their life cycle (Recital 5). Regulation No. 66/10, according to Article 2, applies to all goods and services intended for distribution for consumption or use on the Community market, whether for consideration or free of

[96] See note 60-61, Second chapter. For further information E. Fregonara *Valutazione sostenibilità progetto. Life cycle thinking e indirizzi internazionali*, Francoangeli, Milano, 2015; E. Heiskanen, *The institutional logic of life cycle thinking* in Journal of Cleaner Production, Volume 10, 2002

charge, it does not apply to medicines or medical devices. of any kind.

Each member state of the European Union, according to art. 4 of the Regulation, designates one or more competent bodies for the performance of the tasks required by the Regulation itself.

These bodies must meet the requirements included in Annex V to the Regulation which stresses the independence of the body and its staff from the organization or product it assesses and its ability to carry out technical and administrative tasks related to the assessment activities compliance.

Article 9 of the Regulation sets out the procedures for assigning the Ecolabel and terms and conditions of use. Therefore, any operator wishing to use the EU Ecolabel applies for it to the competent bodies.

The Competent Body to which a request is sent demands the payment of fees in accordance with Annex III and within two months of receiving the request, checks whether the documentation is complete and assigns a registration number to the product.

The competent body concludes with each operator a contract relating to the conditions of use of the EU Ecolabel in accordance with the model shown in Annex IV. After signing the contract, the operator can affix the Ecolabel mark on the product.

In Italy, the application to obtain the Ecolabel mark must be presented to the competent Italian body Ecolabel Section of the Ecolabel and Ecoaudit Committee which operates

pursuant to Ministerial Decree n.413 / 95 and in carrying out its activities, makes use of the technical support of the Ecolabel Sector of the CER[97] Service of ISPRA. The phases of the granting of the license to use the EU Ecolabel are described in the *Procedure for the Granting of the License for the use of the European Union Ecological Quality Mark - EU Ecolabel - and for the supervision of the correct use of the EU Ecolabel. the same* pursuant to Regulation (EC) 66/2010 of the European Parliament and of the Council of 25 November 2009 Rev. 2 of 16/07/2015. The CUEME Committee of the European Union for eco-labeling, designated by the Commission, according to article 5 of the Regulation, "... *composed of the representatives of the competent bodies of all the Member States ... and the representatives of the other interested parties ... .. . contributes to the elaboration and revision of the criteria for the EU Ecolabel and to any eventual review of the implementation of the EU Ecolabel system. It also advises and assists the Commission in this area, in particular by making recommendations on minimum environmental performance requirements*."

The criteria for the Ecolabel mark, according to art. 6 of the Regulation, define the environmental requirements that a product must comply with in order to obtain the brand and are determined on a scientific basis considering the entire life cycle.

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[97] CER - European Waste Catalog established with Directive 75/442 EEC

The criteria have temporary validity and are subject to review according to the scientific and technological developments that have occurred, as well as market progress in order to progressively optimize the ecological performance of items labeled EU Ecolabel.

The determination of the EU Ecolabel criteria is important for understanding the perimeter it covers, its role in the EU product market system and its future developments.

Articles 6 and 7, as already reiterated, in the regulation deal with defining the criteria according to which a product can fall under the Ecolabel while Annex I establishes the procedures. Furthermore, in recital 6 of the Regulation, with regard to the elaboration of the criteria, it is hoped that the possibility of using the label should be extended to avoid the multiplication of eco-label systems and to encourage higher environmental performance in all sectors where the impact on the environment affects consumer choice.

This means that in the EU the Member States have developed other local and national certification marks, but to avoid confusion towards the consumer and to make these certifications comparable with a single language, it would be better to have a greater diffusion of the Ecolabel.

In fact, in paragraph 3 point f) of article 6, the Regulation establishes that for the determination of the criteria, "...*criteria established for other environmental labels, especially for the officially recognized EN ISO 14024 type I environmental labels , at national or regional level, if they exist for the group of products considered, in order to increase synergies* ... "

Therefore, in determining the criteria contained in the Ecolabel it is necessary to find an inclusive synergy with the criteria of the brands developed by the States both local and national level to increase the added value of the Ecolabel and so that there is greater territorial homogeneity and greater acceptance at the local level of the Ecolabel.

Furthermore, again for the purpose of determining the criteria, mention is made of the ISO 14024 environmental labels. It is therefore reiterated that the EU Ecolabel, due to the characteristics it presents: scientific criteria, transparency and impartiality, based on the verification of environmental claims carried out by an independent third party for a consequent high level of reliability, it can be classified in the category of ISO type I labels.

Therefore, the EU Ecolabel can also include criteria for products that fall within an international standardization and this, in addition to increasing its reliability, increases its diffusion[98].

The other general requirements that must be taken into account for determining the criteria of an EU Ecolabel are listed in Article 6: "… *are based on the environmental*

[98] To complete what has been stated for the determination of the criteria, also Article 11 of the EU Ecolabel Regulation

Article 11- Ecolabel systems in Member States

1. Where EU Ecolabel criteria have been published for a given product group, other EN ISO 14024 type I eco-label systems , officially recognized at national or regional level, which do not cover this group of products at the time of publication, can be extended to the product group in question only if the criteria established by these systems are at least as strict as those of the EU Ecolabel.

2. In order to harmonize the criteria of the European systems for the award of eco-labels (EN ISO 14024 type I), the criteria of the EU Ecolabel also take into account the existing criteria, developed in the Member States in the context of officially recognized eco-label award systems

performance of the products, taking into account the most recent strategic objectives of the Community in the environmental field;…. they define the environmental requirements that a product must comply with in order to be able to acquire the brand; ... are determined on a scientific basis and considering the entire life cycle of the products ... In determining these criteria the following are taken into consideration: the most significant environmental impacts, in particular the impact on climate change, the impact on nature and biodiversity, the consumption of energy and resources, the production of waste, emissions in all environmental sectors, pollution due to effects physical and the use and release of hazardous substances; the replacement of dangerous substances with safer substances…; the possibilities of reducing environmental impacts thanks to the duration of the products and their reusability; the net environmental balance resulting from the environmental benefits and burdens, ...; where appropriate, the social and ethical aspects, ...; ...; as far as possible, the principle of reducing animal experiments. "

Finally, for each product or service the life cycle is different so the criteria are determined in order to take into consideration the unique and intrinsic characteristics of each good.

The criteria are then reviewed on average every four years, so as to reflect the technical innovation of production processes, the reduction of emissions and changes in the market and the evolution of materials.

In this way, users of the label and consumers are guaranteed that the EU Ecolabel is applied to products or services that have the best environmental performance, in comparison with other products with which they compete on the market.

The elaboration or revision of the criteria for the EU Ecolabel, according to Article 7 of the Regulation, after consultation of the EUEB, is the responsibility of the Commission, the Member States, the competent bodies and other interested parties. While the procedure for the elaboration and revision of the criteria for the EU Ecolabel is described in Annex I. The legislation provides for three types of procedures. The standard procedure[99] described in letter A of

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[99] The steps of the standard procedure for assigning the Ecolabel criteria as provided for in letter A of Annex I of the Regulation are described below. The standard procedure requires the proposer to draw up a preliminary report, a draft proposal of criteria and a proposal of related criteria, a final report, a draft of final criteria and a user manual for competent bodies and potential holders concessions. In the preliminary report, the possible environmental advantages related to the product group should be clearly highlighted, also referring to the other systems for the assignment of European ecological quality labels, both national and regional, in compliance with the EN ISO 14024 Type I standard. The proposer must indicate also a series of other data: the reasons for the choice and scope of the product group; considerations about possible problems related to marketing; the analysis of the criteria of other environmental labels; current legislation and current legislative initiatives. The proposer must also present the analysis of the possibility of replacing dangerous substances with safer substances as such or through the use of alternative materials or designs, where technically feasible; intra-community commercial data for the sector; the current and future potential in the market for products bearing the EU Ecolabel; the scope and global significance of the environmental impacts associated with the product group, based on new or existing product life cycle assessment studies. The report, once drafted, is published on the European Commission's website so users can consult it and leave their comments. The process of determining the EU Ecolabel criteria starts with the Ad-hoc Working Group (AHWG), which prepares a draft of the criteria taking into account the results of the preparatory work. The draft draft is written in a way that is easily understood by anyone who wishes to use it and provides the rationale behind each criterion, illustrating the environmental benefits. The criteria proposed must refer to the best products available on the Community market in terms of environmental performance during their life cycle and must correspond approximately to 10-20% of the best products, in terms of environmental performance, present on the Community market at the time of adoption of the criteria. The policy processing expected to take into consideration the net environmental balance between the environmental benefits and burdens, including aspects relating to health and safety, and where appropriate and possible, it requires the

Annex I of EC Regulation 66/2010 requires an average time of not less than two years for the elaboration or revision of the criteria relating to a specific group of products.

Letter B provides for an abbreviated procedure[100] in the event that the criteria are developed on the basis of other systems for the assignment of ecological quality labels UNI EN ISO 14024 of Type I.

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taking into consideration the social and ethical aspects. The standards to be approved must be based on the most significant environmental impacts of the product, expressed as much as possible through the use of the main technical indicators of the product's environmental performance and suitable for assessment according to the provisions of the European regulation. These criteria must also be based on valid data and information that comprehensively represent the entire Community market and must take into consideration data relating to the life cycle and quantitative environmental impacts, also according to the European reference systems for the relevant data. life cycle (European Reference Life Cycle Data Systems ELCD). Furthermore, for the definition of the criteria it is necessary to take into account the opinions of all interested parties involved in the consultation process, to ensure harmonization with the current legislation applicable to the product group in terms of definitions, test methods, technical documentation and administrative, as well as taking into account relevant Community policies and work carried out for other related product groups. The results of the proposed criteria and the technical report should be published on the European Commission's website for public consultation and comment. At the end of the drafting phase of the proposals, at least two meetings of the working group are organized in which the proposal of the criteria is discussed and in which the Commission and other interested parties participate. It is possible to make changes to the draft proposal of the criteria here, as long as they are justified and documented in detail.After this phase, a final report is drawn up in which the opinions and comments of all the interested parties are illustrated and which criteria are accepted and those who are rejected. The report contains a summary supporting the proposal of the parties that were involved in the process of developing or revising the criteria, of the three main environmental characteristics for the product group that may appear on the optional label with text field in the annex II of EC Regulation 66/2010. Finally, a proposal relating to the commercial and communication strategy to be undertaken for the product group concerned accompanies the report. The legislation also requires that a manual be prepared to help potential users of the European eco-label to comply with the criteria established for the certified product. Another handbook is intended for public procurement authorities to give guidance on the use of criteria in the public sector.

[100] The steps of the shortened procedure for assigning the Ecolabel criteria as provided for in letter B of Annex I of the Regulation are described below. The procedure provides that only one report is submitted to the Commission, demonstrating that the technical and consultation requirements set out in Part A have been met. In addition, the submission of a draft proposal for criteria, a manual for potential users of the EU Ecolabel and competent bodies and a manual for public procurement authorities must be issued. If the Commission considers that the criteria report meets the requirements set out in Part A, it prepares the report and the draft proposal for publication on its website for public consultation. If during the consultation no one makes any changes and no Member State requests that a meeting be held open to the public, the Commission approves the criteria. Otherwise, an open meeting will be called and only afterwards will they be ratified

Finally, in point C of Annex I a further shortened procedureis regulated[101], to be applied in the event of a non-substantial revision of the existing ecological quality criteria.

The documents necessary to initiate, guide and review the criteria for the Ecolabel are: preliminary report; draft criteria proposal; technical report in support of the draft criteria proposal; final relation; manual for potential users of the EU Ecolabel and for competent bodies; handbook for authorities awarding public procurement contracts.

Their contents are set out in Annex V to the Part A Regulation. The documents[102] are sent to the Commission and to the CUEME. In any case, the determination of the criteria for the Ecolabel certification deserves some further reflection. The choice of criteria for a product to be certified Ecolabel is not indifferent since determining the perimeter of a product certification also means excluding some products from others.

Therefore, it is important to periodically review the criteria and pay attention to technological innovations

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101 Concerning the steps of the shortened procedure for assigning the Ecolabel criteria as provided for in letter C of Annex I of the Regulation the Commission prepares a report in which it indicates a motivation that illustrates the reasons why a complete review of the criteria is not necessary, but simply updating them and their levels of rigor is sufficient. A technical section is also included in the report which updates market information.

102 On the ISPRA website it is possible to consult the methods for transmitting the application, the costs and timing for obtaining and the constantly updated database of the products and services that have obtained the Ecolabel in Italy https: //www.isprambiente. gov.it/it

since, in relation to the product life cycle, new eco solutions of production or applicability, in the case of a service, could have less impact on the environment and worthy of being introduced as parameters for the Ecolabel certification.

Furthermore, the criteria help direct production towards the achievement of the objectives of EU environmental policies such as the transition to the circular economy.

In fact, the inclusion among the criteria, to obtain the Ecolabel certification, of a product of reuse, recycling and disassembly helps to extend the life of the asset in use and pushes to a more efficient consumption in terms of resources and sufficient in relation to products aimed at achieving strong sustainability.

Therefore, the choice of criteria is also able to guide production and the type of consumption. Therefore, it is important to make shared choices as much as possible in order not to discriminate production on the one hand and not to miss out on production opportunities on the other that over time could prove to have a low environmental impact.

The EU, therefore, periodically establishes a strategy for the development of the Ecolabel, the so-called Working plan which dictates a series of actions for the development of the EU Ecolabel.

The latest working plan was drawn up for the period 2016 - 2018[103] among the actions planned for implementation to

[103] For a complete reading see https://ec.europa.eu/environment/ecolabel/documents/Work%20plan%202016-2018.pdf

improve the efficiency and effectiveness of the EU Ecolabel there are in particular those dedicated to the criteria[104] for which it should the number of EU Ecolabel criteria per product/product group should be reduced where possible by focusing on key environmental impacts, while maintaining the credibility of the system and detailed planning for developing or reviewing the criteria should be shared with members EUEB[105] at the beginning of each revision.

Where possible, the use of the shortened procedure for the non-substantial revision of the criteria should be encouraged.

Finally, to understand what the Ecolabel developments may be, is interesting the research project conducted by the Scuola Superiore Sant'Anna of Pisa Identification of Elements for a Future "*Strategy For The Eu Ecolabel*"[106] ,conducted between 2018 and 2019, in which it try to identify the elements for a future strategy for the EU Ecolabel.

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104 Previous workplans for the Ecolabel had covered the periods between 2002/2004 https://ec.europa.eu/environment/archives/ecolabel/pdf/work_plan/decision2001/workingplan_it.pdf and 2005/2007 https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:162:0078:0090:IT:PDF and 2011/2015 https://ec.europa.eu/environment/ecolabel/about_ecolabel/pdf/work_plan.pdf. From the last plan to the current one, there was no actual new strategy but only clarifications on previous actions. The other objectives of the current plan concern: the role of the CUEME which should be made more political in its Ecolabel review interventions; greater harmonization between the competent enforcement bodies of the Eurolabel; the Commission and EU Member States will have to undertake further separate and joint efforts to improve communication, marketing and promotion of the EU Ecolabel. Finally, the Workplan establishes for which product groups the criteria are to be maintained by collecting them in a table and indicates communication actions for a greater effective diffusion of the eco-label.

105 EUEB - European Union Ecolabelling Board - EU Ecolabel Committee, is part of the European Commission for stakeholders in developing criteria for product groups, as well as for discussing issues related to the Ecolabel.

106 The research project was developed by the Scuola Superiore Sant'Anna of Pisa - School of Advanced Study - Institute of Management in collaboration with Oko Institut - Independent research and consultancy institute in Europe for a sustainable future on behalf of the European Commission - DG ENV

In this research 3 main pillars are identified on which related recommendations for the development of the EU Ecolabel are elaborated. First pillar involves the development of a selected portfolio of new product groups of services and consumer goods which, although heterogeneous, have a strong focus in common.

All these products are characterized by a health/well-being connotation which is a strong driver of consumer shopping preferences.

The second pillar indicates the need to improve and increase the intensity of EU eco-label promotion activities at all levels, particularly in Member States with currently weak national eco-labels to thus spreading the Ecolabel system.

To this end, for the EU Ecolabel, in Member States with quality marks weak national ecological standards, a more proactive and comprehensive communication strategy should be adopted that leads to the label being the only one for the selected product groups.

At the same time, competition with strong national eco-labels for established product groups should be avoided.

Finally, the third pillar recommends accelerating the harmonization and integration of Ecolabel certification with other EU policies and developing a common communication strategy for their promotion.

The research paper then makes further recommendations for an effective development of the EU Ecolabel certification.

In the long-term strategy, by 2028, it recommends extending the scope of the EU Ecolabel to services as well.

It then suggests including more circular criteria in the EU Ecolabel requirements such as recycling, recyclability, durability, right to repair and extended warranty and so on, for existing and future product groups.

Finally, a further development of the use of the EU Ecolabel in Gpp would be recommended, in order to increase and improve the GPP criteria for the purchase of products bearing the EU Ecolabel.

It is also important to underline that all three pillars defined in the research must be pursued together and in a coordinated way for an effective global strategy.

The recommendations that emerged from the research, if included in the EU environmental policies regarding the Ecolabel, represent an excellent and profitable development opportunity for the certification itself.

In any case, they already allow you to highlight any advantages relating to the use of the EU Ecolabel.

From the entrepreneur's point of view, the main advantage is represented by the increase in visibility on the market and the expansion of the target customers.

The EU Ecolabel is in fact a distinctive element, synonymous with environmental quality and performance, recognized throughout the European territory, reliable as it is verified by an independent third party.

However, we must not forget that the adoption of the EU Ecolabel also allows a more accurate control of its

management costs, contributing to a real decrease over time, sometimes in the face of some more technological investments.

From the point of view of consumers, by choosing the EU Ecolabel, products are chosen that have a high ecological quality as well as a certain reliability as certified by independent bodies and recognized at European level.

With this choice, consumers also contribute to directing producers and distributors towards these products and services and therefore towards greater respect for the environment.

The EU Ecolabel also guarantees the company simplified access to tools for environmental sustainability such as GPP (green procurement for the public administration).

The latter is closely linked to the EU Ecolabel in terms of purchasing products for the public market.

Together, the GPP and the EU Ecolabel act as a lever for the public consumer's demand for ecological products, thereby achieving sustainable policy objectives as well as environmental protection, generating resource savings and promoting the circular economy.

2. ECOLABEL GPP AND CAM

Public procurement represents an enormous opportunity for the environment and policy makers have taken note of this through the construction of a legal framework that determines the scope of public procurement in their green dimension represented by labels and environmental criteria.

The Green Book of the Integrated Product Policy dedicated an entire paragraph to public procurement in which it stated that this sector represents a large portion of the GDP of the Member States and invited Public Administrations to "... *take responsibility for driving the management process ecological and in the reorientation of consumption towards "greener" products*"so as to increase the demand for ecological green products and consequently production by companies.

Again in the Green Paper, the EU recognized public procurement as the most suitable instrument for this operation and that it would be important that the ecological criteria to be respected for the products were clearly specified in the tender specifications so that the public sector could purchase "*green*" products "*safely and without obstacles*".

The Communication on Integrated Product Policy n.302 / 2003 confirms the position of the Green Paper and among the tools necessary to create a legal and economic framework suitable for the development policy on ecological products, it too recognizes the lever of public procurement to exploit through purchases, diffusion of ecological products and achieving the objectives of environmental policy.

The comunication Commission interpretation on "*Community law applicable to public procurement and the possibilities of integrating environmental considerations into public procurement*" (COM (2001) 274) instead sought to

clarify how Community law even before the Directives[107] of 2004 and then of 2014 was able to offer various possibilities to public purchasers who wished to integrate environmental considerations into public procurement procedures.

The indications of the Communication on technical specifications appear interesting.

These include all the characteristics required by the contracting authority for the products or supplies to respond to the use for which they are intended.

The technical specifications define in an objective and measurable way the characteristics of the object of the contract and therefore necessarily have a direct relationship with the object itself. For the definition of the object of the contract, the procurement directives establish a system of mandatory references to comparable standards and instruments, according to a precise hierarchy, first European instruments and failing that, international or national standards or comparable standards.

Furthermore, the provisions of the Directives prohibit referring in the technical specifications to products of a specific manufacture or origin or obtained through a particular procedure so that they have the effect of favoring or excluding certain suppliers or products. The indication of

[107] The legal framework prior to the 2004 Directives renewed in 2014 did not contain explicit references to the environmental requirements to be included in public procurement procedures. Communication 274 (2001) explained how environmental concerns can be taken into account at each separate stage of the procurement process. https://punto3.it/wp-content/uploads/COM_2001_274_GPP.pdf

trademarks, patents or types, or the indication of a specific origin or production for the purpose of determining the object, is authorized only if it is not possible to provide a description of the object of the contract by means of sufficiently precise specifications and understandable for all concerned.

This indication must always be accompanied by the mention "*or equivalent*".

With regard to the environmental characteristics, until they are integrated into standards, the contracting authorities will be able to establish them for a given contract as prescribed as long as there is no discriminatory effect.

In fact, contracting entities are free to require in certain cases a higher degree of environmental protection than that required by law or regulations, provided that this requirement does not limit access to the contract and does not lead to discrimination to the detriment. of potential bidders.

Therefore, although not explicitly stated in the regulations of the time, it was already possible to include environmental characteristics by the will of the contracting authorities to favor ecological products in public procurement.

The Communication continues on this path and decrees the possibility of referring for the determination of the technical specifications of the object of the contract to ecological labels that "*certify products considered to better*

meet the environmental needs of similar products belonging to the same category of products".

They can then specify that the products which have been awarded the eco-label are considered to comply with the technical requirements of the tender specifications.

However, contracting entities must not limit the means of proof to eco-labels only and must also accept other means of proof, such as test results, etc. to avoid that the means of assessing conformity have the effect of reserving the contract to national or local companies (if the marks are national or local).

Naturally, the European eco-label appears to be the most reliable label in terms of environmental, transparency and scientificity. This helps to make the contract green. The definition of Gpp[108] is found in the Green Paper for public

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[108] For more information on GPP see: M. Lottini, *Appalti comunitari: sull'ammissibilità di criteri di aggiudicazione non prettamente economici*, in Foro amm. - Cons. St., 2002, 1950 ss.; M. Bartolomeo, S. Marchese Daelli, *Acquistare Verde: dalla sperimentazione alla creazione di un mercato, gli acquisti verdi in Europa e in Italia*, Avanzi, 2002; M. Brocca, *Criteri ecologici nell'aggiudicazione degli appalti*, in Urb. app., 2003, 2, 168 ss.; C. Erdmenger, *Buying into the Environment*, Sheffield, 2003; F. Schizzerotto, *I principali provvedimenti europei ed italiani in materia di Green Public Procurement*, in Riv. giur. amb., 2004, 96 ss.; P. Bertazzi, *Il Green Procurement nella dimensione comunitaria*, in Riv. trim. app., 2005, 137; F. Spagnuolo, *Il Green Procurement e la minimizzazione dell'impatto ambientale nelle politiche di acquisto della pubblica amministrazione*, in Riv. it. dir. pubbl. comun., 2006, 397 ss.; M. Clarich, *La tutela dell'ambiente attraverso il mercato*, Relazione al Convegno dell'Associazione Italiana dei Professori di Diritto Amministrativo su «Analisi economica e diritto amministrativo», Venezia 29 settembre 2006, in Dir. pubbl., 2007, n. 1; G. Bellomo, *Il Green Public Procurement nell'ordinamento multilivello dell'ambiente*, in Dir. pubbl. comp. eur., 2008, 940 ss.; F. De Leonardis, *Green public procurement: from Recommendation to Obligation*, in International Journal of Public Administration, 2011, 34; G. Fidone, *Gli appalti verdi all'alba delle nuove direttive: verso modelli più flessibili orientati a scelte eco-efficienti*, in Riv. it. dir. pubbl. comun., 2012, 819 ss.; G. Fidone,; E. Bellomo, *Il green public procurement nell'ambito della green economy*, in Dir. proc. amm., 2013, 163 ss.; B. Fenni, *Il Green Public Procurement come strumento di sviluppo sostenibile*, 2014, in www.ambientediritto.it; C. Vivani, *Appalti sostenibili, green public procurement e socially responsible public procurement*, in Urb. app., 8-9/2016, 993 ss.; A. Cicchinelli, *L'esecuzione dei contratti e la tutela dell'ambiente*, in www.giustamm.it, n. 2/2016; L. Carbonara, *Le nuove direttive sui contratti pubblici e la tutela dell'ambiente. I criteri di aggiudicazione*, in www.giustamm.it, n. 2/2016;

procurement of the European Commission "… *approach according to which Public Administrations integrate environmental criteria in all phases of the purchasing process, encouraging the dissemination of environmental technologies and the development of environmentally sound products, through research and the choice of results and solutions that have the least possible impact on the environment throughout the entire life cycle*".

Gpp is an environmental policy instrument[109] whose objective is the development of a market for products and services with reduced environmental impact through public demand. So in the communication[110] on the action plan for sustainable consumption and production and sustainable industrial policy the Commission is committed to further strengthening GPP "*The Commission will provide guidance and tools for public authorities to green their procurement practices*." He also adds, "*The common GPP criteria will be based on environmental performance benchmarks and relevant labels. A separate communication on green public procurement describes these measures in detail.* "

G. Fidone, F. Mataluni, *Gli appalti verdi nel codice dei contratti pubblici*, in Riv. quadrim. dir. ambiente, 2016; A. Di Giovanni,"*L'ambiente sostenibile nel nuovo Codice degli appalti: green public procurement e certificazioni ambientali*", in Il diritto dell'economia, vol. 31, 1/2018.

[109] In European policies, the role played by GPP is highlighted in the document of the European Commission "*Action Plan on Sustainable Consumption and Production*" COM (2008) 397; reinforced in the Europe 2020 Strategy, in particular in the Communication "*Roadmap towards a resource efficient Europe*, COM (2011) 571 and taken from the Communication on the circular economy COM (2014) 398

[110] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the action plan for sustainable consumption and production and sustainable industrial policy {SEC (2008) 2110} https: // eur - lex.europa.eu/legal-content/it/TXT/?uri=celex%3A52008DC0397

Therefore, the EU's will to create common criteria for all Member States aimed at determining the specifications of the products or services to be procured in an environmental sense is outlined, as well as using environmental labels for this purpose.

All of this certainly has the aim of safeguarding the environment but not only of ensuring that the homogeneity of standardization with the same criteria for all states does not discriminate against them, particularly in supra-state contracts.

Indeed, the Commission proceeds to issue the Communication[111] - *Public procurement for a better environment* in which it states that the fundamental idea of GPP is based on having clear, verifiable, justifiable and ambitious environmental criteria for products and services, based on a life cycle approach based on scientific evidence.

In this way, criteria used by Member States become comparable in order to avoid a distortion of the single market and a reduction in competition at EU level.

The presence of common criteria then considerably reduces the administrative burden in the implementation of the GPP for economic operators and public administrations.

Furthermore, the common GPP criteria are particularly beneficial for companies operating in more than one Member

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[111] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Public procurement for a better environment - Brussels, 16.7.2008 COM (2008) 400 finalhttps: //ec.europa.eu/transparency /regdoc/rep/1/2008/IT/1-2008-400-IT-F1-1.Pdf

State and for SMEs whose ability to handle different procurement procedures is limited. In any case, to achieve the general objective of the communication "to*provide guidance on how to reduce the environmental impact caused by public sector consumption and to use green public administration purchases to stimulate innovation in environmental technologies, products and services*"

The Commission sets specific objectives to address the main obstacles to a greater spread of GPP and among these the elaboration of a process for the definition of common GPP criteria. In the paragraph concerning the definition of the process to identify the GPP criteria, the Communication says that a preliminary set of common GPP criteria has already been defined in the framework of a training toolkit on green public administration purchasing[112]

[112] The Green Public Procurement (GPP) Training Toolkit it is designed to be used by public buyers and GPP trainers or for integration into public procurement training courses and seminars.It consists of six independent modules: Module 1: Green Public Procurement - The role of GPP as a tool for achieving environmental benefits and policy objectives; Module 2: Strategic Aspects of GPP - Guide on how to implement and manage GPP within a public administration; Module 3: legal aspects of GPP - The legal framework for GPP, according to the procurement directives of 2014; Module 4: needs assessment - How to perform the needs assessment for the GPP before the race; Module 5: GPP and circular economy - Practical guide for using GPP to support the transition to a circular economy; Module 6: Market Engagement - Why Market Engagement Can Help Strengthen GPP and Practical Steps to Doing It and Ten operational modules, with PowerPoint presentations (including trainer's notes) and accompanying guide. The titles of the operational modules:Module 7.1: Computers and monitors - Includes GPP criteria, environmental impacts and green alternatives; Module 7.2: Copying and graphic paper - Includes GPP criteria, environmental impacts and green alternatives; Module 7.3: Furniture - Includes GPP criteria, environmental impacts and green alternatives; Module 7.4: Internal cleaning services - Includes GPP criteria, environmental impacts and green alternatives; Module 7.5: Design, construction and management of office buildings - Includes GPP criteria, environmental impacts and green alternatives; Module 7.6: Paints, varnishes and road markings - Includes GPP criteria, environmental impacts and green alternatives; Module 7.7: Road design, construction and maintenance - Includes GPP criteria, environmental impacts and green alternatives; Module 7.8: Road lighting and road signs - Includes GPP criteria, environmental impacts and green alternatives; Module 7.9: Road transport - Includes GPP criteria, environmental impacts and green alternatives; Module 7.10: Textile Products and Services - Includes GPP

Group criteria have been developed of products and services in ten sectors considered the most appropriate from the perspective of the contracts in question. These criteria[113] are based on those in force for national and European eco-labels and on information from stakeholders from industry and civil society and from Member States.

The evidence base uses available scientific information and data, adopts a life cycle approach and engages stakeholders who meet to discuss issues and build consensus[114].

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criteria, environmental impacts and green alternatives http://ec.europa.eu/environment/gpp/toolkit_en.htm

[113] The criteria defined for the GPP are divided into "basic" criteria and "general" criteria. The "basic" criteria, intended to allow easy application of the GPP, focus on key aspects of the environmental efficiency of a product, trying to minimize administrative costs for businesses. The "general" criteria take into account more aspects or higher levels of environmental efficiency and are intended for authorities who want to engage more fully in supporting environmental and innovation objectives. Since the "basic" criteria form the foundation of the "general" criteria, the distinction between the two types of criteria reflects differences in the level of ambition and availability of green products and at the same time constitutes an incentive for markets to evolve in the same direction .

[114] Regarding the EU GPP criteria formation process, a new procedure was put in place in 2010 in order to make the criteria development process more participatory and improve synergies between different product policy instruments, e.g. EU GPP and EU Ecolabel. The process of developing the GPP criteria is led by the Institute for Foresight of Technology (JRC-IPTS) of the Commission's Joint Research Center in Seville / Spain based on an annual GPP work plan coordinated with the brand work plan EU Ecolabel. The EU GPP process will largely follow the structure of the EU Ecolabel criteria definition procedure. It will provide stakeholders with the opportunity to comment on the documents and the draft EU GPP criteria at different stages of the process. However, compared to the EU Ecolabel procedure, it will be shorter. The procedure for the formation of the GPP criteria includes several phases: Preliminary report (in which an analysis of the criteria of other environmental labels and existing standards will also be carried out); Technical report, the content of which will contain scientific explanations of each requirement and criterion and an estimate of the expected environmental / economic / social impacts of the criteria as a whole; EU GPP criteria which in any case will have to be based on solid data and information, as far as possible representative of the entire EU market and on life cycle data and quantitative environmental impacts; Final report. Regarding the process of developing the criteria, there will be an external consultation with a working group (open to all interested parties); consultation of the GPP Advisory Group and finally adoption and publication. https://ec.europa.eu/environment/gpp/gpp_criteria_procedure.htm

In this way, the Communication recognizes that environmental criteria already exist at European level, such as the eco-label that are based on objective and transparent criteria and that are assigned by an independent third party such as the EU Ecolabel[115].

Labels in the context of technical specifications can then be used in two different ways: to help contracting entities to draw up technical specifications in order to define the characteristics of the goods or services they purchase; to verify compliance with the required requirements, accepting the label as a means of proof of compliance with the technical specifications.

Furthermore, the labels are verified by third parties and therefore become a qualified and impartial means of verification therefore labels can help save time while ensuring the application of high environmental standards in public procurement.

Finally, labels referring to the environmental characteristics of the product, job or service can also be used to help draft and evaluate the award criteria in a public procurement.

[115] In the work plans for the determination of the criteria for the EU Ecolabel it is reiterated that the EU GPP criteria for products are mainly developed on the basis of the main European type I ISO labels. They also refer to other certification schemes, legislation and standards as relevant. The Commission in 2008 reorganized the development of the EU GPP criteria and the EU Ecolabel so that both tools are better integrated. Since 2010, the development of the criteria has been undertaken simultaneously for the EU Ecolabel and the GPP. As public procurement accounts for around 18% of total EU GDP, a better integration of the EU Ecolabel into the EU GPP criteria represents an opportunity to increase the uptake of EU Ecolabel products. Better awareness of public buyers and user-friendly criteria will increase the demand for the use of the EU Ecolabel in public procurement contracts. (From the EU Ecolabel work plans 2011-2015 and 2016-2018).

The Buying Green Handbook - A handbook on green public procurement[116] describes in more detail how labels can be used at different stages of the procurement process as well as in public procurement directives[117].

Thus, the GPP becomes the tool for implement the product policy of the states and the EU through the lever of public procurement.

Then the environmental criteria and ecological labels, contained in the technical specifications and distributed, where possible, in the phases of public procurement, help to define the characteristics of the object or service.

In this way, a virtuous circle is established between Gpp, environmental criteria and ecological labels, where the public demand for ecological products, on the basis of standardized criteria, contributes to ecological production and indirectly to the efficiency and saving of resources.

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[116] For a reading of the Green Public Procurement Handbook,see: https://ec.europa.eu/environment/gpp/buying_handbook_en.htm

[117] The latest 2014 Public Procurement Directives incorporate the content of the previous Directives and include GPP in the procedures environmental and social considerations. In particular, for the definition of the requirements of a contract and the award of art. 42 for the definition of the technical specifications states that "... *the technical specifications are formulated in one of the following ways: a) in terms of performance or functional requirements, including environmental characteristics* ..." With regard to labeling the conditions for the use of labels are established in Article 43 and Article 61. Article 42 states that "*Contracting authorities wishing to purchase works, supplies or services with specific environmental, social or other characteristics, may impose in the technical specifications, of the award or in the conditions relating to the execution of the contract, a specific labeling as a means of proof that the works, supplies or services correspond to the required characteristics* ..." most economically advantageous offer provided for by Article 67 of Directive 2014/24 which still includes elements environmental. Article 67 says " *The most economically advantageous offer from the point of view of the contracting authority is identified on the basis of price or cost, following a cost / effectiveness approach, such as the cost of the life cycle in accordance with article 68 , and may include the best quality / price ratio, assessed on the basis of criteria, such as qualitative, environmental and / or social aspects, connected to the object of the public contract in question ...*"

Then, through the public example of purchasing ecological products, the consumer is also oriented towards ecological products to protect the environment.

Finally, after formal approval by the Member States, the common criteria for GPP should be incorporated in the National Action Plans and Green Public Procurement Guidelines that Member States have defined in the light of the Communication on Integrated Policy products of 2003.

3. THE ITALIAN CASE

With regard to Italy, the Action Plan for the Environmental Sustainability of Consumption of the Public Administration (National Action Plan for GPP), approved in 2008 and updated in 2013[118], has clearly defined the context for development policies for green public procurement, indicating, through the adoption of the Minimum Environmental Criteria[119] (CAM), the operations for the implementation of green procurement procedures.

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118 The PAN - gpp was adopted with DI of 11 April 2008 by the MATTM in agreement with the Ministry of Economy and Finance and the Ministry of Economic Development and revised with DM of the MATTM on 10 April 2013. The purpose of the PAN-GPP is: "… *to promote the diffusion of GPP in public bodies and intends to promote the conditions necessary to ensure that GPP can fully deploy its potential as a tool for environmental improvement."* In its review, it confirms the purpose and makes changes relating to the management of the Plan itself and the procedure and definition together with the approval and disclosure of the CAM - Minimum Environmental Criteria.

119 For more information on CAM: V. Paoletti Gualandi, *I criteri di aggiudicazione, in Appalti pubblici*, Wolters Klueger, 2015.; T. Cellura, *L'applicazione dei criteri ambientali minimi negli appalti pubblici*, Maggioli, Rimini, 2016; S. Colombari, *Le considerazioni ambientali nell'aggiudicazione delle concessioni e degli appalti pubblici*, in Urbanistica e Appalti, n. 1/2019; P. Fabbri, Appalti verdi, *i Comuni non applicano i criteri ambientali minimi: il report, 1° aprile 2019*, consultabile al sitowebwww.agendadigitale.eu.

The CAM, in the PAN - Gpp are defined as *"… the" technical indications "…. which consist of specific information of an environmental nature and, whenever possible, ethical and social, connected to different phases that characterize the tender procedures ...*

In the revision of 2013 states that the CAM[120] :can be applied in procedures of contract above and below the Community threshold of the contract categories to which they refer; they are defined as "minimum" because they allow to give a homogeneous indication to the various private and public economic operators.

These aspects permeate the development of the New Public Procurement Code in the articulated section dedicated to certifications.

Italy, compared to the EU and the other Member States, has deliberately taken a further step since it has codified and encouraged the development of environmental certifications through the provisions included in the New Code of Contracts, Legislative Decree n.50/2016, that stimulate public purchases from an environmental perspective, trying to trigger a virtuous process that leads to the generation of processes and products with a low environmental

[120] The CAMs are adopted by decree of the MATTM on the basis of a procedure defined in the PAN - GPP as indicated in the Ministerial Decree of the MATTM on 10 April 2013 in point 4.3. In the Pan - gpp the product categories mentioned for CAM are 17 but for 2019 they have become 19, see https://www.minambiente.it/pagina/i-criteri-ambientali-minimi#3.

impact, in line with the development policies of the circular economy and sustainability.

The path between the articles of the New Code, which concern certifications, is aimed at identifying: which spaces they cover in the development of the procurement phases, their ability to achieve environmental and circular economy objectives as well as their possible developments.

It starts from article 71 which provides that the calls for tender are drawn up in compliance with the standard calls for proposals adopted by ANAC and contain the CAM indicated in art. 34[121] titled: "*Criteria for energy and environmental sustainability*".

Paragraph 3 of art. 34 establishes the obligation to insert CAM in the tender documents of the contracts e affirms, in the preceding paragraphs, that the contracting stations, through the inclusion in the tender project documentation, at least of the technical specifications and contractual clauses contained in the CAM, adopted by decree of the MATTM, contribute to achieving the environmental objectives set out in the Plan of action for the environmental sustainability of consumption in the PA sector.

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[121] The content of Article 34 finds its framework in recital 92 of Directive 24/2014 which in turn refers to and states: " *Article 11 TFEU requires that the requirements connected with the protection of environment are integrated into the definition and implementation of Union policies and actions, in particular with a view to promoting sustainable development. This Directive clarifies how contracting authorities can contribute to the protection of the environment and the promotion of sustainable development, guaranteeing them the possibility of obtaining the best value for money for their contracts* "

Regarding the technical specifications, which are included in the contract both in the drafting for the identification of the object and in the awarding and execution of the works, they can be proven with environmental certifications.

Therefore, environmental certifications become a means of proof and conformity in the offer to participate in a tender, for the award and for the execution of what is required in the contract.

The contracting authority, through the technical specifications[122], defined by Article 68[123] ,determines the

[122] In Community legislation, the technical specifications are contained in art. 42 of Directive 24/2014 and defined in Annex VII which corresponds to Annex XIII of the New Code of Contracts. In Annex XIII of the Code, point 1, a distinction is made between technical specifications relating to works and technical specifications relating to services and supplies "*a) in the case of public works contracts: the set of technical requirements contained, in particular, in procurement documents, which define the required characteristics of a material, product or supply in such a way that they correspond to their intended use by the contracting authority; these features include levels of environmental performance and impacts on climate, design that takes into account all requirements (including accessibility for people with disabilities), conformity assessment, property use, safety or size , including procedures regarding the quality assurance system, terminology, symbols, testing and test methods, packaging, marking and labeling, instructions for use, as well as manufacturing processes and methods at any point in the life cycle of the work. They also include rules on design and costing, conditions for testing, inspection and acceptance of works as well as construction methods and techniques as well as any other technical conditions that the contracting authority or entity the adjudicator may prescribe, by means of general or particular regulations, in relation to the finished work and the materials or parts that compose it;*

b) in the case of public service or supply contracts, the specifications contained in a document, which define the required characteristics of a product or service, including the quality levels, the levels of environmental performance and the repercussions on the climate , a design that takes into account all needs (including accessibility for people with disabilities) and the assessment of conformity, use property, product use, safety or dimensions, including requirements applicable to the product such as sales name, terminology, symbols, testing and test methods, packaging, marking and labeling, instructions for use, manufacturing processes and methods at each stage of the life of the supply or services, as well as the conformity assessment procedures…;

[123] The table below the definition of the technical specifications contained in art.68 *"...define the characteristics required of a works, service or supply. These characteristics may also refer to the specific process or method of production or performance of the works, supplies or services requested, or to a specific process for another phase of their life cycle even if these factors are not part of their substantial content, provided*

contractual object and sets specific standards of service that it deems most suitable for the satisfaction of its needs, implementing a certain discretion that nevertheless meets a limit in paragraph 4 according to which the technical specifications must allow equal access for economic operators to the award procedure and must not lead to unjustified obstacles to the opening of public procurement of competition.

Paragraphs 7 and 8 of art. 68 provide that an offer cannot be excluded or not admitted if the object does not comply with the technical specifications determined in the announcement, therefore the bidder can prove, by any appropriate means, including the means of proof referred to in art. 86[124] of the New Code, that the proposed solutions are equivalent to the requirements defined by the technical specifications.

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they are linked to the subject of the contract and proportionate to its value and objectives."

[124] It is reported below Art. 86. (Means of proof)

1. *The contracting authorities may request the certificates, declarations and other means of proof referred to in this article and in Annex XVII, as proof of the absence of grounds for exclusion referred to in Article 80 and compliance with the selection criteria referred to in Article 80. Contracting authorities shall not require means of proof other than those referred to in this Article, Annex XVII and Article 87. Economic operators may make use of any suitable documentary means to prove that they will have the necessary resources.*

2. The contracting authorities accept the following documents as sufficient proof of the non-applicability to the economic operator of the reasons for exclusion referred to in Article 80:

a) as regards paragraphs 1, 2 and 3 of that article, the certificate of the register judicial or, failing that, an equivalent document issued by the competent judicial or administrative authority of the Member State or country of origin or provenance from which the fulfillment of the required requirements results;

b) with regard to paragraph 4 of said article, through a specific certification issued by the competent tax administration and, with reference to social security and welfare contributions, through the Single Document of Contribution Regularity acquired ex officio by the contracting authorities at the social security institutions pursuant to of current legislation or through a similar certification issued by the competent authorities of other States.

Theart. 86 precisely states, in paragraph 1, that the contracting authorities may request certificates and declarations admitted in the same article and in Annex XVII[125] as evidence to avoid exclusion from a tender and compliance with the selection criteria.

In the case of a CAM, the certification can serve as proof of the conformity of the specific product with the environmental requirements set in the CAM and provided for by the tender technical specifications.

Article 69[126]explicitly states that contracting authorities may impose specific labeling as a means of proof in technical specifications, award criteria or conditions relating to the performance of the contract.

In some cases the reference to the requirements of a labeling by the contracting authority may not be discretionary but necessary in the event that the labeling constitutes the means of proof relating to the object of the contract, of compliance with the environmental criteria of referred to in art. 34 of the Code.

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[125] In particular, Annex XVII provides for the means of proof of the selection criteria for economic and financial capacities and for the latter, as means of proof, provides an indication of the supply chain management systems that the operator economic can apply during the execution of the contract and certificates attesting the conformity of products well identified by references to certain technical specifications or standards

[126] This article reproduces in full and without changes the content of Article 43 of Directive 2014/24 identical, however, to the provisions for special sectors by Article 61 of Directive 25/2014. See art. 43 of the Directive 2014/24 / EU of the European Parliament and of the Council of 26 February 2014 on public procurement and which repeals Directive 2004/18 / EC https://eur-lex.europa.eu/legal-content/IT/TXT / PDF /? Uri = CELEX: 32014L0024 & from = IT See also Art.61 Directive 2014/25 / EU of the European Parliament and of the Council of 26 February 2014 on the procurement procedures of utility companies in the water and energy sectors , transport and postal services and repealing Directive 2004/17 / EC https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A32014L0025

In fact, the same eco-label can be qualified as a means of presumption of conformity by the ministerial decrees that determine the CAM for the individual categories of goods and services.

Again, in support of labeling, as a means of proof of compliance with the requirements or conditions set out in the technical specifications, Article 82[127] states that contracting authorities may require economic operators to submit, as means of proof of compliance with the requirements or criteria established in the technical specifications, the award criteria or conditions relating to the execution of the contract, test report or certificate issued by a conformity assessment body[128].

The following article 93, in the tender process, provides for the reduction of the sureties[129] and bonus

[127] The article fully reproduces the content of article 62 of EU directive no. 24/2014

[128] The same paragraph defines that the contracting authorities will accept a certificate of conformity issued by an accredited body according to the EC regulation 765/08 which sets standards on accreditation and market surveillance regarding the marketing of products. This Regulation 765/08 in art. 4 establishes that each Member State designates a single national accreditation body which, upon receipt of an application by a conformity assessment body, after having ascertained that the latter is able to carry out a specific conformity assessment activity, issues him an accreditation certificate. In Italy, the national accreditation body is identified in ACCREDIA - Italian accreditation body operating since 2009. ACCREDIA was born from the union of SIT, Sinal and Sincert with the Decree of 22 December 2009 - " *Designazione di «Accredia» quale unico organismo nazionale italiano autorizzato a svolgere attivita' di accreditamento e vigilanza del mercato.*".

[129] Therefore, according to the regulation contained in article 93, the guarantee is reduced by 50% for economic operators with UNI CEI ISO 9000 quality system certification obtained by accredited bodies. An equal, but not cumulative, reduction is granted to micro, small and medium-sized enterprises or to ordinary groups and consortia set up by them to support SMEs. A further reduction of 30% goes to subjects registered in the EMAS eco-management system and 20% for those in possession of environmental certification pursuant to the UNI ENI ISO 14001 standard. The provisions established in this article lead to greater greening of economic operators since for service and supply contracts, an additional 20% cumulative with the previous reductions is granted to operators in possession of the

concessions for the possession of the environmental certifications that the economic operator must report having obtained in the offer.

There are probably several reasons that pushed the legislator in this direction[130]: subjects who acquire certain certifications are considered reliable; obtaining certifications for economic operators generates savings and raises the quality level of the same.

Instead, article 95[131] of the New Code, which concerns the criteria for awarding the contract, must be read in conjunction with article 96 “Life cycle costs” and the ANAC Guidelines no. 2 of 2016.

Among the criteria for awarding a contract, art. 95 gives preference to the most economically advantageous offer supported by the operational indications dictated by ANAC.

The latter, in the Guidelines, dispenses operational suggestions on the methods of evaluation in quantitative and qualitative terms of the evaluation criteria and defines the criterion of the most economically advantageous offer, underlining that the PA in its purchases "... *must not only*

Ecolabel mark for goods and services that make up at least 50% of the goods and services covered by the contract.

130 See Luca R. Perfetti, Codice dei contratti pubblici , II edition, Wolkers Kluwer, 2017

131 Article 95 entitled "*Contract award criteria*" in the content refers to art. 67 of Directive 24/14 which indicates as the award criterion to be privileged that of the most advantageous economic offer capable of evaluating the best offer not only on the basis of a price / cost but also of qualitative parameters connected to the object of the contract always in compliance with the principles of transparency, non-discrimination and equal treatment.

look after savings on costs but must also consider the quality of what is purchased"

Therefore, in the tender documents all the information on the award criteria necessary for economic operators to participate must be included while the contracting authority defines the objectives and the importance attributed to each of these, identifying the criteria it intends to evaluate and the relative weight o weighting factor[132].

Then, according to the Guidelines, the contracting authorities identify evaluation criteria that highlight the improving characteristics of the offers presented by the competitors and differentiate them according to the correspondence to the needs of the contracting authority to allow an effective competitive comparison on the technical profiles of the offer.

Therefore, the rewarding requirements will make close reference to the characteristics and environmental

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[132] The weighting is referred to in Article 95 (paragraphs 8 - 9) for the purposes of the weight to be attributed to the criteria for identifying the most economically advantageous offer. In ANAC guidelines No. 2, weighting is described as: " *The weighting" weights "or" scores "(and the sub weights or sub scores) are the value attributed by the contracting authority to each criterion (or sub criterion). The determination of the scores to be attributed to each component of the offer, to each criterion or sub-criterion is left to the contracting authority which must take into account the specificities of the contract and, therefore, the relative importance of the economic component, the technical component and the related profiles subject to evaluation*" With regard to the attribution of points after a series of operational indications, the ANAC Guidelines state that "*In general, a limited score must be assigned to the price component when it is deemed appropriate to enhance the qualitative elements of the offer or when discourage excessive discounts that are considered difficult to pursue by economic operators; vice versa, a greater weight must be attributed to the price component when market conditions are such that the quality of the products offered by the companies is substantially similar. As a rule, the weight attributed to criteria of a subjective nature or to the rewarding elements must be limited, for example no more than 10 points on the total, considering that these elements do not concern so much the content of the offer but the nature of the bidder. However, a higher score can be attributed in relation to the specificity of the services as is the case for those relating to engineering and architecture for which the interrelation between the capacity of the bidder and the quality of the offer is high*. "

performance[133] of the products/services covered by the contract (request for labels) or their production process (request for SGA certifications) also for a subsequent phase of their cycle of life.

With regard to the life cycle, the Code provides that the cost element, in the most economically advantageous offer, must be evaluated on the costs of the life cycle as regulated by Article 96[134] which allows: to appreciate the costs associated with the various phases of the life cycle of the works / goods / services that are the object of the contract; to carry out an overall assessment of the economic impact of both the costs that fall more directly on the contracting authority and those linked to environmental externalities.

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[133] Paragraph 6 of Article 95 provides that "... *the most economically advantageous offer identified on the basis of the best quality/ price ratio, is assessed on the basis of objective criteria, such as the qualitative, environmental or social aspects, connected to the of the contract. " Subsequently, by way of example, it provides a series of aspects that can be included in the criteria and among these: a) quality including certifications and attestations regarding the safety and health of workers, social and environmental characteristics, containment of energy consumption; b) possession of an ecological quality mark of the European Union (EU Ecolabel) in relation to the goods or services covered by the contract, in an amount equal to or greater than 30 percent of the value of the supplies or services covered by the contract. It is clear that, among the aspects that fall within the criteria for identifying the most economically advantageous offer, in points a) and b), the certifications that support the objective-qualitative aspect are identified*".

[134] Article 96 expressly provides that the costs incurred by the administration or by other users such as: the costs related to the acquisition, the costs connected to use such as consumption and energy and other resources, maintenance costs, end-of-life costs such as collection, disposal and recycling costs and costs attributable to environmental externalities related to products and services or works during the life cycle provided that their value can be determined and certified. According to paragraph 2 of the same article, the contracting authority will indicate in the tender documents the data that bidders must provide and the method that the contracting authority will use to determine the life cycle costs on the basis of these data and for costs related to externalities. environmental, the method must satisfy the following conditions: "…. *be based on objective, verifiable and non-discriminatory criteria; ... .. be accessible to all interested parties; the data requested must be able to be supplied with reasonable effort by normally diligent economic operators...* "

In fact, the replacement of the lowest price with the most economically advantageous offer based on the lowest cost, offers the possibility of evaluating the offers considering together with the purchase price, the costs also related to environmental externalities connected to the life cycle of the object of the contract (Life cycle costing or LCA).

Finally, the contracting authority, through the definition of the contractual execution conditions, according to Article 100 of the Code, can include environmental aspects that the participants in the tender in the submission of offers are required to satisfy[135].

The executive conditions, however, must be additional to the object of the contract, otherwise they coincide with the "technical specifications", linked to the execution methods of the same. "*In practice, the contracting authorities can purchase preferable products and services in terms of ecological aspects, for example by requiring suppliers to use an environmental management system or to certify the ecological quality of the goods and services provided….*"[136]

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[135] In this regard, Article 100 of Legislative Decree 50/16 "*1. Contracting authorities may request particular requirements for the execution of the contract, provided they are compatible with European law and with the principles of equal treatment, non-discrimination, transparency, proportionality, innovation and are specified in the tender notice or in the invitation. in the case of procedures without notice or in the tender specifications. These conditions may relate, in particular, to social and environmental needs. 2. In the offer, the economic operators declare that they accept the particular requirements in the event that they will be awarded the contract. "*

[136] *Guida pratica agli acquisti verdi - Regione Emilia Romagna - Servizio Valutazione Impatto e Promozione Sostenibilità Ambientale* - Elaborazione a cura di ERVET S.p.a., Bologna, Marzo 2018.

In the passages highlighted regarding the New Code there are at least 10 articles which, directly or indirectly, refer to environmental certifications in support of the consideration that the environmental policies of the State have adopted these tools which, although voluntary, they can effectively support the changes planned to protect the environment.

Therefore, starting from the obligation contained in article 34 regarding insertion in the tender project documentation, at least of the technical specifications and contractual clauses contained in the CAM and the fact that the technical specifications can be proven through environmental certifications and that the same technical specifications can also be included in the other phases of the tenders, yes clearly highlights the role of environmental certifications in the selective, awarding, awarding and executive stages.

Subsequently, the adoption of the criterion of the most economically advantageous offer, identified on the basis of the best quality/price ratio or the price element or the cost, following a criterion of comparison cost/effectiveness which the cost of the life cycle, el'art.95which suggests that among the aspects which fall within the criteria to locate are indicated also the environmental certifications, which support the qualitative - objective aspect, show a clear link with the circular economy system.

Therefore, the environmental certifications in the New Code aim to protect the environment and support the circular economy.

4. ECOLABEL DIFFUSION IN ITALY

The data relating to the degree of diffusion of the EU Ecolabel ecological mark in Italy were published in August 2020 by ISPRA - Higher Institute for Environmental Protection and Research, a public body that in Italy deals with technical support to the Ecolabel Committee and Ecoaudit for the issue of the EU Ecolabel certification.

The number of EU Ecolabel licenses and products/ services represents "the offer of products/services with reduced environmental impact" by companies and, consequently, the demand for "*more sustainable consumption*" by consumers. The total number of EU Ecolabel licenses does not always correspond to the total number of EU Ecolabel certified companies as a company can obtain multiple licenses for different product groups.

In fact, licenses are issued by type of EU Ecolabel product group and not by company. One or more certified products/services are associated with each license granted. Instead, the services currently certifiable with the EU Ecolabel are the "*Tourist accommodation services*" and "*Cleaning services*".

The trend of Ecolabel certification registered a slight decline in 2010 due to the need of companies to adapt the licenses in use to the new criteria of the brand.

From 2011 to 2016 the certification trend grew until in 2016 there was a reduction in licenses also due to the withdrawal of some licenses by the Italian competent body and also to the decision of some license holders to withdraw from the trademark.

In 2017 and 2018, the decrease in the number of certified products is a consequence of the withdrawal from the contract for the concession of the EU Ecolabel by companies with which several thousand products were associated.

Again in 2018, the decline in certifications is due to the expiry of the numerous ones issued to tourist facilities and campsites and to the entry into force of the new EU Ecolabel criteria (revised) for various product groups (especially for detergents). 2019 licenses and products are back on the rise.

Therefore the trend for the period 1998-June 2019 is stable.

However, as of June 2019, the EU Ecolabel licenses in force in Italy were 182 for a total of 8,859 products/ services distributed across 19 active product/service groups. The group that has the highest number of EU Ecolabel licenses in Italy is "Tissue paper" with 38 licenses, followed by "Tourist accommodation service" (35 licenses) and the sum of "Multi-purpose detergents/health services" (17 licenses) and "Hard Surface Cleaning Products" (10 licenses).

According to the territorial distribution, there is a clear prevalence of licenses issued in the North (65.9%),

followed by the Center with 19.8% and by the South and Islands with 13.7% of total licenses.

Only one license is currently issued to a company with registered office abroad (0.5%).

The Italian regions with the highest number of total EU Ecolabel licenses (products and services) are: Lombardy (36 licenses), Tuscany (31 licenses) and Emilia-Romagna (26 licenses).

The Italian regions with the highest number of EU Ecolabel licenses for the "Products" category are Lombardy (36), Tuscany (28) and Emilia-Romagna with "Paper tissue", with 4,157 EU Ecolabel items, is the group with the highest number of certified products, followed by "Hard coverings for floors" (2,358).

The sum of "All-purpose cleaners/sanitary services" (505) and "Products for cleaning hard surfaces" (159) constitutes the third group of more certified products. For greater clarity on the data, see the attached tables.

At the address http://ec.europa.eu/ecat/ it is possible to consult the ECAT (E-catalog), the European register on - line containing all EU Ecolabel certified products and services in Europe.

5. ECOLABEL AND CIRCULAR ECONOMY

The way in which products are designed and waste is generated has a strong impact on the economy, society and the environment.

In fact, depending on whether the product can be repaired, updated or rebuilt during its entire life cycle, it can generate savings or waste of resources.

Through a circular approach the life of the products is extended thanks to a durable design, if a product breaks, it is repaired, if a consumer no longer needs a product, it is reused by another consumer.

Products that are discarded after their first technical or economic life cycle are upgraded or reconditioned and start another life cycle, or if this is not possible their materials are recycled with a minimum of remaining resources that end up in energy recovery.

During production and use, products consume the minimum amount of resources such as energy or water needed to perform their functions.

Thus the emissions into the environment and the impacts on the climate are minimized during the entire life cycle. All this translates into less use of resources, less waste, more jobs in the repair and recycling sectors.

EU product policy[137] contributes to the transition to a circular economy by influencing how products should be designed, generated, used or treated at the end of their life cycle. Among the tools that favor products and services for

[137] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the action plan "*Sustainable production and consumption*" and "*Sustainable industrial policy*" 16.7.2008 COM (2008) 397 final; Communication from the Commission to the Council and the European Parliament *Integrated policy of products Develop the concept of "environmental life cycle*" of 18.6.2003 COM (2003) 302 final; C*onsumer policies e sustainable production and for the promotion of a sustainable industrial policy* COM (2009) 400 final of 24.7.2009

the transition towards the circular economy put in place by the EU is the EU eco-label[138].

The Ecolabel is a voluntary tool.

Its adoption is not imposed on companies by the law for the environmental certification of their products.

The EU eco-label is part of the soft law instruments that are adopted by producers for the positive effects they generate on production and pedagogical effects on the consumer.

This eco-label is part of ISO 14024 Type I, which means it is multi-criteria, based on scientific evidence and life cycle approach, certified by third parties and reviewed regularly to introduce any improvements due to technological evolution.

Therefore, the information on ecological products that is provided to the consumer is scientific and reliable and educates him to recognize and purchase the goods with the lowest environmental impact.

Consequently, companies are pushed to acquire Ecolabel certification to meet consumer demands.

The criteria on which the Ecolabel is based to recognize products with low environmental impact are common to the circular economy.

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[138] See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *The missing link - European Union action plan for the circular economy* COM / 2015/0614 final; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A new action plan for the circular economy For a cleaner and more competitive Europe COM / 2020/98 final

In fact, the integration of social and environmental criteria is a prelude to sustainability which leads to a more efficient management of resources and with minimal impact on the environment.

Durability favors the purchase of a product that lasts over time and can also be reused by disassembling its parts.

Recycling improves the value of the product as its components are considered useful during use and the end-of-life phase (as its parts are recycled to create new materials).

Thus, the EU Ecolabel offers a reference point of environmental excellence at European level, in a wide range of product groups, in relation to the selective and circular criteria through which products with little impact on the environment are identified.

The choice of criteria, therefore, is the link that makes it possible to make a product capable of favoring the circular economy.

It is recalled that the criteria are defined[139] on the basis of the analysis of the life cycle of the product, "*from cradle to grave*", which makes it possible to detect

[139] The criteria are defined at European level on the basis of technical reports prepared by technical-scientific bodies (currently the JRC of Seville) and of the discussions within the European Union Committee for the Ecological Quality Label (CUEME), composed of the Competent Bodies national associations of the Member States and by environmental organizations, associations of consumers, producers and traders and trade unions. Decisions on the EU Ecolabel criteria for individual product groups are adopted by qualified majority by the Member States and the European Commission and are valid for between two and six years. At the end of this period, the criteria are reviewed and possibly modified to take into account regulatory and market developments and scientific and technological advances, in order to ensure that EU Ecolabel products continue to have the highest environmental performance. I'm currently in the criteria for 31 product groups are in force (29 refer to goods and 2 to services).

significant environmental aspects and any impacts on the environment in each phase of this cycle : from the extraction of raw materials, to manufacturing processes, to distribution (including packaging) and use, up to disposal.

The environmental aspects of the life cycle of a product include: emissions into the atmosphere, discharges into water, the use of toxic chemicals, the production of waste, consumption and sources of energy, water consumption, environmental safety, noise pollution and the protection of biodiversity.

In addition to the criteria relating to environmental aspects and impacts, other criteria relating to product performance and, where relevant, to social and ethical aspects are added.

As an example, to understand how much the criteria help the circular economy it is useful to read the content of the Commission Decision (EU) 2020/1803 of 27 November 2020[140] which establishes the criteria for the award of the ecological quality label of European Union (EU Ecolabel) to products in the categories printed paper, paper for stationery and paper bags.

For this category of products, the criteria for the award of the EU Ecolabel also include recyclability according to the following measurable and verifiable aspects:

[140] Commission Decision (EU) 2020/1803 of 27 November 2020 establishing the criteria for the award of the European Union Ecolabel to products of the categories printed paper, paper for stationery and paper bags [notified under number C (2020) 8155] https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX:32020D1803

removability non-paper parts; pulpability; removability of adhesives; deinkability.

Then they include the waste also declined in the waste management system; paper for recycling from printing plants; paper for recycling from sites for the production of paper for stationery and paper bags and energy consumption.

If the product subjected to certification, in addition to others, complies with the above-mentioned criteria, it will be awarded the Ecolabel and given the criteria (recyclability, reuse of waste and energy consumption with a view to saving) it will favor the spread of this product and transition to a circular economy.

In support of the relationship between the EU Ecolabel and the circular economy there is an interesting evaluation study document[141] of the application of the EU Ecolabel Regulation 66/2010 alongside the fitness check required by the European Commission.

The results of this study have shown that the EU Ecolabel, albeit a relevant instrument aligned with the EU policies of Circular Economy, fundamental in guiding the consumer towards products and services with reduced environmental impact, through useful and reliable information, still presents some important gaps.

[141] Report from the Commission to the European Parliament and the Council concerning the review of the implementation of Regulation (EC) n. 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation of organizations in a Community eco-management and audit scheme (EMAS) and of Regulation (EC) n. 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel - Brussels, 30.6.2017 COM (2017) 355 final

These are mainly attributable to its voluntary nature, to the scarce diffusion, to the scarce knowledge on the part of the market and to the limited number of products and services to which the certification is applicable.

The Commission therefore envisaged and proposed a strategy to improve this scheme, based on the following points: better choice of product groups and elimination of unsuccessful ones; greater monitoring and setting of specific operational objectives; increase in the role of the EU Ecolabel in GPP and as a reference tool to highlight environmental excellence; synergies and joint preparatory studies between Ecolabel, GPP, Ecodesign[142],

Energy labeling[143], improvement of integration and coherence between Ecolabel and regional / National labels [144]; improvement of the communication strategy (to consumers and

[142] Eco-design is a type of design which is based on a process and a philosophy of environmental, ethical and social responsibility. Therefore, eco-design means conceiving and producing design objects thinking about the well-being of the environment and society. Hence, eco-design is applicable to all design disciplines that want to study and design solutions to reduce their environmental impact. The principles of eco-design apply to all phases of the product life cycle, with the aim of reducing its overall environmental impact: from the procurement and use of raw materials, which must be reusable, biodegradable, recyclable and non-toxic, and preferably locally sourced; their processing in the production process and distribution. These steps must comply with the EU eco-design directive (Directive 2009/125 / EC), in terms of energy efficiency (reduced energy consumption in the production phase) and reduced environmental impact. Furthermore, the consumption of the product and the possibility of reuse also contribute to defining it as eco-friendly and sustainable: the life cycle of this in fact must be extended to the maximum, through potentially infinite recycling and reuse. Alternatively, the product must be 100% biodegradable, in order to completely re-enter the natural cycle.

[143] Energy labeling that is energy label. The EU Directive 92/75 / EC established an consumptionlabeling energy system,so most of the appliances, packages of light bulbs and cars must have EU Energy Label clearly displayed when offered for sale or rent. The energy efficiency of the appliance is rated in terms of a series of energy efficiency classes from A to G on the label, A being the most energy efficient, G the least efficient. The labels also give other useful information to the customer who chooses between various models. The information should also be provided in catalogs and included by Internet retailers on their websites.

[144] To find Ecolabel certified products see: http://ec.europa.eu/ecat/

producers); assessment of the reduction of administrative and verification costs.

Finally, it is worth noting that in some cases the decision to discontinue groups of products with little success for the EU Ecolabel could turn out not to be positive if these groups are not properly reintegrated with as many potentially successful groups.

An example is Italy.

The Italian legislation, having made the GPP mandatory, with the CAM[145] for construction made reference to Ecolabel criteria that have now been abandoned.

The mandatory compliance with these criteria had created a virtuous circle, arousing the interest on the part of Italian manufacturing companies to obtain Ecolabel certification for these groups of products (taps, sanitary ware) which in the meantime have been discontinued.

This situation demonstrates that sometimes the voluntary nature of the system is not sufficient to make the brand attractive if it is not supported and encouraged by legislative initiatives at central level.

Therefore, it is necessary that the interested parties (governmental and non-governmental bodies) in establishing

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[145] In Italy, CAMs cover 17 product categories. CAMs can be inserted in the different phases of the public call. An interesting study produced by CESME - Circular Economy for SMEs which is part of the Action Plan that ERVET developed as part of the Interreg Europe project https://www.interregeurope.eu/cesme/, compares 9 Italian CAMs with regard to the aspects of circularity included in it by identifying, as prevalent, the aspect of the use of recycled or regenerated materials with a slight deviation in the building sector which also includes the criterion of disassembly.

which criteria and product groups can be included in the Ecolabel certification, carefully reflect whether in some cases it is no longer profitable to act with initiatives that make product groups more attractive the Ecolabel certification was not successful

CHAPTER IV

FINANCIAL ECOLABEL

INTRODUCTION

The European Union is committed to sustainable development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

In this regard, the Commission aims, in its actions that make the economy sustainable, also to achieve the objectives of the 2030 Agenda as well as the goal of eliminating greenhouse gas emissions by 2050.

The achievement of the sustainability objectives of the 'EU requires major investments.

It is estimated that an additional annual investment of EUR 180 billion will be required to achieve the climate and energy targets alone by 2030.

A substantial part of these financial flows will have to come from the private sector.

Closing this investment gap means redirecting private capital flows towards more sustainable investments and requires a complete rethinking of the European financial framework.

Therefore, at the heart of the financial system, the EU wants to place environmental, social and governance (ESG) considerations to help transform the European economy into a greener, more resilient and circular system.

ESG factors should be considered when making investment decisions in order to make investments more sustainable.

Therefore, the European Union is committed to outlining a financial legal framework that favors the transition to a sustainable and circular economy that includes ESG through financial tools and products aimed at this situation.

In this context, the Commission set up a high-level expert group in December 2016 to develop a strategy on sustainable finance.

The group's report, published on 31 January 2018, provided a global vision on sustainable finance for Europe and identified two imperatives for the European financial system. The first is to improve the contribution of finance to sustainable and inclusive growth.

The second is to strengthen financial stability by incorporating environmental, social and governance factors into the investment decision-making process.

On 7 March 2018, the Commission published an action plan for financing sustainable growth.

1. FINANCING MODALITIES OF THE CIRCULAR ECONOMY

In 2015, important international agreements were concluded.

The United Nations Agenda 2030[146] and the related Sustainable Development Goals and the Paris Agreement on

[146] The 2030 Agenda for Sustainable Development is an action program for people, the planet and prosperity signed in September 2015 by the governments of the 193 UN member countries. It incorporates 17 Sustainable Development Goals SDGs S - into a large action program for a total of 169 'targets' or milestones. The official launch of the Sustainable Development

climate[147] have been adopted. With the 2030 Climate and Energy Framework[148], the Energy Union[149] and theAction PlanCircular Economy[150], the EU has set itself ambitious climate targets , environment and sustainability.

Goals coincided with the beginning of 2016, leading the world on the way to go over the next 15 years: the countries, in fact, have committed themselves to reaching them by 2030. https://unric.org/it/agenda-2030/

[147] The Paris Agreement is the first universal and legally binding agreement on climate change, adopted at the Paris climate conference (COP21) in December 2015. It establishes a global framework for avoiding dangerous climate change by limiting global warming to well below 2ºC and continuing with efforts to limit it to 1.5ºC. It also aims to strengthen countries' capacity to address the impacts of climate change and to support them in their efforts. https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement

[148] As part of the European Green Deal, the Commission proposed to raise the target of reducing greenhouse gas emissions for 2030 to at least 55% compared to 1990 levels. It has considered all necessary actions in all sectors , including an increase in energy efficiency and energy from renewable sources, and will start the process of formulating detailed legislative proposals in June 2021. This will enable the EU to move towards a climate-neutral economy and deliver on its commitments under the framework of the Paris Agreement. The 2030 climate and energy framework includes strategic targets and objectives at EU level for the period 2021 to 2030 such as: a reduction of at least 40% of greenhouse gas emissions (compared to 1990 levels); a share of at least 32% of renewable energy; an improvement of at least 32.5% in energy efficiency. The 40% greenhouse gas reduction target will be implemented through the EU Emissions Trading System, the Effort Sharing Regulation with Member States' Emission Reduction Targets, and the Regulation on the use of soil, land use change and forestry. In this way, all sectors will contribute to achieving the 40% target by reducing emissions and increasing removals. All three pieces of climate-related legislation will now be updated in order to implement the proposal to bring the net greenhouse gas emission reduction target to at least 55%. The Commission will present the proposals in June 2021. https://ec.europa.eu/clima/policies/strategies/2030_it

[149] The Energy Union Strategy (COM / 2015/080), published on 25 February 2015, as a key priority of the Juncker Commission (2014-2019), aims to build an energy union that offers EU consumers - households and businesses - security and sustainability, competitive and affordable energy.https: //ec.europa.eu/energy/topics/energy-strategy/energy-union_en? redir = 1

[150] In 2015, the European Commission adopted the first action plan to help accelerate Europe's transition to a circular economy, boost global competitiveness, promote sustainable economic growth and create new jobs. The action plan defines 54 measures to “close the loop” of the product life cycle: from production and consumption to waste management and the secondary raw materials market. In addition, it identifies five priority sectors to accelerate the transition along their value chain (plastics, food waste, essential raw materials, construction and demolition, biomass and biological materials). The plan places a strong emphasis on creating a solid foundation on which investment and innovation can thrive. https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A52015DC0614

To achieve these objectives, in particular the 40% reduction of greenhouse gas emissions, as well as the new economic paradigm that envisages the circular economy as a model of economy for sustainable development there is a need for a greater quantity of investments[151] so that also a financial structure that is able to stimulate new investments towards sustainable development: sustainable finance

1.1 SUSTAINABLE FINANCE AND ESG

Moving towards a sustainable economy and setting ambitious environmental objectives such as those of the EU (for example environmental sustainability and climate neutrality) presupposes the use of sustainable finance[152].

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[151] In the Communication about the European Green Deal you can read: "*The Commission has estimated that achieving the current 2030 climate and energy targets will require € 260 billion of additional annual investment, about 1.5% of 2018 GDP28. This flow of investment will need to be sustained over time. The magnitude of the investment challenge requires mobilizing both the public and private sector."*

[152] For the definition of sustainable finance, see the Intermediaries Regulation, Implementing provisions of article 117-ter of the TUF introduced by law no. 262/2005 on ethical finance, Consob consultation document of 7 February 2007 (National Commission for the Company and the Stock Exchange), A further definition of sustainable finance can be borrowed from the Global Sutainable Investment Alliance (GSIA) also shared by Eurosif and the Italian Forum for Sustainable Finance "*Sustainablefinance is that set of investment strategies that consider environmental, social and governance (ESG) factors in portfolio composition and management.. GSIA uses an inclusive definition of sustainable finance, without making any separation between it and associated terms or phrases, such as responsible finance or socially responsible finance. All these approaches are collectively referred to as SRI finance*" from Global Sustainable Investiment Review, 2018, http://www.gsi-alliance.org/wp-content/uploads/2019/03/GSIR_Review2018.3.28.pdf.
For further information on sustainable finance: F. Bicciato, , *La finanza sostenibile e la sfida climatica* in Ecoscienza, n. 3, maggio 2017: https://bit.ly/2Oryp92; A. del Giudice, *La finanza sostenibile. Strategie,mercato e investitori istituzionali*, G,Giappicchelli, Firenze, 2019; R. Adamo, *La finanza etica. Principi, strumenti e finalità*, Edizioni Scientifiche Italiane, Napoli, 2009; D. Dal Maso, D. Fiorentini, *Creare valore a lungo termine. Conoscere, promuovere e gestire l' investimento sostenibile e responsabile*, Egea, Milano, 2013; D. Dal Maso, M.Bartolomeo, *Finanza e sviluppo sostenibile*, IlSole24 ore, Milano, 2001; A. Tami, *Oltre la banca. Verso una finanza sostenibile: dall'analisi economico finanziaria*

The latter assumes the application of the concept of sustainable development to financial activity with the aim of creating value in the long term.

Therefore, it provides for a type of finance that does not have the maximization of returns as its sole purpose but also the safeguarding of values universal such as social equity, environmental protection and of health, the conduct of economic activities in compliance with the interests of all stakeholders and in particular citizens.

Sustainable finance, declined in terms of "SRI" (from the English Sustainable and Responsible Investment[153]) includes investments that, in a long-term perspective,

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all'analisi ESG, Franco Angeli, 2017; D.Schoenmaker, W. Schramade, *Principles of Sustainable Finance* , Oxford University, 2019

[153] The origins of SRI are of religious origin. The first investments based on non-strictly financial criteria, in fact, can be traced back to the 17th century Quaker movement, which forbade financing the slave trade.However, we must wait until the twentieth century for the launch, in 1928, of the first sustainable investment fund (the Pioneer Fund), based on the strategy of exclusions (the selection of securities was inspired by ethical-moral principles, avoiding the alcohol and tobacco sectors). In the 1960s, the civil rights movement in the US, the war in Vietnam, apartheid in South Africa and other events contributed to raising global social and political awareness, bringing the practice of sustainable investment to the attention of many investors. both religious and secular. In the 1980s and 1990s, in the face of increasing attention to environmental issues, sustainability took on ever greater importance in society and in investment choices.The 2000s saw the transition from an approach characterized mainly by ethical-religious exclusions to the integration of ESG aspects not only in the definition of the investable universe, but also in the selection of securities and in the dialogue with companies. More generally, the motivations that drive investors to move towards SRI are diversified: sustainable investments, in fact, also attract investors interested in more effective risk management. In recent years, and in particular following the 2015 Paris Agreement, the SRI has extended to institutions that regulate financial markets and public entities. On the one hand, awareness of the importance of ESG factors for global economic and financial stability has grown; on the other hand, the advantages of SRI attract more and more public actors, as shown by the issuance of green bonds at state, regional and municipal level in Forum per la finanza sostenibile, ABI, Assogestioni, *L'Unione Europea e la finanza sostenibile Impatti e prospettive per il mercato italiano*, Forum per la finanza sostenibile, 2019; si veda anche A. del Giudice, *La finanza sostenibile. Strategie,mercato e investitori istituzionali*, G,Giappicchelli, Firenze, 2019

integrate[154] environmental, social and governance (or ESG, from English Environmental, Social and Governance) in research, analysis and stock selection[155].

This is an approach that intervenes upstream of the investment choices, enriching the traditional economic-financial analysis of issuers with considerations regarding sustainability aspects.

In essence, institutional investors collect the financial resources of savers and invest in the activities of companies oriented towards socially responsible behavior - CSR and respectful of ESG ethical evaluation parameters.

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[154] For the sake of completeness, the approach that is known as "ESG integration" in the classifications of Eurosif, GSIA and PRI is also mentioned. According to the official definition developed by the Forum for Sustainable Finance in 2014 (http://bit.ly/2M7Rc7q), "integration" means the approach that provides for the explicit inclusion of environmental, social and governance factors in the traditional financial analysis. The integration process is focused on the potential impact (negative or positive) of ESG issues on the company's economic and financial results - and therefore on the risk-return effects of the investment. According to SBB, integration represents an evolved form of strategies that involve positive and negative selection (exclusions, international conventions, best-in-class selection and thematic investments), i.e. it does not in itself represent an investment strategy in Forum per la finanza sostenibile, CONAI, *Finanza sostenibile ed economia circolare Linee guida per investitori e imprese, 2018* https://finanzasostenibile.it/wp-content/uploads/2018/11/manuale-CONAI-per-WEB.pdf

[155] Text prepared in 2013 by the Forum for Sustainable Finance Working Group on the Definition of Sustainable and Responsible Investment "*Sustainable and Responsible Investment aims to create value for the investor and for society as a whole through an investment strategy medium-long term which, in the evaluation of companies and institutions, integrates the financial analysis with the environmental, social and good governance analysis*" https://finanzasostenibile.it/attivita/definizione-di-inidente-sostenibile/ According to this definition, sustainable and responsible investment is based on three key elements: the objective of generating returns for the investor; medium-long term orientation; integration of ESG criteria in stock selection. The "E" stands for environmental and concerns the environmental commitment (renewable energy, energy efficiency, recycling and the fight against waste, above all). The "S" stands for social: how companies treat their internal and external stakeholders (from employees to suppliers, from investors to customers). The "G" stands for governance: important, because only good corporate governance guarantees the minimization of management and reputational risks and the maximization of return in the medium and long term, In L. La Posta *«Esg», la formula vincente sui mercati,* Il Sole24ore, 2017 https://www.ilsole24ore.com/art/esg-formula-vincente-mercati-AEZUaWW

Again in this perspective, the definition of "*sustainable investment*" contained in the Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 relating to *disclosure on sustainability in the financial services sector* states that "*investment in an economic activity contributing to an environmental objective, measured, for example, by key resource efficiency indicators on energy use, renewable energy use, raw material and water use and land use, waste production, gas emissions greenhouse as well as the impact on biodiversity and the circular economy or an investment in an economic activity that contributes to a social objective, in particular an investment that contributes to the fight against inequality, or that promotes social cohesion, social integration and industrial relations, or an investment in human capital or in economically or socially disadvantaged communities provided that such investments do not cause significant damage a none of these objectives and that the companies benefiting from these investments comply with good governance practices, in particular with regard to sound management structures, relations with personnel, remuneration of personnel and compliance with tax obligations; "*and that through the description of the investment activities that contribute to environmental, social and good governance objectives, it confirms the philosophy of SRI investments. Furthermore, the philosophy that permeates the SRI was formalized by the United Nations with the Unites nations Environemt program within which the document entitledwas drafted *Principle of*

responsible Investment[156] containing the guidelines for institutional investors who want to target this sector.

The guidelines have been developed by an international group of institutional investors reflecting the growing relevance of environmental, social and governance issues to investment practices.

Their application is voluntary but in any case they are an important guide since each principle is expressed in a series of actions that are then reflected in the policies of financial sustainability. Among the principles, some principles deserve to be highlighted.

Principle 1 "We will *incorporate ESG issues into investment analysis and decision-making processes*" and possible actions "*Address ESG issues in investment policy statements; Support the development of ESG-related tools, metrics and analytics; Assess the capabilities of internal investment managers to incorporate ESG issues; Assess the ability of external investment managers to incorporate ESG issues; Ask investment service providers (such as financial*

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156 Signatories' commitment to applying the Principles Responsible Investments continues as follows: "*We also recognize that applying these Principles can better align investors with the broader objectives of the company. Therefore, where consistent with our fiduciary responsibilities, we are committed to the following*:

Principle 1: *We will incorporate ESG issues into investment analysis and decision making*.

Principle 2: We will be active owners and incorporate ESG issues into our ownership policies and practices.

Principle 3: *We will seek adequate disclosure of ESG matters from the entities in which we invest*.

Principle 4: We will promote acceptance and implementation of the Principles in the investment sector.

Principle 5: *We will work together to improve our effectiveness in implementing the Principles*.

Principle 6: *Each of us will report on their activities and progress made in implementing the Principles*".

https://www.unpri.org/pri/what-are-the-principles-for-responsible-investment

analysts, consultants, brokers, research firms or rating firms) to integrate ESG factors into evolving research and analysis; Encourages academic and other research on this issue; Promote ESG training for investment professionals. " it only confirms the integration of ESG factors in investment policies but also through practical attitudes that also guide government legislators in the definitions and legal developments of the sector.

Principle 3 "We *will seek adequate disclosure of ESG issues by the entities we invest in"* along with possible actions "*Require standardized reporting on ESG issues (using tools such as Global Reporting Initiative), Request that ESG issues be integrated into reports annual financial statements; Ask companies for information about the adoption / adherence to relevant international norms, standards, codes of conduct or initiatives (such as UN Global Compact); Supporting the initiatives and resolutions of shareholders that promote ESG disclosure*" anticipates the cornerstone of disclosure, which becomes a strong point for savers in the choice of sustainable investments as well as in the dissemination of the same.

In this regard, the actors of the sustainable finance system, which are mainly institutional investors and savers, deserve some attention.

1.2 INSTITUTIONAL INVESTORS

The definition of institutional investors can be derived from the provisions of the MIFID.

MiFID[157] (acronym for Markets in Financial Instruments Directive) is a European directive for the protection of investors, which requires intermediaries (in particular banks and investment firms) and financial advisors to provide a series of information to their clients before to carry out investment transactions, in order to make them aware of the conditions and methods of carrying out their relationship with the intermediary.

According to the MIFID, investors are not all the same and their division into classes determines different levels of protection and rules of conduct to which they must comply. This identification into classes is not immutable and rigid, but it can be, at the request of the investor and respecting precise rules, subject to change.

In Annex II, the Directive defines professional clients as those who are deemed to possess the experience, knowledge and skills necessary to independently and consciously make investment decisions after a careful risk assessment.

Professional clients in turn are divided into professional clients by law and professional clients upon request. The Consob regulation[158] which refers to the MIFID

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[157] Directive 2014/65 / EU of the European Parliament and of the Council of 15 May 2014 relating to markets in financial instruments and amending Directive/ EC and Directive/ EU 2002/922011/61https: //eur-lex.europa. eu / legal-content / IT / TXT /? uri = celex: 32014L0065

[158] For professional investors such as professional clients, see Annex no. 3 of Consob Regulation no. 16190/2007 - Intermediaries Regulation - Updated with the amendments made by resolution no. 19548 of March 17, 2016. Professional clients are defined as those who possess the experience, knowledge and competence necessary to make consciously their own investment decisions and to correctly assess the risks they assume. http://www.consob.it/documents/46180/46181/reg_consob_2007_16190.pdf/bad2861 5-4a2c-40d0-b130-551000f26cdc . According to the TUF pursuant to article 6, paragraphs 2-quinquies and 2-sexies of the TUF, professional investors are

includes institutional investors among the professional investors by right "...*institutional investors whose main activity is investing in financial instruments*..."

The Italian Stock Exchange defines institutional investors as intermediaries whose characteristic activity is to invest assets on behalf of a person who is in financial surplus. Then it includes in the category of institutional investors: collective investment undertakings (OICR)[159], mutual funds, real estate, speculative funds and SICAV[160]; pension funds; insurance companies.

Also the Bank of Italy[161] in its glossary of definitions states that institutional investors include: insurance companies, pension funds, OICVM[162] and asset management companies.

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private professional clients, public professional clients, as well as those who can be treated as professional clients upon request.

[159] See TUF art.1 letter K) Refer by definition "*Collective investment organization of savings" (OICR): the body established for the provision of the collective asset management service, whose assets are collected from a plurality of investors through the issue and offer of units or shares, managed upstream in the interest of the investors and independently by them as well as invested in financial instruments, loans, including those disbursed, in favor of subjects other than consumers, out of the assets OICR, equity investments or other movable or immovable property, based on a predetermined investment policy*"https://www.altalex.com/documents/codici-altalex/2018/04/30/testo-unico-della-finanza -tuf

[160] See TUF, art.1 letter i) *'investment company with variable capital' (Sicav): open-ended OICR established in the form of a joint-stock company with variable capital with registered office and general management in Italy with for exclusive object the collective investment of the assets raised through the offer of own shares*; https://www.altalex.com/documents/codici-altalex/2018/04/30/testo-unico-della-finanza-tuf

[161] For the glossary of the Bank of Italy see https: // www. bancaditalia.it/footer/glossario/index.html?letter=i

[162] See TUF art.1 letters m) and mbis) "m) *'Undertakings for collective investment in Italian securities' (Italian OICVM): the fund mutual investment company and the SICAV falling within the scope of Directive 2009/65 / EC; m-bis) 'Undertakings for collective investment in EU transferable securities' (EU OICVM): OICR falling within the scope of application of Directive 2009/65 / EC, set up in an EU state other than Italy*;" Https://www.altalex.com/documents/codici-altalex/2018/04/30/testo-unico-della-finanza-tuf

Therefore, institutional investors prefer funds and indeed funds are the instruments that best allow the combination of return objectives with solidarity purposes that characterize the SRI attitude.

In fact, considering the aforementioned funds, while operating on the basis of very different objective assumptions and rules, they are characterized by common traits in the investment activity.

First, they employ scientific methods in selecting investments, employing a wide range of analysis and forecasting tools that could include ESG considerations.

Then the time horizon on which they insist is long-term and this characteristic is perfectly suited to an SRI investment since in the funds the financial liquidities can remain invested for long periods without being claimed and create value in the long term as required by the green assets they manifest. their added value over time.

1.3 RETAIL INVESTOR

The Investor as well as the retail investor defined in art. 4 of the MIFID Directive II as a "*client who is not a professional client*" represents a great potential in the field of sustainable finance.

In the research conducted by the European SRI Study 2018[163] it should be noted that the growth of investments that

[163] Forum of Sustainable Finance, Doxa "*Il risparmiatore responsabile – seconda versione*", Forum of Sustainable Finance - 2017

integrate environmental, social and governance aspects, with regard to retail investors, went from 3.4% in 2013 to 30.8% in 2017.

Furthermore, the same research shows that the savings of European households account for over 40% of total financial assets, a potential to be capitalized for the sustainable economy. However, very few retail investors currently have the opportunity to invest according to sustainability preferences as they are unable to understand the real impact of the financial products offered to them from the information they receive.

Yet another survey conducted by DOXA[164] entitled "*The responsible saver*" represents the update of a research carried out in 2013 and aims to analyze how the attitudes of Italian savers and retail investors have changed, their propensity to invest in SRI products and the importance they attach to social, environmental and governance.

The study also aims to investigate the expectations and the degree of awareness of savers with respect to these issues, as well as the preferential communication and information channels for financial products.

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[164] Doxa has been synonymous with market research in Italy for 70 years. First market research company in Italy, founded in 1946, it has always positioned itself among the first companies in the sector both in terms of size, quality and reliability.Doxa is the first wholly Italian-owned and independent company with a consolidated network in international level. After 70 years it continues to be chosen to guide and support the strategic decisions of companies and institutions. The drive towards product innovation to adapt Doxa's solutions to a constantly changing market, together with scientific rigor, has always been the basis of Doxa's work. https://www.bva-doxa.com/

Finally, the survey seeks to analyze how the criteria adopted in investment decisions have evolved and the propensity to take ESG (Environmental, Social and Governance) aspects into consideration in the choice of financial products.

Savers who recognize the importance of environmental, social and governance issues increase by 17 points.

There is an increase in savers who declare themselves attentive to environmental, social and governance aspects. The share of those who consider them relevant increases (by about 10%), across the board for all issues relating to these areas.

The concepts that savers associate with sustainable and responsible investments are simple and poorly articulated, mostly related to environmental protection (40%), respect for human and social rights (18%) and security of returns (13%)).

In this context, even if the attention to sustainability increases in the declarations,in facts and behavior the propensity to invest in SRI products remains limited. Sustainable investments mainly attract savers with very diversified portfolios, who however represent a minority: less than 15% of the interviewees.

In any case, 45% of savers would be inclined to invest in SRI products. For those who have subscribed to SRI products, the choice fell on: Green Economy instruments (17%), shares (13%), mutual funds (6%) and, in most cases, investments linked to cooperatives or to specific local production activities (34%).

The research then asks why only a minority share of savers show a preference for SRI products. The answer comes from the fact that the financial intermediaries they rely on have not focused their commercial proposals on sustainable investments and the information available is not sufficiently comprehensive and detailed, which generates skepticism and mistrust.

In fact, again from the survey, it appears that financial and insurance institutions have proposed sustainable and responsible investment products to only 7% of savers who do not yet own them.

Finally, a minority (16%) of savers consider their knowledge of SRI to be in-depth, while 70% believe that, in Italy, communication on sustainable finance should be improved.

Therefore, retail clients represent the basis of the classification of investors and must be the most protected class as they do not have the experience, knowledge and skills of professional clients.

The protection models for retail clients are central to the obligation on the part of intermediaries to provide clients with useful information, also in a standardized format, so that the investors themselves can understand the nature of the investment services and the specific type of financial instruments and the risks associated with them, with the ultimate aim of making informed choices.

Therefore, the more information the retail customer receives, especially on ESG integrations, the greater his propensity to invest for sustainable finance.

1.4 INFORMATION

In both surveys, retail investors need useful information on environmental investments to make informed investment choices. Therefore, information appears to be a determining element for consumer awareness of sustainable investments.

The MIFID Directive also moves in this perspective. In fact, it protects retail investors and requires intermediaries (in particular banks and investment firms) and financial advisors to provide a series of information to their clients before carrying out investment transactions, in order to make them aware of the conditions and methods of carrying out their relationship with the intermediary.

It requires banks to ask customers a series of questions (the so-called risk profiling), in order to acquire the information necessary to carry out assessments of adequacy and/or appropriateness regarding the investments to be made or recommended.

Therefore, the transparency of information (disclosure) in the context of sustainable finance becomes important to induce the investor to invest in ESG-oriented funds.

The EU has long recognized its importance through the provision of a regulatory framework in this regard. Directive (EU) 2016/2341[165] represents a first step towards a more

[165] Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of occupational pension

concise disclosure framework in the financial services sector in relation to ESG factors.

This Directive (the so-called IORP II Directive) on Pension Funds "*relating to the activities and supervision of company or professional pension institutions*", provides for more controls and more transparency obligations for pension funds, and assigns more information rights to members.

It aims to strengthen the governance and risk management system, remove some barriers that hinder the cross-border activity of pension funds which in the various countries are regulated by differentiated regulations, strengthen transparency and information to members and pensioners.

Directive (EU) 2017/828 (so-called SRD II Directive)[166] on the long-term commitment of shareholders, on the other hand, has increased the transparency obligations for institutional investors and asset managers by requiring them to develop and disseminate the strategy involvement that includes a description of how investee companies monitor non-financial results such as social and environmental impact and corporate governance, and to disclose annually how their engagement policy has been implemented.

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institutions (IORP) (Text with EEA relevance) https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A32016L2341

[166] Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36 / EC as regards the encouragement of long-term commitment by shareholders (Text with EEA relevance) https://eur-lex.europa.eu/legal-content/IT/ALL/?uri=CELEX%3A32017L0828

In particular, to the extent that institutional investors and asset managers invest in listed equities, these investors will be required to develop and communicate to the public the engagement policy[167] and the level of compliance with this policy or explain the reasons why they do not adopt this policy according to the "*comply or explain*" principle[168].

The engagement policy should inform the market on how a fund monitors the issuer's activity, communicates with the same, exercises the rights associated with the participation, collaborates with other shareholders, communicates with the interested parties and manages conflicts of interest relating to the its shareholding.

On the business side, Directive 2014/95/EU Directive 2013/34[169] of the European Parliament and of the Council of 22

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[167] Engagement consists in dialogue with the management of the companies and in the exercise of voting rights associated with participation in the share capital of the companies in which the funds invest. The aim is to stimulate sustainable and responsible behavior in the medium to long term. From the Guidelines on engagement and active shareholding of Etica Sgr, https://www.eticasgr.com/investment-responsabile/engagement-di-etica-sgr / guidelines-engagement-and-active-shareholding-of-etica-sgr

[168] The principle *comply or explain* is envisaged by the European legislation in article 20 of directive 2013/34 / EU. It plays a key role in corporate governance arrangements in Europe. On the basis of this principle, listed companies are also required to attach to their management report a report on corporate governance containing: the corporate governance code to which the company is subject or to which it has decided to voluntarily adhere ("*comply*") and the reasons in case it deviates from the aforementioned code or does not apply some provision, ("*explain*"). This principle is matched by the Loi de Transition Énergétique pour la Croissance Verte (art.173), introduced in France in 2015: the law obliges institutional investors to measure and declare their exposure to risks associated with climate change, according to the approach of the comply or explain. For more information: Ecologique-Solidire. gouv.fr, Loi de transition énergétique pour la croissance verte, 13 December 2016: https://bit.ly/2zHS1PA

[169] Directive 2014/95 / EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34 / EU as regards the disclosure of non-financial information and information on diversity by certain companies and certain large groups Text with EEA relevance https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A32014L0095

October 2014 amending/ EU as regards the disclosure of non-financial information to be part of certain companies and certain large groups.

In its recitals 1 and 3 it cites a communications and some EU resolutions which stress the importance of transparency of social and environmental information.

In the first recital, the Commission with the Communication with «The Act for the single market. Twelve levers to stimulate growth and strengthen confidence. - "*Together for a new growth*", adopted on 13 April 2011 underlined the need to bring the transparency of social and environmental information provided by companies in all sectors to a comparable high level in all Member States.

Then in recital 3 the resolution of 6 February 2013 of the European Parliament on "*Corporate social responsibility: transparent and responsible commercial behavior and sustainable growth*" and on "*Corporate social responsibility: promoting the interests of society and a path towards sustainable and inclusive recognized the importance of communication by companies of information on sustainability*", regarding social and environmental factors, to identify risks to sustainability and increase investor and consumer confidence.

The resolutions believed that disclosure of non-financial information was essential to managing the transition to a sustainable global economy by combining long-term profitability, social justice and environmental protection.

In light of these considerations, the European Parliament invited the Commission to present a legislative proposal on the disclosure of non-financial information by companies.

This Communication, in addition to taking into account corporate social responsibility (CSR) and the diversity of CSR policies applied by companies, had to ensure consumers easy access to information relating to the impact of companies on society. Directive 2014/95/EU realizes these requests.

It amends the previous Directive 2013/34/EU on annual financial statements, consolidated financial statements and related reports in drafting non-financial statements on the development, results, position and impact of the activities of companies, including environmental issues, social and employee.

Therefore, Article 1 of Directive 2014/95 / EU states "*Large-sized companies that are public interest entities and which, at the balance sheet date, have an average number of employees employed during the year equal to 500 include in the report on operations a non-financial statement containing at least environmental, social, personnel information, respect for human rights, the fight against active and passive corruption to an extent necessary for understanding the performance of the company, its results, its situation and the impact of its activity*"

The non-financial declaration therefore represents the tool by which to obtain the information that allows to

understand the socio-environmental impact activities of a company useful for guiding an investment towards it.

Finally, the last paragraph of at.1 says "*For companies that do not apply policies in relation to one or more of the aforementioned aspects, the non-financial statement provides a clear and detailed explanation of the reason for this choice*".

Again the comply or explain principle, whereby companies that do not produce a non-financial statement in accordance with the provisions of the legislation must provide an explanation. However, there is still a lack of transparency on how institutional investors, asset managers and financial advisors view sustainability risks in their investment decision-making or advisory processes.

As a result, their clients do not get all the information they need to inform their investment decisions or recommendations.

The new EU Regulation 2019/2088 relating to disclosure on sustainability in the financial services sector intervenes in this framework.

The regulation entered into force on 29 December 2019 and will be implemented on 10 March 2021[170] aims to standardize information to end investors about sustainability risks and about the promotion of ESG factors in financial

[170] EU Regulation 2019/2088 relating to information on sustainability in the financial services sector https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A32019R2088 In Italy, the implementation of Directive (EU) 2016/2341 relating to the activities and supervision of company pension institutions or professional (EPAP), 13 December 2018 took place with Legislative Decree No. 147/2018, https://bit.ly/2OI1MIU The Implementation of Directive 2017/828 as regards the encouragement of the long-term commitment of shareholders, 10 May 2019 in Italy was achieved with Legislative Decree no. , https://bit.ly/2yIv4wa

investment activities through the obligation of financial market participants and financial advisors to inform final investors on a pre-contractual and ongoing basis.

The regulation, therefore, aims to reduce the asymmetry of information in the relationship between principal and agent. Therefore, according to this regulation, financial market participants and financial advisors are required to publish information on their respective websites on their policies, on the integration of sustainability risks in decision-making processes relating to investments.

In conclusion, the regulation aims to strengthen the protection of final investors also in the case of cross-border purchases, providing them with the tools to make increasingly informed decisions on investment choices.

It achieves this objective by imposing an obligation of disclosure to market participants and financial advisors to customers regarding the impact on the sustainability of their investments in financial products with environmental or social characteristics or in financial products that pursue sustainability objectives.

Finally, again in favor of retail consumers and in the context of transparency and sustainable and responsible investments, it is also necessary to indicate the European Code for transparency[171].

[171] For more information on the transparency code, see the following Link http://www.eurosif.org/wp-content/uploads/2018/04/Transparency-Code-4.0.pdf

It was launched by Eurosif in 2008 and is applied to retail investment funds, covering multiple types, from equities to bonds.

The objective of the Transparency Code is to define a clear, simple and comparable model so as to allow investors to more easily access and better understand the information relating to the SRI approach adopted by the Fund.

The principle behind the Code is that asset managers' signatories should disclose accurate, adequate and timely information to enable stakeholders, particularly retail investors, to understand the policies and practices of a given SRI fund.

The Code focuses on publicly distributed SRI funds in Europe and is designed to cover a broad range of asset classes. It was revised and updated in 2018 to adapt to the most recent and relevant practices in the field of sustainable and responsible investments and sustainable finance.

1.5 THE SRI INVESTMENT STRATEGY AND ESG ANALYSIS

The information to be provided to the retail investor will also regard the investment strategies used by the various SRI funds.

Therefore, SRI funds, based on the investment strategies used, can be traced back to passive funds that try to replicate the composition of an ethical index in the portfolio (eg. Down Jones sustainability) or to active funds

that select investments based on ESG analysis identifying a set of securities that meet environmental, social and governance requirements and that can be the subject of investment by the fund itself.

Eurosif[172] elaborated in 2012 a taxonomy[173], still confirmed, relating to the strategies for selecting and managing SRI investments and classifies sustainable investments in seven categories: Sustainability themed Investment Thematic investments or activities linked to development sustainability focuses on a specific theme or on a plurality of themes falling within the ESG dimensions; Best-in-Class investment, selection Investment through which the best performing companies and leading companies within a sector are selected based on ESG dimensions; Norms-based screening Strategy in which the selection of investments takes place in compliance with international standards or on the set of standards that refer to environmental and social dimensions.

International standards are defined by supranational bodies such as the United Nations; Exclusion of holding from investment universe This approach excludes companies, sectors or countries, in the context of the SRI, if they are involved in some activities contrary to the ethical dimension.

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[172] Eurosif is an organization that in the EU promotes socially responsible investments and coordinates the European sustainable finance forums, the associations that promote SRI in their respective countries. The founding members are the SIFs of France, Germany, Italy, Holland and the United Kingdom. www.eurosif.org

[173] See EUROSIF (2012), European SRI Study 2012, in www.eurosif.org; F.Rossi, L. Turrina, *Gli investimenti sostenibili e responsabili* in Working Paper Series Department of Economics University of Verona, n. 23, 2013

Common exclusion criteria are: guns, pornography, tobacco, gambling and animal testing; Integration of ESG factors in financial analysis This type of strategy takes into consideration ESG factors together with the classic financial indicators of investment analysis.

Through this combination, the companies that best reflect sustainable activity are selected; Engagement and voting on sustainability matters activities of active involvement in annual meetings through the search for dialogue with management with the commitment to make companies aware of sustainability.

This is a long-term strategy, which seeks to influence the behavior of the companies involved; Impact investment.

These are investments made in companies, organizations and funds with the intention of generating a positive social and environmental impact.

Investments are often specific projects, distinct from philanthropy, as the investor retains ownership of the business expecting a positive financial return.

Finally, with regard to the ESG criteria, which are involved in identifying the strategies for the management of the funds, an issuer, company or state, which respects the ESG criteria, is considered sustainable and responsible and therefore worthy of the trust of the SRI fund.

From a methodological point of view, the analysis assigns a score for each relevant area (environment, social, governance) and this score contributes to determining the issuer's overall social responsibility score.

The total score must exceed a certain threshold for the issuer's securities to be invested by the fund[174]. For issuers, the documentary basis of the analysis consists of the documents prepared by them and publicly available.

2. RECOMMENDATIONS AND THE SUSTAINABLE FINANCE PLAN

In the framework of sustainable finance, according to the characteristics outlined in the previous paragraph, the European Commission has tried to seize the great development potential in support of an increasingly green system and an increasingly circular economic model.

In this regard, the Commission in December 2016 set up the High-Level Expert Group on Sustainable Finance with the task of drawing up guidelines for the development of sustainable finance in Europe.

The objective of this group is to orient the European capital market towards projects that favor "*sustainable economic growth*", or that are capable of guaranteeing long-term well-being, social inclusion and reduction in the exploitation of natural resources and the environment.

This group is made up of 20 experts from civil society, the financial sector and universities and observers from European and international institutions.

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[174] With regard to the areas of assessment relevant for ESG purposes, see table 2.1, page 47/48 G. Ferri, M. Intonti, SRI FUNDS, I Fondi eticamente orientati e la finanza sostenibile, Aracne,2017

On 31 January 2018, the expert group published its final report[175]. This report presents an overall vision on how to develop a sustainable financial strategy for the EU. The report shows that sustainable finance "… *consists of two imperatives: 1) to improve the contribution of finance to sustainable and inclusive growth by financing the long-term needs of society; 2) consolidate financial stability by integrating environmental, social and governance (ESG) factors into the investment decision-making process* ".

The report then proposes a number of key recommendations[176], several cross-cutting recommendations and actions targeting specific sectors of the financial system.

The Commission's subsequent action plan builds on the recommendations developed by the group to launch an EU strategy for sustainable finance.

The key recommendations are 8 and range from the need to build a common sustainability taxonomy at EU level through to an update of the disclosure rules to make sustainability risks completely transparent.

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175 *Financing a sustainable european economy*, Final Report 2018 by the High-Level Expert Group on Sustainable Finance Secretariat provided by the European Commission https://ec.europa.eu/info/publications/sustainable-finance-high-level-expert-group_en

176 Other cross-cutting recommendations 1. Short-term, sustainability and 'tragedy of the horizon' 2. Enable citizens to engage and connect with sustainable finance issues 3. Establish an EU observatory on sustainable finance to support policy-based on hard data 4 Benchmarks 5. Accounting 6. Accelerate action to finance investments in energy efficiency 7. Principle "Think sustainability first" 8. Leverage EU action to ensure sustainable finance globally. SI then devotes himself to a series of advice on the following sectors of the financial system: Financial institutions and sectoral recommendations 1. Banking 2. Insurance companies 3. Asset management 4. Pension funds 5. Solvency and sustainability ratings 6. Stock exchanges and centers Financials 7. Investment Advisors 8. Investment Banks

Then they propose to identify key elements of a retail strategy on sustainable finance and investment advice, eco-labeling and SRI minimum standards and to develop and implement official European sustainability standards and labels, starting with green bonds.

It should be added that some of these recommendations have already been partially complied with in the EU legal framework beyond the Sustainable Finance Action Plan.

For example, in relation to the recommendation that includes the ESG criteria in the definition of fiduciary duty of institutional investors and the one that promotes greater awareness of European citizens and savers on sustainable finance by enhancing the offer and transparency of SRI products intended for retail customers[177] a series of regulations have been issued that favor transparent communication in favor of the retail investor and integrated with environmental, social and governance aspects in line with the SRI principles.

As already highlighted in the previous paragraph, the investment capacity of the European saver represents about 40%[178] of the EU financial assets and it would be necessary to mobilize these savings to be invested in sustainable portfolios.

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[177] See paragraph 1.4 in this Chapter and EU Regulation 2019/2088 relating to disclosure on sustainability in the financial services sector https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A32019R2088

[178] A survey conducted by Natixis Investment Managers, "*Global Survey of Individual Investors*" in February-March 2016 of 7,100 investors in 22 countries. found that social and environmental goals are an important factor for around 70% of retail investors. https://www.im.natixis.com/it/resources/un-cambiamento-di-mentalita

SRI funds that include investment activities according to the ESG methodology are mostly self-assessed.

In fact the taxonomies to which they respond are not effectively systematized even if elaborated by recognized bodies and on a consolidated methodological literature[179].

Therefore, the quality of the financial product could be affected by the difficulty of comparability at the level of selection of investment activities to be considered sustainable and consequently their environmental, social and governance impact would be distorted.

Therefore, even the citizen would be misdirected in the information that determines his choice regarding investment in sustainable financial products.

Thus the high-level group in the recommendation recommends the use of organic and ecological labels which, as already widely demonstrated for consumer products, are efficient tools to mobilize citizens, change consumption patterns and increase transparency and consumer protection. In this case they could guide the saver to invest in sustainable products that are certified and therefore transparent and standardized in the quality of their content.

Hence, the High Level Group calls on the Commission to establish a voluntary European green label to stimulate market growth and enable retail investors to identify products that finance the climate and ecological transition.

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[179] Regarding the taxonomies for SRI funds see European SRI Study 2018, page 13, http://www.eurosif.org/sri-study-2018/; G. Ferri, M. Intonti, *SRI FUNDS, I Fondi eticamente orientati e la finanza sostenibile*, Aracne,Roma,2017

The Commission should develop a voluntary EU green label for green themed funds.

These should include specifications based on the use of EU sustainable taxonomy and include a high proportion of green assets in the portfolio of invested companies, exclusion of incompatible assets (such as the fossil fuel sector), ESG risk screening (human rights, governance, etc.), as well as strong and understandable impact indicators on environmental issues.

This label could fall under the current EU eco-label. It could be applied first to funds, but also later to other retail products under the PRIIP regulation[180]. This label should be based on the most advanced European labels such as France's TEEC, LuxFlag Climate Finance, Climetrics, SEImetrics and Germany's FNG.24.

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[180] Regulation (EU) n. 1286/2014 of the European Parliament and of the Council of 26 November 2014 on documents containing key information for packaged retail and insurance investment products (Text with EEA relevance) https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=celex%3A32014R1286 Art. 4 for the definition of PRIP and PRIIP packaged

"For the purposes of this regulation, the following definitions apply:

1) "retail investment product "or" PRIP ": an investment, including instruments issued by special purpose vehicles as defined in Article 13, point 26 of Directive 2009/138 / EC or securitization special purpose vehicle as defined in Article 4 (1) (a) of Directive 2011/61 / EU of the European Parliament and of the Council, in which, regardless of the legal form of the investment itself, the amount owed to the retail investor is subject to fluctuations due to exposure to reference values or the return of one or more assets that are not directly acquired by the retail investor;

2) "insurance-based investment product"means an insurance product which has a maturity or a surrender value and in which such maturity or surrender value is fully or partially exposed, directly or indirectly, to market fluctuations;

3) "packaged retail and insurance investment product" or "PRIIP": any product that falls under one of the definitions in letters a) and b) or both:

a) PRIIP

b) an insurance investment product

Another recommendation states the need to "*Develop and implement official European sustainability standards and labels, starting with green bonds*".

This recommendation also refers to labels referring to the bond instrument of the EU Green Bond[181].

This financial product is, as a listed fixed income instrument, and is already extensively covered in terms of transparency and disclosure requirements and by existing EU legislation.

However, the EU green bond market has not yet reached its full potential.

It currently represents a modest percentage of total bonds outstanding by EU issuers but has attracted considerable public interest and has had a good effect in support of green finance.

The group proposes that the Commission consider an EU Green Bond label to help the market develop fully and maximize its ability to finance green projects and activities and to contribute to broader sustainability goals.

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[181] See in V. D'Angerio, *Green bond, ecco cosa sono e come funzionano, IlSole24ore, 2020* e in Forum per la finanza sostenibile, ABI, Assogestioni, *L'Unione Europea e la finanza sostenibile Impatti e prospettive per il mercato italiano*, Forum per la finanza sostenibile, 2019. The green bond is a bond, a debt bond associated with the financing of projects that have an environmental impact. The world's first green bond, the Climate Awareness Bond, was launched in 2007 by the European Investment Bank. In 2008, the first green bond of the World Bank was issued. In recent years the market has also expanded to securities issued by companies, municipalities, regions, states and state agencies. The main characteristics that differentiate green bonds from traditional bonds are four: 1) selection of the project to be financed or refinanced; 2) the proceeds must be linked to the selected project; the money must be deposited on an escrow account or transferred to a specific portfolio or in any case traced by the issuer; 3) at least (once a year) a report on the use of the proceeds must be made, indicating the projects for which they are used; 4) there must be a second opinion, i.e. an external auditor must certify documents and objectives.

Such a label should include an explicit definition of EU Green Bonds and the existing and widely accepted principles developed by the market for recognition processes[182] of a Green Bond and enter the EU Ecolabel for financial products.

Based on the HLEG recommendations, the Commission issued the Sustainable Finance Action Plan in March 2018.

It outlined a global strategy to further link finance to sustainability by defining sustainable finance, embracing the recommendations of the HLEG and issuing ten actions for the development of a sustainable financial system to support a circular economy.

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[182] See in V. D'Angerio, *Green bond, ecco cosa sono e come funzionano, IlSole24ore*, 2020 e in Forum per la finanza sostenibile, ABI, Assogestioni, *L'Unione Europea e la finanza sostenibile Impatti e prospettive per il mercato italiano*, Forum per la finanza sostenibile, 2019. The indication of the characteristics of green bonds at the international level came from ICMA, the international association of capital markets. The Green Bond Principles (GBP) (https://www.icmagroup.org/assets/documents/Regulatory/Green-Bonds/Green-Bonds-Principles-June-2018-270520.pdf) are precisely the characteristics identified so that a bond can be defined green and concern four areas: Use of revenues; Evaluation and selection of projects; Revenue management; Reporting. It is self-regulation that the markets have given themselves and there are no sanctions. The sanction is given by the market: the issuer of a green bond must comply with the ICMA principles in the years following the issue; otherwise it will have a repercussion in reputational terms which could damage the company. Instead, the EU Green Bond Standard (GBS) is a system of criteria shared at European level for the issuance of green bonds; with the introduction of this standard, it will be possible to attribute the "EU Green Bond" certification to any type of bond that proves to be GBS compliant. The European Commission, with the aim of implementing Action 2 of the Action Plan, has commissioned the TEG to develop recommendations for the development of a Green Bond Standard (EU GBS). On 18 June 2019, TEG published a report (https://ec.europa.eu/info/files/190618-sustainable-finance-teg-report-green-bond-standard_en) containing the fundamental principles and structure of the GBS . This standard is also voluntary and is inspired by criteria and good practices currently widespread on the market, such as the Green Bond Principles and is based on four principles: alignment with the taxonomy on eco-compatible activities; publication of a "Green Bond Framework" (GBF) on the production of a report on the use of proceeds and on the environmental impact generated; on the verification by an external auditor of the compliance of the Green Bond Framework and of the allocation of incentive income to favor the progressive alignment of the European green bond market with the standard; on the inclusion of GBS in the context of eco-labels for financial products

The Plan states that “sustainable finance” means the process according to which environmental and social factors are duly taken into account in the adoption of investment decisions, in order to obtain greater investments in sustainable and longer-term activities. With regard to environmental considerations, they refer to the mitigation of climate change and adaptation to these as well as the associated risks.

With regard to social considerations, reference can be made to issues of inequality, inclusiveness, employment relationships, investments in human capital and communities.

In any case, when comparing with the definitions of sustainable finance, provided in the previous paragraph, the same elements can be found: the procedure understood as the decision-making procedure of the financial market participants; the inclusion of social and environmental factors in investment decisions; the long term in relation to the time in which the results develop and the additional value of investments linked to sustainable activities.

The Plan accepts the recommendations of the HLEG and breaks them down into ten actions. The actions proposed by the Commission aim at: orienting capital flows towards sustainable investments; more effectively manage financial risks deriving from climate change, resource consumption, environmental degradation and social inequalities; improve transparency and encourage a long-term approach to economic and financial activities.

These include Action 1: Establish a unified EU-wide classification system for sustainable assets and Action 2:

Create standards and labels for sustainable financial products[183].

As part of the sustainable finance system, these actions concern financial products aimed at retail savers which, if well managed, can direct a large amount of investments towards the realization of green activities as well as the circular economy.

In particular, through the first action, the Commission aims to establish a unified system, or taxonomy, at EU level capable of providing clarity on which activities can be considered "sustainable" in relation to mitigating and adapting to changes climate as well as environmental and social objectives.

Such a taxonomic system will make it possible to offer investors detailed information on relevant sectors and activities, based on selection criteria, thresholds and metrics.

This is an essential element in supporting the flow of capital in sustainable sectors that need funding. Developing a taxonomy takes time so the Commission proposes to proceed according to a step by step approach starting with a taxonomy

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[183] Below the action and the action plan from 3 to 10: Action 3: Promoting investment in sustainable projects; Action 4: integrate sustainability into financial advice; Action 5: develop benchmarks on sustainability; Action 6: Better integrate sustainability into ratings and market research; Action 7: clarify the obligations of institutional investors and asset managers; Action 8: integrate sustainability into prudential requirements; Action 9: strengthen communication on sustainability and accounting regulation; Action 10: Promote sustainable corporate governance and mitigate the short-term view in capital markets. https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A52018DC0097

of activities related to climate mitigation and adaptation and some environmental activities.

In a second phase, the remaining environmental and social activities, recognizing that one aspect of sustainability must not have negative effects on other related risks or objectives.

Furthermore, at EU level, the aim is to incorporate the future taxonomy into EU law and lay the foundations for its use in different areas, such as standardization, brands, the ecological supporting factor for prudential requirements, the reference indices on sustainability.

The second action is closely related to the first. In fact, the Plan states that on the basis of the future taxonomy, EU standards and trademarks for sustainable financial products would convince integrity and trust in a sustainable financial market and would allow easier access to investors seeking such products.

In fact, brand assignment schemes can facilitate the choice of retail investors towards sustainable financial products as they become reliable and comparable based on regulated standards. Thus, brands and labels can move huge amounts of investment necessary for sustainable economic development.

The Commission notes the potential merit of using the EU Ecolabel Regulation to create a labeling scheme. Therefore, "*Once the sustainability taxonomy has been adopted, the Commission will evaluate the use of the EU Ecolabel reference framework for certain financial products*" then the Commission's technical expert group on sustainable

finance will be in charge of drafting a report on a standard of 'EU for green bonds, aimed at proposing a green label also for green bonds.

At the conclusion and confirmation of how important these actions are recognized by the EU in the Green Deal, following the action plan for sustainable growth, published in 2019, the Commission renews the sustainable finance strategy and resumes the actions already proposed by the Plan.

Therefore, it reiterates the need for a taxonomy for the classification of eco-sustainable activities; clear labeling of retail investment products to offer greater opportunities to investors and businesses by facilitating the identification of sustainable investments and ensuring their credibility; the definition of an EU standard for green bonds that favors sustainable investments in the most appropriate way.

3. SUSTAINABLE INVESTMENTS AND THE USE OF TAXONOMY

A reflection on the sustainable financial system outlined so far allows us to affirm that through financial products that pursue eco-sustainable objectives, it is possible to effectively channel private investments (retail savers) towards sustainable financial activities.

The requirements for financial products to be declared sustainable are not homogeneous and standardized for all

participants in the financial markets, therefore in various situations it is difficult to market the financial product.

Depending on the criteria it refers to, it can be declared sustainable in some situations and unsustainable in others, giving rise to unfair competition.

Still a financial product could declare itself sustainable without however meeting the basic environmental standards and generating the phenomenon of greenwashing.

Then the classification systems of financial products can change from country to country, making it difficult to implement cross-border marketing of a financial product.

In this way, retail investors are also penalized who do not receive precise information on the products or even in some cases misleading, generating distrust of these products over time.

It therefore appears necessary to provide for a harmonization at EU level of the criteria to establish whether an economic activity can be considered environmentally sustainable and therefore worthy of investment.

In this way, financial products would become comparable and investors would not have to waste time checking whether these products comply with the conditions of financial sustainability.

Again the common criteria would become useful for communicating information from financial participants on financial products since it would be easier for investors to compare investment opportunities knowing to what extent the

financial products made available meet environmentally sustainable criteria.

A legally regulated EU-wide classification of eco-sustainable economic activities would be the remedy for these issues.

In particular, for the creation of brands that formally recognize compliance with these rules across the Union. "*Uniform legal requirements aimed at establishing the degree of eco-sustainability of investments, based on uniform criteria of eco-sustainability of economic activities, are necessary as a reference for future Union law aimed at facilitating the shift of investments towards eco-sustainable economic activities.*"[184]

Furthermore, an improvement in disclosure would in turn lead to an improvement in transparency allowing financial market participants to provide final investors with an objective point of comparison on the share of investments that finance eco-sustainable economic activities.

The Regulation (EU) 2020/852 of the Parliament and of the Council of 18 June 2020 concerning the establishment of a framework that favors sustainable investments and amending Regulation (EU) 2019/2088, the so-called Taxonomy Regulation, favors the regulation of such situations.

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[184] See Recital 16 of Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework that favors sustainable investments and amending Regulation (EU) 2019/2088 https: //eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX:32020R0852

The issue of this standard meets the recommendations issued by the HLEG and action number 1 of the Sustainable Finance Action Plan.

Indeed, the taxonomy[185] set out in the EU Regulation is a tool to help investors, companies, issuers and project promoters navigate the transition to a low-carbon, resilient and resource-efficient economy[186].

Article 1 defines the scope and object of application of the taxonomy "*This regulation establishes the criteria for determining whether an economic activity can be considered environmentally sustainable, in order to identify the degree of eco-sustainability of an investment*."

This regulation applies to all financial market participants making financial products available; companies subject to the obligation to publish a non-financial statement; measures for financial market participants or issuers taken by Member States or the Union that create obligations in relation to financial products or corporate bonds made available as environmentally sustainable.

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185 F. Stoch, Crisi o rinascita? I nuovi orizzonti della tassonomia in Italia, Studi Trent. Sci. Nat., Acta Biol.,n. 81,2004;M. Coccia, Analisi del rischio paese e sistemazione tassonomica, Ceris-Cnr - Institute for Economic Research on Firms and Growth, n. 14, 2004

186 See also the Technical Report - Taxonomy: Final report of the Technical Expert Group on Sustainable Finance, March 2020 which contains recommendations relating to the general design of the taxonomy, as well as guidance on how companies and financial institutions can provide information using the taxonomy .; https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy_en.pdf Other preparatory documents of the Taxonomy Regulation are: Technical annex to the TEG final report on the EU taxonomy and Excel tool - TEG report on EU taxonomy https://knowledge4policy.ec.europa.eu/publication/sustainable-finance-teg-final-report-eu-taxonomy_en

According to the Regulation, an investment, an economic activity is considered eco-sustainable if: it contributes substantially to the achievement of one or more of the environmental objectives such as: the mitigation of climate change; adaptation to climate change; sustainable use and protection of water and marine resources; the transition to a circular economy; the prevention and reduction of pollution; the protection and restoration of biodiversity and ecosystems.

Furthermore, the activity considered for one objective must not cause significant damage (DNSH[187]) to the other five, must meet the minimum guarantees[188] and must comply with the technical screening criteria set by the Commission for each of the environmental objectives and to those that make it possible to determine whether an economic activity causes

[187] See in this regard, Article 17 of the Regulation "*Significant damage to environmental objectives*" which lists the conditions according to which an economic activity can cause damage to the environment at the same time as the other objectives of the Taxonomy

[188] In this regard, Article 18 of the Minimum Safeguard Guarantees Regulation - 1. *The minimum safeguard guarantees referred to in Article 3, letter c), are procedures implemented by a company that carries out an activity to ensure that it is in line with the OECD guidelines for multinational companies (https://www.oecd.org/daf/inv/mne/MNEguidelinesITALIANO.pdf) and with the United Nations Guiding Principles on Business and human rights, including the principles and rights set out in the eight fundamental conventions identified in the International Labor Organization's Declaration on Fundamental Principles and Rights at Work and the International Charter of Human Rights (Universal Declaration of Human Rights; International Covenant on civil and political rights; International Covenant on Economic, Social and Cultural Rights e Declaration on fundamental principles and rights in the work of the ILO). 2. In implementing the procedures referred to in paragraph 1 of this Article, undertakings shall comply with the principle "do not cause significant harm" referred to in Article 2, point 17) of Regulation (EU) 2019/2088.*

significant damage to one or more of the others to a given environmental objective.

The technical screening criteria deserve reflection as they represent the performance thresholds relating to the contribution that economic activities provide to environmental objectives and therefore can be considered sustainable.

The content of the technical screening criteria is well described in Article 19 of the Regulation[189].

The definition of technical screening criteria is very important as it can help to exclude or include an economic activity from being sustainable.

In fact, for example, an economic activity can contribute in an important way to the environmental objective of the transition towards a circular economy[190] by investing in productions that respect the principles of circularity.

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189 According to the art. 19 of the Regulation, the content of the criteria identifies: the main potential contributions in favor of a specific environmental objective; specify the minimum requirements that must be met to avoid significant damage; they are quantitative and as far as possible contain limit values, otherwise they are qualitative; refer, where appropriate, to both the Union's labeling and certification systems and its methodologies for carrying out an EF assessment and its statistical classification systems, and take into account any relevant Union legislation in force ; they use sustainability indicators; they are based on irrefutable scientific evidence and on the precautionary principle enshrined in Article 191 TFEU; take into account the life cycle, in particular taking into account the production, use and end of life of these products and services; take into account the nature and size of the economic activity; take into account the potential impact on markets of the transition to a more sustainable economy; cover all relevant economic activities within a given sector; they are easy to use and are designed to facilitate the verification of their compliance.

190 See Recital 28 of Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework that favors sustainable investments and amending regulation (EU) 2019/2088

Therefore, productions that are durable, repairable, reusable or able to reduce the use of resources through the design and choice of materials, facilitating the change of destination, disassembly and dismantling favored by dedicated investments develop the circular economy and make the sustainable investment if the principles of the circular economy are included in the technical screening criteria.

Therefore, a sustainable financial product will respond to the taxonomy by selecting economic activities deemed sustainable as they are capable of contributing to environmental objectives according to the criteria of technical screening that allow us to say how sustainable an economic activity is.

In this regard, the regulation provides for the issuing of delegated acts that contain detailed technical screening criteria to determine when an economic activity can be considered sustainable and therefore can be considered aligned with the taxonomy.

The European Commission has established a Technical Expert Group (TEG)[191] on Sustainable Finance, tasked with developing recommendations on a number of topics, including taxonomy technical screening criteria for climate change mitigation and adaptation objectives.

[191] The Technical Expert Group on Sustainable Finance (TEG) is a group of 35 experts on sustainable finance, set up by the European Commission. Its function is to support the Commission in implementing the Action Plan approved in May 2018, through in-depth studies on: SRI taxonomy, improvement of guidelines on reporting activities related to climate change; common criteria for the construction of low-carbon and positive-carbon impact benchmarks; Green Bond Standard. TEG members come from civil society, academia and finance, as well as European and international public bodies.The TEG works through plenary sessions and subgroup meetings that have been set up for each of the four study themes. https//investiresponsibilità.it/glossario/technical-expert-group-teg-sustainable-finance/

The latest TEG report on EU taxonomy[192] also includes a technical annex containing: updated technical screening criteria for 70 climate change mitigation activities and 68 climate change adaptation activities, including criteria for not causing significant harm to other environmental objectives; an updated methodology section to support recommendations on technical screening criteria.

The Commission services are currently preparing the delegated act on climate change mitigation and adaptation to climate change taking into account the requirements of the taxonomy regulation and stakeholder feedback received on the TEG reports and the initial impact assessment.

For the other four environmental objectives, the taxonomy should be established by the end of 2021 and will apply by the end of 2022.

However, the taxonomy regulation also provides for the amendment of Regulation (EU) 2019/2088 on the establishment of a framework that favors sustainable investments.

The amendment to EU regulation 2019/2088 concerns disclosure requirements to improve transparency and ensure that financial market participants provide end investors with an objective point of comparison on the share of investments that finance eco-sustainable economic activities.

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192 See note 186

This regulation integrates the rules on transparency in the pre-contractual information and in the periodic reports established in Regulation (EU) 2019/2088[193].

Therefore, it is the articles 5/6/7 of the Taxonomy regulation that concern information transparency and integrate the EU regulation 2019/2088.

They state that if a financial product invests in an economic activity that contributes to an environmental objective of the Taxonomy, the information to be communicated relates to the environmental objective it contributes to and includes a description of how and to what extent the underlying investments the financial product refers to economic activities considered eco-sustainable by specifying the share, in the form of a percentage, of all the investments selected for the financial product.

This information must also be provided in the pre-contractual information. Furthermore, any company subject to the obligation to publish non-financial information includes, in the non-financial statement or in a separate report, information on how and to what extent the company's activities are associated with economic activities considered environmentally friendly.

In this way, once again, the retail saver is protected so that he can make an informed choice among eco-sustainable products.

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[193] See paragraph 1.4 in this Chapter

At the end of the paragraph it is worth making some reflections. First, the parliamentary discussions through the various reports of the TEG have highlighted the lack of social considerations in the current taxonomy.

Only "minimum guarantees" have been introduced (art. 18) so that the activities do not harm fundamental human rights.

Taxonomy is proposed by means of a regulation therefore application adhesion is no longer voluntary but mandatory and this aspect certainly helps the sustainable finance market to identify eco-sustainable products in line with the taxonomy, therefore reliable, transparent and suitable for non-professional investors in order to mobilize the potential private market.

Another node of the Taxonomy Regulation certainly concerns the determination of specific screening criteria for environmental objectives which in the discussions of the TEG will have to address the territorial specificities of the various countries as well as the national labels on sustainable financial products already implemented in some EU countries.

In this regard, the relationship established between taxonomy and certification labels for financial products, in particular the EU Ecolabel, appears interesting.

The relationship is directly sanctioned by the regulation when art. 19 for the determination of the technical screening criteria for the environmental objectives it is established that reference must also be made to the Union's labeling and certification systems.

This means that the criteria included in the labels can become technical screening criteria or vice versa for the labels.

Indeed, the taxonomy has already entered the criteria for assigning some "*labels*" for sustainable financial products. This was revealed by the June update on the "*European label market for the financial market*"[194] created by the Novethic observatory, a French sustainability analysis company.

Research confirms the growth in the number of funds looking for a label.

They have now reached the continental level at 936. Unfortunately, this increase does not translate into homogeneity of standards.

Novethic, however, also notes that «..*the European market is already under the influence of the new frameworks for sustainable finance created by the EU: the taxonomy and the transparency rules envisaged for sustainable funds.*

Three of the labels considered by the observatory are anticipating these new standards and have already begun to integrate the European taxonomy ».

[194] See for the full research report at the following Link https://www.novethic.com/sustainable-finance-trends/detail/overview-of-european-sustainable-finance-labels-2020.html

4. THE FINANCIAL ECOLABEL

The research conducted by Novetich[195] "*Overview of European sustainable finance labels*" of June 2019 elaborates an interesting comparative prospect of the characteristics of financial product labels in Europe.

First, he states that over a decade sustainable finance has led to the creation of a dozen specialized labels[196].

These, granted to less than 500 financial products out of over 60,000 funds on the European market, are used as points of reference by investment managers and professionals.

The research highlights that although with a common purpose, aimed at guaranteeing a level of quality in the field of sustainable asset management, the application of labels is voluntary and does not provide for a standardization of practices for their formation.

In fact, the research identifies two categories of labels depending on the method of selecting economic activities: on the one hand there are labels focused on ESG; on the other hand, labels focused on green activities in general.

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[195] Regarding Novetich, see the previous paragraph. For a complete reading of the research see the following link https://www.novethic.com/fileadmin//user_upload/tx_ausynovethicetudes/pdf_complets/Novethic_Overview-European-Sustainable-Finance-Labels_2019.pdf

[196] Several EU countries have extended its label on sustainable financial products. Among these is France where the government has created and supports two public labels: the SRI label, dedicated to responsible investments and the Greenfin - TEEC label for environmental funds aimed at savers - retail. See next paragraph.

Each combines positive criteria related to selected assets in portfolios with negative sectoral screening.

The ESG analysis of the portfolio's assets also includes waiver thresholds that can vary considerably depending on the labels.

Some ESG labels include environmental criteria such as coal exclusion, while green labels exclude companies with sector-based ESG records that could sustain environmentally damaging economic activities.

Most existing labels apply at least to UCITS[197] equity and bond funds marketed in the country of the label.

Together with geographical restrictions, the compositional diversity associated with the sustainable financial product complicates the distribution of labels.

The labels describe their criteria in documents which may also differ from each other in which they include transparency requirements relating to financial management practices and specific transparency criteria with respect to ESG and climate investment practices.

Finally, to ensure that investments are directed towards environmental activities, labels combine two strategies. With regard to their own taxonomy of eco-activities they define, directly or indirectly, a minimum

[197] UCITS (Undertaking for Collective Investment in Transferable Securities-OICVM in Italy) Financial intermediaries specialized in collective investment in transferable securities (eg company shares and other equivalent securities, bonds and other debt securities) introduced into Italian law by Legislative Decree no. legisl. 84/1992 (Directive 1985/611 / EEC) and then regulated by the Consolidated Law on Finance.

share of green activities that a labeled portfolio should include. This minimum quota is calculated on the basis of two different thresholds for the various labels, one at the company level and the other at the portfolio level.

Therefore, the diversity of approaches does not favor the comparability of the offer and does not satisfy the expectations of the customer who is so difficult to orient himself in the panorama of sustainable financial products in which to invest.

A label would be needed which, through an approach shared by all the stakeholders participating in the financial market, based on a taxonomy of training criteria common to all and verified by third parties, proves to be reliable and is able, through narrative transparency, to communicate to the retail investor its environmental commitment as well as its long-term economic return.

This label seems to be the EU Ecolabel, already regulated and envisaged in all its aspects for products and services but also transposable for financial products as the Sustainable Finance Action Plan hopes.

In the second action[198] it provides for the extension of the Ecolabel brand to sustainable retail financial products.

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198 The second action of the Plan for the development of sustainable finance is reported below "*Action 2: creating standards and brands for sustainable financial products*"

1. First, the Commission's group of technical experts on sustainable finance will be in charge of based on the outcome of a public consultation, to prepare a report on an EU standard for green bonds by the second quarter of 2019, based on current best practices.

2. As part of the Prospectus Regulation, the Commission will specify the content of the prospectus for green bond issues by the second quarter of 2019 in order to provide additional information to potential investors.

3. Once the sustainability taxonomy has been adopted, the Commission will assess the use of the EU Ecolabel framework for certain financial products.

Furthermore, the Sustainable Finance Action Plan states that EU standards and trademarks can prove particularly useful for retail investors keen to express their investment preferences in sustainable assets.

These brands would facilitate the orientation of retail investors in identifying those products that take into account climatic, environmental and social considerations and would form a basis for the development of a reliable system of branding financial products. Therefore, the Commission[199] promotes the use of the EU Ecolabel Regulation to create an optional EU-wide labeling scheme.

This label is already known and quite widespread in Europe for products and services, it is standardized as well as accepted by the member states and reliable as it is verified by third parties.

Therefore, it would lend itself to quick transposition into the sustainable financial system.

It is certain that the criteria of the specific financial investment products offered to retail investors must be identified.

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[199] The HLEG Recommendations prior to the Development Plan for Sustainable Finance already require the establishment of "... *a voluntary European green label to stimulate market growth and enable retail investors to identify products that finance the climate and ecological transition" . The HLEG report also recommended that the Commission should develop a voluntary EU green label for green-themed funds including specifications based on the use of the EU's sustainable taxonomy. Therefore, the HLEG recommendations already called for a necessary link between the EU Ecolabel criteria for financial products and the EU taxonomy. The HLEG Recommendations again stated that "The use of the EU taxonomy for (financial) product standards and labels would improve the environmental integrity of green investments inside and outside the EU (since the taxonomy would also apply to EU investors investing globally). As such, it would help to minimize the risk of greenwashing and avoid negative environmental impacts from investing in assets that are not in line with EU sustainability objectives* ".

The Commission is currently working towards this and plans to officially extend the Ecolabel framework to financial products for the third quarter of 2021[200].

The development process will mainly be based on the requirements set out in Annex I of Regulation (EC) No. 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel.

Annex I sets out the procedures by which the criteria for the EU Ecolabel are developed and revised.

There are three types of procedure: standard, shortened in the case of criteria developed on the basis of other systems for the award of EN ISO 14024 type I eco-labels and shortened for the non-substantial revision of the criteria[201].

As the Ecolabel for financial products is at its first definition, standard procedures will be followed. Therefore, the Ecolabel will define the minimum environmental performance for sustainable retail finance products and will be based on the requirements of the EU Ecolabel Regulation 66/2010 with the aim of rewarding financial products with the best environmental performance.

Life cycle assessment and product oriented environmental performance assessment studies will be consulted as sources of environmental information.

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200 The development process of the EU Ecolabel for financial products is entrusted to Unit B5 - Circular economy and industrial leadership, as well as to Unit B1 - Finance and economy of the Joint Research Center (JRC), Directorate B [6] - Growth and innovation for the Directorate General for the Environment in collaboration with the Directorate General for Financial Stability, Financial Services and the Capital Markets Union (DG FISMA) of the European Commission.

201 See note n. 99, 100,101 in Chapter III.

Environmental, safety, technical and functional aspects will also be taken into consideration during the definition of the criteria. Furthermore, during the development of the EU Ecolabel, there is a continuous consultation with experts and stakeholders from manufacturers, the supply chain industry, consumer organizations and ONG.

The involvement of stakeholders is a crucial element of the project to define the financial Ecolabel criteria.

Stakeholders are consulted on every aspect decided because in the end the product is aimed at retail and it is necessary that both the issuer and the investor have a clear idea of the product to offer and the product to buy.

The activities carried out by the working group for the definition of the financial EU Ecolabel will be completed within 48 months.

Periodically, reports will be released describing the results of the work and decisions made. The third technical report has now been published. The draft of the definitive criteria is expected to be published for April 2021.

5. THE PATH FOR THE DEFINITION OF ECOLABEL CRITERIA OF FINANCIAL PRODUCT

The criteria then declined in their quantitative or qualitative aspects but very clear and easy to understand in

their selection strategy have allowed us to define the Ecolabel of products and services[202].

Furthermore, well-defined criteria give us the opportunity to all speak the same language and to make products comparable as well as to acquire information on the environmental impact of the products themselves.

This last aspect becomes very important to guide the consumer in purchasing the products and services market and the saver in investments in the financial market.

In order to grasp the path within which the financial Ecolabel is being defined in recent months, the criteria that must comply with the financial products that want to obtain the Ecolabel label, the scope of application as well as the relationships between the financial Ecolabe,EU taxonomy, SRI / ESG funds and circular economy it is necessary to refer to the documents published so far by the Commission's working group dealing with ecological labels.

The documents are represented by technical reports and reports from which emerge the aspects of the criteria according to which a financial product can be considered labelable Ecolabel.

Two technical reports have been published so far and the third, the most recent, at the end of last October. The drafting of this third technical report was done in

[202] See chapter III paragraph 1.ECOLABEL REGULETORY FRAMEWORK

accordance with Article 7 of the Regulation[203] EU Ecolabeland will be updated on the basis of new information that will come from feedback from interested parties and from the CUEME.

A final technical report will be published later and will include all scientific arguments in support of the proposed final criteria.

In any case, the main purpose of the technical report is to summarize the results of the preliminary analysis, to propose appropriate and updated criteria that will be useful to retail investors who wish to invest in environmentally sustainable economic activities.

Before paying attention to the criteria that will determine the financial Ecolabel products, the technical report outlines the framework within which the financial Ecolabel is developed.

Since the financial Ecolabel is aimed at financial products that interest a retail client that is a client who does not have the experience,knowledge and competence to make their own investment decisions and properly assess the risks

[203] The typical process of developing EU Ecolabel criteria for any product group is defined in Article 7 and Annex I of the EU Ecolabel Regulation. This involves managing a consultation process with interested parties which must be supported by the preparation of the following documents by the person who guides the process: (1) a Preliminary Report; (2) a draft criteria proposal; (3) a technical report supporting the proposed draft criteria; (4) a final report; is; (5) manuals for potential users of the EU Ecolabel and Competent Bodies (CBs) and for public procurement authorities. In addition, the EU Ecolabel Regulation requires at least two AHWG meetings to take place along the criteria process, the first of which took place in April 2019 and the second which took place in March 2020. Are been discussed the Preliminary Report and the two Technical Reports. Feedback from these meetings, along with associated cycles of written consultations and multilateral consultations, are used to further adapt the scope and criteria proposed.

incurred and as retail clients they are mainly made up of households, which represent the main contributors to the financial wealth of the Eurozone.

A series of research has led to determine what are the investment activities that interest Eurozone households and which mostly fall under the PRIIP Regulation[204] which are retail investment and prepackaged insurance products[205] that banks and insurers and wealth managers typically offer to retail clients.

In order to meet customer needs and make portfolios greener and suitable for Ecolabel certification, the third report states that the investment strategies most used by investors concern socially responsible investments (SRI); ESG integration/investment; Impact Investing and Tematic Investing[206].

Furthermore, the technical report highlights investors in evaluating and selecting green or sustainable financial products, also taking into account the many labels[207] already present in Europe.

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[204] Regulation (EU) no. 1286/2014 of the European Parliament and of the Council of 26 November 2014 on documents containing key information for packaged retail and insurance investment products (Text with EEA relevance) https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=celex%3A32014R1286

[205] See note n.180

[206] Impact investing, the best definition of which can be read in Cambridge Associates and GIIN (Global Impact Investing Network): "*investments made in companies, organizations and funds with the intent of generating a measurable and favorable social or environmental impact alongside or in lieu of a financial return* "; Thematic investing concerns investments focused on particular issues such as the environment, social issues, health. See also Ferri, Intonti, *SRI FUNDS, i fondi eticamente orientati e la finanza sostenibile*, Aracne,Roma, 2017

[207] In this regard, see http://www.ecolabelindex.com/ecolabels

However, the labels and schemes existing to date make use of taxonomies to define and classify environmentally sustainable economic activities that are different from each other and difficult to allow the comparison of information for the various financial products, thus representing an obstacle to investments.

For example, regional and national labels certify the eco-compatibility of financial products using taxonomies such as: climate bond initiative (CBI); project categories Green Bond Principles (GBP) and International Development Finance (IDFC)[208].

In order to homogenize the language for defining the criteria, the EU taxonomy will integrate with the financial ecolabel.

Therefore, in the third technical report, drawn up on the basis of previous reports[209][8], in order to define the criteria and determine whether the assets underlying the financial products offered to retail investors are green

[208] CBI, Climate Bonds Initiative is a labeling scheme for bonds and loans. Strict scientific criteria ensure that certified bonds and loans are consistent with the 2 degrees Celsius warming limit in the Paris Agreement. The Scheme is used globally by bond issuers, governments, investors and financial markets to prioritize investments that really help tackle climate change. https://www.climatebonds.net/standard/taxonomy; IDFC, Intenational Development financial club. Members of the International Development Finance Club (IDFC), mostly Banks, work together to implement the Sustainable Development Goals and the agendas of the Paris Agreement on climate, join forces to promote and leverage investments for sustainable development all over the world. IDFC members are committed to pooling their know-how and best practice experiences in strategic topics of mutual interest, including climate finance, infrastructure financing, social development, poverty reduction, green banking and innovation financing. https://www.idfc.org/; GBS, Green Bond Principles see note n. 181 -182

[209] For a reading of the previous Reports https://susproc.jrc.ec.europa.eu/product-bureau//product-groups/432/documents

enough to receive the Ecolabel, the following was taken into account: scope of financial products to which the Ecolabel criteria apply, the potential of the product to provide environmental benefits and attract retail investors, operational problems and product verification, identification of optimal strategies to be considered in the Ecolabel criteria in order to promote eco-sustainable investments based on the definition of greenness provided by the criteria.

Within the framework of this premise, the technical report identifies the areas within which the general criteria will be developed and then the details for each specific criterion.

In the course of the various reports, these areas as well as the criteria relating to them have been better defined also with the constant help of the stakeholders concerned. The areas in their structuring, where possible, try to align themselves with the EU Taxonomy which in turn contributes to the definition of the criteria.

With regard to the first area Investments in sustainable economic activities from the environmental point of view, the intervention of the EU Taxonomy is related to the fact that an activity is defined as green if it contributes to achieving the objectives set by the Taxonomy itself without damaging any of the other objectives.

The Report underlines that the scope of retail financial products is broadened to include a series of more complex insurance products and the discriminating criterion for determining a sustainable financial product is entrusted

to the composition percentage of the fund's portfolio with regard to the part invested in economic activities sustainable from an environmental point of view also through quotas, shares or deposited funds.

However, it is not easy to establish a percentage threshold that is in any case significantly acceptable as a criterion for defining a sustainable financial ecolabel for the various products and does not help the taxonomy since the adoption of a framework for economic activities is not yet present in the EU taxonomy.

Probably the working group will opt to determine, if necessary, a dynamic threshold suitable for the various products.

Regarding the second area, investments in companies that invest in transition and green growth, the report focuses in particular on the concept of transition, i.e. the possibility of verifying the companies that are investing in a move towards a higher percentage of green revenues in their balance sheets .

The annex[210] to the third report defines as quantitative criteria a series of percentages, methods and means which, if respected, determine the thresholds that sanction the green transition of a company.

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[210] For a detailed analysis see the annex, *ANNEX EU Ecolabel criteria for awarding the EU Ecolabel to retail financial products*, https://susproc.jrc.ec.europa.eu/product-bureau//sites/default/files/2020 - 11 / Draft% 20ANNEX% 20-% 20Retail% 20Financial% 20Products.pdf

The inclusion and recognition of investments in transition and green growth also contribute to the achievement of the environmental objectives of the EU taxonomy.

Furthermore, an increase in investments towards the green transition would expand the investable universe as current market analyzes suggest that the size of the sustainable economy to date is still small compared to its potential and may constitute an obstacle to creating a portfolio compatible with the ecolabel financial product brand.

The criteria relating to the area of exclusions based on environmental criteria have the objective of avoiding investments in activities harmful to the environment.

Existing financial product labels already apply this criterion and exclude economic activities that invest in activities that harm the environment.

The application consequences of the criteria in this area can create a portfolio allocation different from the market portfolio but the more specific the exclusions and screening, the more effective they are in guiding changes in company practices and new environmental investments.

An alignment with the EU taxonomy is not yet possible, given the different timing of issuing the delegated acts, but the intention is to define the environmental exclusions in such a way that the investment portfolio cannot include companies that do not meet the criteria of the taxonomy of the EU. Furthermore, for the criteria of this area, rigidity is required in respect of the selection of aspects related to

the activity; clarity so that the definition of the activities is made in a specific and precise way, without leaving room for interpretation to the competent bodies and verifiability so that the relevant data are available so that the requirement can be verified by exclusion.

With regard to the area of social exclusion, the third report reiterates that the requirements established in Regulation (EC) 66/2010 on the EU Ecolabel dictated the need for a social exclusion criterion.

The art. 6, par. 1, of the Regulation specifies that for the EU Ecolabel, social aspects must also be considered when determining the criteria.

In order to define and articulate the social exclusion criterion, reference was also made to the Taxonomy Regulation.

The art. 13 of the Taxonomy Regulation requires that economic activities that are sustainable from an environmental point of view respect the minimum social guarantees even if the revision clause of art. 17 refers to a potential extension of activities that contribute to social objectives.

The result is a misalignment between the Ecolabel and Taxonomy since the Taxonomy in terms of social criteria appears to be inferior to the Ecolabel requirements. Furthermore, the EU Taxonomy is a tool to incentivize business-wide disclosure, while the EU eco-label targets the best retail financial products.

In any case, to define the social exclusion criteria, reference can be made to the attachment to the third report

which determines in detail the social aspects which, if not respected, exclude the company from requesting the Ecolabel for its financial activities.

For example, a company is excluded on the basis of social aspects if in the course of its commercial activity it does not comply with the following conditions such as: the protection of internationally proclaimed[211] human rights and the relevant national laws and regulations of the country in which operates and from which it draws raw materials; ensures that it is not complicit in human rights violations; defends the freedom of association and the effective recognition of the right to collective bargaining; ensures the elimination of all forms of forced and compulsory labor; promotes the effective abolition of child labor; ensures the elimination of discrimination in employment and occupation; complies with local legislation that addresses corruption, extortion and extortion and works against corruption in all its forms.

Another criterion is that relating to the commitment intended as the involvement of investors in the management life of companies.

Investor engagement in the company can lead to a mechanism whereby investors push for reviews that improve the quality of corporate life or increase shareholder value.

Therefore, the construction of a criterion in this context requires that the fund managers report which mechanisms they have adopted to improve the impact of investors and that they highlight these mechanisms in their

[211] Compliance can be checked using the UN Human Rights Interactive Dashboard available at https://indicators.ohchr.org/

investment strategies and decisions together with the measures taken to actively manage and improve the their impact on investors.

In this way, retail investors are provided with information on their possibilities of engagement and influence on the management life of a company.

Instead, fund managers through the guidance of committed investors can seize opportunities to make more effective use of capital allocation and influence the management of the companies in which they hold shares.

Another area for building financial eco-label criteria is information for retail investors.

The third report believes that it is necessary to provide savers with clear information on the environmental and social performance of financial products so that retail investors can make a well-informed investment decision.

Furthermore, the information provided to investors will be able to improve the transparency and credibility of the Ecolabel.

The information will be conveyed to investors through a separate document or prospectus, which will also include documents KID and KIID[212].

[212] The KIID is a form of communication that has the purpose of informing the investor about the UCITS (Organisms for Collective Investment of Savings), in order to make him understand the type of investment he is making and the risks he is running. By reading the KIID, the investor will have to understand and inform himself about the type of investment he is making and the risks to which he exposes his money. The KIID legislation provides that the language is understandable, that technicalities, where possible, are replaced with common terms and that the document is written in the reader's language. For each UCITS you will need to have a KIID in order to compare the various documents and understand which proposal to choose. This document has been adopted by all the countries of the European Union for the offer of harmonized UCIs and has since become the only mandatory document to be delivered free of charge to the client in an informative way. This information must be provided before the investment is subscribed. The KID,

The information document will contain information on the sustainability aspects taken into consideration by the fund, on the active engagement of companies on sustainable issues, on measures that reflect the amount of carbon dioxide emissions or equivalent.

In addition, with regard to the other areas of identification of criteria in the investment disclosure documents, the ways in which the fund interacts with companies on sustainability issues and a description of the investment policy and objectives of the fund will be included.

The last area for defining criteria for a financial Ecolabel concerns the information on the label to be applied to products.

The information on the label is useful for reinforcing messages that support the consumer's choice of an EU Ecolabel product over alternatives that are not labeled.

According to article 8 of Regulation n.66/2010 for each product group, three key environmental characteristics of the

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Key Information Document, is a document introduced with the MIFID 2 regulation, which is compulsorily required for all PRIIPs, i.e. Packaged retail investment and insurance-based investments products, pre-assembled retail investment and insurance products. This document must be provided, like the KIID, to the customer completely free of charge and must be informative, but without being technical. The main characteristics of the KID are its simplicity and clarity, which according to the will of the community legislator must be the basis of the document. Unlike the KIID, the KID must however contain a lot of additional information and must necessarily be a document that everyone can understand. The regulatory reference regarding the KID is found with the COMMISSION REGULATION (EU) No. 583/2010 of 1 July 2010 laying down procedures for implementing Directive 2009/65 / EC of the European Parliament and of the Council with regard to key information for investors and the conditions for submitting such information or the prospectus on a durable medium other than paper or via a website https://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:32010R0583&from=FR The regulatory reference regarding the KIID is found in Directive 2004/39 / EC Directive 2004/39 / EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, amending Council Directives 85/611 / EEC and 93/6 / EEC and Directive 2000/12 / EC of the European Parliament and of the Council and repealing Council Directive 93/22 / EEChttps: //eur-lex.europa.eu/legal-content/IT/ALL/? uri = celex: 32004L0039

EU Ecolabel product can be displayed in the text box of the optional label.

Currently, the phrases to be included[213] in the text box have been revised, mainly to reflect the changes made to the other criteria.

Therefore, the construction of the criteria to define the financial Ecolabel is still in progress even if the times are now defined: March 2021.

It is certain that the criteria to which financial products will have to meet, which will express the will to join the Ecolabel financial, will be mandatory so the lack of a requirement will not allow certification.

Despite this, the same criteria must be flexible in their revision in order to follow the changes in the financial market that acts in synch with the evolution of the economy as well as the legislation that incorporates the requests of institutional and retail investors.

Certainly, for the financial product, the Ecolabel certification brings an added value since the inclusion in the criteria of aspects of the EU Taxonomy and of the socio-environmental and governance aspects allows for a greater and easier marketing to the saver.

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[213] The applicant must follow the instructions on how to use correctly the EU Ecolabel logo provided in the EU Ecolabel Logo Guidelines available at: https://ec.europa.eu/environment/ecolabel/documents.html. On the other hand, from the annex *ANNEX EU Ecolabel criteria for awarding the EU Ecolabel to retail financial products* the following examples of declarations can be obtained: Investing in activities that contribute to a green and low-carbon economy; Investing in activities that contribute to mitigation and adaptation to climate change; Avoid investments in activities harmful to the environment and society. Finally, the following additional statement can be used for investment funds and insurance products: Commitment with companies to become greener

With regard to its main objective, the greater the rigor imposed by the formulation of the criteria on respect for the environment and social impact, made known with the information provided to investors, and the greater the possibility of moving the potential private investment market to the transition to zero-emission and circular economy.

6. PRODUCT ECOLABEL AND FINANCIAL ECOLABEL

EU regulatory documents have recognized the environmental potential of ecological product Ecolabel certification through environmental policies that have so far enhanced its application and dissemination.

The same EU regulatory documents have also highlighted the need for a financial system that moves capital in investing in the development of a sustainable economy.

Furthermore, they have identified the potential of the investment capacity held by the retail customer and the Ecolabel labeling as the suitable tool to encourage the customer to invest in financial products to protect the environment.

The reference to the EU Regulation no. 66/10 relating to the EU product Ecolabel for the definition of the procedure useful for determining the criteria governing the financial EU Ecolabel immediately establishes the link between the two labels which have the same purpose: to provide information to the consumer/saver to induce him to make conscious product or financial choices towards

environmental protection. This shows that for both certifications the information and the consumer/saver[214] are interconnected. More precisely, the consumer in the product market goes in search of eco-labeled products since he already knows that compliance with the criteria dictated by the Ecolabel certification in the production process guarantees respect for the environment and so is the case for the financial ecolabel certification.

Also in this case the saver will trust the Ecolabel which, in compliance with its criteria, on financial products guarantees investments in support of economic activities that respect the environment.

Therefore, interconnection also includes criteria. More precisely, it is possible to highlight the interconnection relationship that binds consumer/investor, information and criteria and indirectly product Ecolabel and financial Ecolabel favoring the development of a sustainable and circular economic system.

To understand this statement it is necessary to consider, for example, an Ecolabel certified product which among the criteria that make it certifiable for the label includes recyclability and an Ecolabel labeled financial product that invests in economic activities of recyclable products.

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[214] See Chapter III

The consumer buys the product, informed through the Ecolabel that this product is recyclable, while the saver buys the financial product labeled Ecolabel knowing that, through the information documentation that should accompany the investments labeled ecolabel, the same invests in product activities recyclable.

Recyclability is one of the 3 R that is part of the principles of the circular economy, therefore both the Ecolabel certified asset and the Ecolabel certified financial product favor an efficient use of resources and support the circular economy.

In this way, the product Ecolabel and the financial Ecolabel represent two important elements within an economic legal system in the running to protect the environment.

Finally, although the financial aspect may seem prevalent, the legal element that has allowed the standardization of the procedures for determining the criteria and certification of the product Ecolabel is the forerunner to what will be, in this sense, the way for the financial Ecolabel.

The regulation, already in place through Regulation no.66/10, of the identification of the financial Ecolabel criteria and the consequent rigorous application in the identification of financial products suitable for them may generate the expansion of the financial market in the collection of resources necessary to support the development of a sustainable and circular economy model.

CAHPTER V

PRODUCT CERTIFICATION IN FRANCE

INTRODUCTION

France among the EU member states has a legislative framework in terms of environmental protection and sustainable development as well as financial support for sustainable development that is very advanced and sometimes a precursor to EU environmental policies.

The certification of products and services of an environmental nature is part of the regulatory framework with its own national ecolabel equivalent to the EU Ecolabel and precedes the EU in the certification of sustainable financial products.

Therefore, in the following paragraphs, after a regulatory framework of environmental policies in progress in France, attention will be focused on certifications.

Within these, the distinction will be made between product certifications and product certifications of sustainable finance, similar and different aspects between national and European certifications but also between the different types of certification as well as the difficulties of determination of the same.

Finally, a reflection on the developments of the French certification trend will make it possible to understand its importance for the transition to a green economy to protect the climate and the environment.

1. REGULATORY FRAMEWORK

France has always expressed a very strong focus on the environment[215].

The Environmental Charter[216] was inserted into the French Constitution with Constitutional Law no. 2005-205 of 1 March 2005[217].

215 In addition to the Environmental Code (https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006074220/2020-11-08/) approved in its basic text with a decree of May 2004 which brings together a wide range of standards and procedures for water and aquatic environments, air, noise, etc. which evolve in line with the legislation, other laws that have marked the environmental path of France were the Grenelle 1 and 2. The framework law Grenelle1 or law n ° 2009-967 of August 3, 2009 (https: //www.legifrance .gouv.fr / loda / id / JORFTEXT000020949548 / 2020-11-08 /) directed public and private resources towards environmental and economic policy objectives participated and shared by the social partners. The main objectives were: the fight against climate change with the reduction of greenhouse gas emissions, through strict compliance with the limits imposed by the EC and investment in clean and renewable energies; fight against the loss of biodiversity of ecosystems, the degradation of natural areas, with actions planned in several fields: prevention of risks to the environment and health and to waste, reducing the quantity and improving the quality of those produced; the "Exemplary State" the State and all the organs that compose it were to be examples of virtuous management of resources; 'information and training for which the State committed itself to involve the community in the elaboration and implementation of the national strategy for sustainable development and in the dissemination of awareness on the effects of collective life on the environment. The "Grenelle II" law or law no. 2010-788 of 12 July 2010 (https://www.legifrance.gouv.fr/loda/id/JORFTEXT000022470434/2020-11-08/) in turn defines the Grenelle I law, and declines, sector by sector, all objectives identified by the first "Grenelle" law and establishes measures related to the fight against global warming (in the sectors: construction, urban planning, energy management, water and other natural resources, transport), to the development of sustainable agriculture, risk prevention and health protection, implementation of eco-sustainable waste management. In particular, to restore biodiversity, the law provides for measures to reduce greenhouse gas emissions and improve energy efficiency.

216 The French Constitutional Council referred to the Environmental Charter to settle various decisions and each time affirmed the value of its articles.decision n ° 2005-514 DC of 28 April 2005 Law relating to the creation of the French international register; Decision of 19 June 2008 Act on genetically modified organisms. In its decision n ° 2009-599 DC of December 29, 2009 Finance law for 2010; In decision n ° 2019-823 January 31, 2020 Union of Plant Protection Industries [Ban on the production, storage and circulation of certain plant protection products also the French Council of State with the decree n. 297931 of 3 October 2008, annulled for lack of jurisdiction a decree relating to mountain lakes for the Municipality of Annecy on the basis of Article 7 of the Charter, definitively confirming the constitutional value of the same https://www.legifrance.gouv.fr/ceta/id/CETATEXT000019590157/

It consists of 10 articles and recognizes the fundamental rights and obligations relating to environmental protection, already included in international texts, in three fundamental principles: The precautionary principle, the preventionand the principle"*polluter paysprinciple*"[218].

In article 6, the Environmental Charter affirms an important orientation " *Public policies must promote sustainable development*" for which the French administration must act to determine better management of resources and long-term spending to avoid forms of economic waste and environmental management of public administrations and to induce private administrations to this objective as well.

Thus, the decision-makers of French environmental policy, oriented towards sustainable development, have incorporated increasingly ambitious objectives into French legislation that have given rise to the *Loi de transition energetique pour la croissance vert* o *loi française no 2015-992 du 17 août 2015*[219] (LTECV) and consequently numerous decrees and application programs capable of involving all sectors of French society with the aim[220] of contributing in

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[217] For a complete reading of the Environmental Charter, please refer to the website: https://www.legifrance.gouv.fr/contenu/menu/droit-national-en-vigueur/constitution/charte-de-l-environnement

[218] See art. 191 TFEU (pursuant to Article 174 TEU)

[219] For more information on the LTECV, see the legifrance website https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000031044385/

[220] More precisely, the medium and long-term objectives set by the LTECV are: Reduce greenhouse gas emissions by 40% between 1990 and 2030 and divide greenhouse gas emissions by four between 1990 and 2050 (factor 4). The trajectory is specified in the carbon budgets;

- Reduce final energy consumption by 50% in 2050 compared to the 2012 reference, aiming for an intermediate target of 20% by 2030;

more effective way to fight against climate change, to protect the environment, as well as to strengthen its energy independence while offering its businesses and citizens access to energy at a competitive cost.

In art. 2 the Law identifies the purposes that currently characterize French public policies:"... *support green growth through the development and diffusion of processes with low greenhouse gas emissions and atmospheric pollutants, the control of energy consumption and of materials, from information on the environmental impact of goods or services, as well as from the circular economy, in all sectors of the economy. National and territorial, economic, research and innovation, education and initial and continuing training policies they contribute to this new way of development through the regulatory, financial and fiscal mechanisms, incentives and contracts established by the State and local authorities….*"

- Reduce primary energy consumption from fossil fuels by 30% in 2030 compared to the 2012 reference;
- Increase the share of renewable energy to 23% of gross final energy consumption in 2020 and to 32% of gross final energy consumption in 2030;
- Increase the share of nuclear energy in electricity generation to 50% by 2025;
- Achieve an energy performance level compliant with "low consumption building" standards for the entire housing stock by 2050;
- Fight against energy poverty;
- Affirm a right of access for all to energy without excessive costs compared to domestic resources;
- Reduce the amount of waste sent to landfill by 50% by 2025 and gradually decouple economic growth and consumption of raw materials.
- The Energy Transition for Green Growth Act (LTECV) promotes sustainable economic growth and the creation of long-term and non-transferable: it
- jobsenables the creation of 100,000 short-term jobs (including 75,000 in the renovation sector energy and nearly 30,000 in the renewable energy sector) and more than 200,000 jobs by 2030;
- GDP is expected to benefit from the efforts made by 0.8% in 2020 and 1.5% in 2030.

https://www.ecologie.gouv.fr/loi-transition-energetique-croissance-verte

It seems clear that French public policies to pursue sustainable development among the measures[221] put in place will have to implement capable ones in fighting waste and promoting the circular economy.

In particular, they will have to aim at the gradual decoupling between economic growth and the consumption of raw materials, developing sorting at source (in particular of food waste and corporate waste) and recycling and recovery channels (for example in the construction sector) passing through the necessary information to sensitize all the social partners on the environmental impact of goods and services so as to induce the social partners to waste less energy and materials through the production and purchase of products with low environmental impact.

In this perspective, the same LTECV in art. 70[222] modifies article L.110_1-1 of the Environmental Code[223] and

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[221] The other measures of the transitional law to achieve the purposes stated in article 2 are:Restructuring of the existing building stock ;Improve the energy and environmental performance of new buildings;Development of clean transport; Development of renewable energies ; Strengthen nuclear safety ;Simplification of procedures and clarification of the regulatory framework ;The fight against energy poverty .

[222] Article 70 of the LCTV is reported "*Art. L. 110-1-1.-The transition vers une économie circulaire vise à dépasser le modèle économique linéaire consistant à extraire, fabriquer, consommer et jeter en appelant à une consommation sobre et responsable des ressources naturelles et des matières premières primaires ainsi que, par ordre de priorité, à la prévention de la production de déchets, notamment par le réemploi des produits, et, suivant la hiérarchie des modes de traitement des déchets, à une réutilisation, à un recyclage ou, à défaut, à une valorisation des déchets. The promotion de l'écologie industrielle et territoriale et de la conception écologique des produits, the utilization de matériaux issus de ressources naturelles renouvelables gérées durablement et issus du recyclage, la commande publique durable, the allongement de la durée du cycle de vie des produits, la prévention des déchets, la prévention, la réduction ou le contrôle du rejet, du dégagement, de l'écoulement ou de l'émission des polluants et des substances toxiques, le traitement des déchets en respectant la hiérarchie des modes de traitement, the coopération entre acteurs économiques à l'échelle territoriale pertinent dans le respect du prince de proximité et le développement des valeurs d'usage et de partage et l'formation sur leurs coûts écologique, économique et social contribent à cette nouvelle prospérité.*"

promotes the transition from the linear model to the industrial model of the circular economy.

In order to encourage the transition to the circular economy, he cites a series of measures that, in addition to careful waste management, provide for a rational management of materials through an eco-design of products on the life cycle and of the 3R, a sustainable public supply as well as a correct information on the ecological, economic and social costs of production.

To achieve the path towards a circular economy, the Road map for a circular economy was published on 23 April 2018[224].

The roadmap for the circular economy proposes concrete measures to achieve the objectives of a circular economy by trying to involve all parts of society (citizens, businesses, local authorities and public and state authorities) and also allows France to achieve the goals of the sustainable development goals of the United Nations 2030 Agenda.

The road map establishes 50 actions divided under 4 maxi objectives: to improve production, improve consumption methods, improve waste management, raise citizens' awareness.

Among the 50 actions that most closely affect the circular economy, we can mention: adaptation of waste

[223] The Loi anti-gaspillage pour une économie circulaire - n ° 2020-105 du 10 février 2020 has again amended art. 110_1_1 of the French Environmental Code without however distorting its main meaning

[224] For a complete reading of the *Road map* see https://www.ecologie.gouv.fr/sites/default/files/Feuille-de-route-Economie-circulaire-50-mesures-pour-economie-100-circulaire.pdf

regulations to favor the circular economy, make territorial action around the circular economy permanent, public procurement and administration an exemplary lever for the development of the circular economy, favoring France's actions for a circular economy both at EU and international level, mobilizing citizens and businesses towards the circular economy with a communication effort that includes improved information towards the consumer and disseminates the voluntary environmental declaration of products and services, support the circular economy through dedicated funding.

This last measure already appears in paragraph 2 of article 2 of the LCTV since the same public policies recognize that it is not possible to move towards a circular economy if, in addition to changing the rules and habits of consumers and producers, substantial financial investments are not made. Furthermore,in the sector of sustainable and responsible investments, France was the first with the LCTV law to provide for the obligation for large investors to report the environmental impact of their investments.

Indeed. art. 173[225] of the LCTV requires investment fund managers to report on how they include ESG in their investment process and decisions.

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[225] VI.-A.-L'article L. 533-22-1 du code monétaire et financier est complété par deux alinéas ainsi rédigés:

"Les entreprises d'assurance et de réassurance régies par le code des assurances, les mutuelles ou unions régies par le code de la mutualité, les institutions de prévoyance et leurs unions régies par le code de la sécurité sociale, les sociétés d'alvestissement à capital variable, la Caisse des dépôts et consignations, les institutions de retraite complémentaire régies par le code de la sécurité sociale, the institution de retraite complémentaire des agents non titulaires de l'Etat et des collectivités publiques, l'établissement public gérant le régime public de retraite additionnel obligatoire et la Caisse nationale de retraites des agents des collectivités locales mentionnent dans leur rapport annuel et mettent à la

It is not mandatory to do so, but it is mandatory to report if you do not. Therefore, for investors with assets under management or a consolidated balance sheet of less than 500 million euros, the obligation is to describe the methods for incorporating ESG factors into the investment strategy. Those over 500 million euros must also describe the means employed to support their investment choices.

Furthermore, France in collaboration with UNEPFI[226] - United Nations Environment Program Finance Initiative has also launched a road map for sustainable finance.

The "*Roadmap for sustainable finance in France*"[227] contains recommendations dedicated to the future development

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disposition de leurs souscripteurs une information sur les modalités de prize en compte dans leur politique d'vestissement des critères relatifs au respect d'objecti fs sociaux, environnementaux et de qualité de gouvernance et sur les moyens mis en œuvre pour contribuer à la transition énergétique et écologique. Ils précisent la nature de ces critères et la façon dont ils les appliquent, selon une presentation type fixedée par décret. Ils indiquent comment ils exercent les droits de vote attachés aux instruments financiers résultant de ces choix." même décret. La prize en compte de l'exposition aux risques climatiques, notamment la mesure des émissions de gaz à effet de serre associées aux actifs détenus, ainsi que la contribution au respect de l'objectif international de limitation du réchauffement climatique et à l'atteinte des objectifs de la transition énergétique et écologique, figurent parmi les informations relevant de la prize en compte d'objectifs environnementaux. This contribution is notamment appréciée au regard de cibles indicatives définies, en fonction de la nature de leurs activités et du type de leurs investissements, en cohérence avec la stratégie nationale bas-carbone mentionnée à article L. 221-1 B du code de the environment. Le cas échéant, les entities mentionnées au troisième alinéa du présent article expliquent les raisons pour les quelles leur contribution est deçà de ces cibles indicatives pour le dernier exercice clos. » B.-Le A du présent VI est applicable dès l'exercice clos au 31 décembre 2016.

[226] It is a partnership between UNEP and the global financial sector to mobilize private sector funding for sustainable development. UNEP FI works with more than 300 members - banks, insurers and investors - and over 100 support institutions - to help create a financial sector that serves people and the planet, producing positive impacts. Leveraging the role of the United Nations, UNEP FI accelerates sustainable finance and upholds the principles of the global financial sector to catalyze the integration of sustainability into financial market practice. https://www.unepfi.org/about/

[227] The roadmap for sustainable finance in France was published during the UNEP FI Global Round Table and Finance for Tomorrow's Climate Finance Day,

of the French sustainable financial market, for institutional investors and policy makers to promote responsible investment in France.

Within this regulatory framework dedicated to sustainable development and the circular economy, a market for real products and a market for financial products are envisaged.

France has developed an eco-labeling system for the products of these markets. Both of these eco-labels are aimed at promoting the country's transition to a green economy characterized by a circular system.

Furthermore, the eco-labels of both real and financial products provide consumers, both public and private, with the information they need to take into account the environmental characteristics of these products in their purchases.

In this way, consumer purchases and financing will increasingly turn towards ecological products so as to stimulate greater ecological production and greater financial investment in the environment.

Finally, for the market for goods and services products, France now has a consolidated and clearly regulated tradition of eco-labeling, while for financial products only a few years ago it launched a labeling system that has also led the way for the EU and which is still in progress.

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from 26 to 28 November 2018 in Paris. Https: //www.unepfi. org / wordpress / wp-content / uploads / 2018/11 / France-Roadmap-FD-French.pdf

2. TYPES OF PRODUCT CERTIFICATION IN FRANCE

France, in its commercial policies, first used certification as a tool capable of qualitatively standardizing goods and services, then bending it to the needs of environmental protection.

Therefore, the certification tradition of goods in France has a consolidated regulatory and practical framework. Regarding the environment, although like all EU member states, France also issues Ecolabel certification for those who request it, it has its own environmental label, the NF Environnement.

In the field of sustainable finance, France has acted as a precursor to the EU and in 2016 it launched three environmental financial labels to induce savers to mobilize their finances in favor of environmental funds: ISR, Greenfin, Participatory finance.

The certifications for sustainable funds, despite being recent, are already regulated but in progress pending the results of the taxonomy approved by the EU regarding the financial Ecolabel in order to be able to comply with it.

In the following paragraphs we will offer an overview of French certifications in the environmental field of goods and sustainable finance, a comparison with the steps taken by the EU and a reflection in the field of sustainable finance which today has the greatest development opportunities.

2.1 PRODUCT CERTIFICATIONS OF GOODS

In the field of certification of goods and services, France is active through standardization governed by the law of May 24, 1941 which provided for the existence of a national conformity mark "NF" attributed to all products that respect the rules approved.

Subsequently, the “NF” trademark was registered with the inter-ministerial decree of April 15, 1942.

The standardization and certification activities were immediately placed under the aegis of a structure created specifically by the AFNOR - French Association for Standardization[228]. It was created in 1926 and recognized as an association of public utility on March 5, 1941.

Subsequently, the gradual diversification of the fields of application and methods of the NF certification

[228] Standardization in France is governed by the law of 24 May, 1941 and by the decree n ° 2009-697 of June 16, 2009 which defines the missions of theAssociation French Standardization (AFNOR). The Afnor group is agroup French of standardization and certification services. The Afnor group is composed of the Afnor association, responsible for a mission of general interest, and a simplified joint stock company with a single shareholder (SASU), called Afnor Développement, which has three commercial branches: Afnor Certification, Afnor Standardization and Afnor International. This structuring makes it possible to distinguish between public service operations, in particular the coordination of French standardization, from branches which, for their part, fall within the commercial sector. The Afnor group is represented in the regions by 14 offices divided into 12 delegations and abroad through 39 international branches. Housed within the Afnor association, Afnor Standardization identifies standardization needs, develops standardization strategies, coordinates and guides the activity of sectoral standardization offices, ensures that all stakeholders are represented on standardization committees, organizes public surveys , approves French standards. Beyond its action at the French level, Afnor Standardization is a French member of the European (CEN) and international (ISO) standardization bodies and as such defends and promotes national positions. Afnor Certification is, in France, a certification body and evaluation for systems, services, products and skills. This Afnor group company offers two brands: AFAQ and NF. Afnor Certification operates both on a voluntary and regulatory basis. At the European level, Afnor Certification is used for various European directives in order to issue the CE marking, which certifies the conformity of the products to the European regulatory requirements.

activity, starting from the 1980s, and the proliferation of collective brands created by private initiatives independent of AFNOR, have projected certification far beyond the conception of public service.

The reform of the French standardization was therefore necessary with the decree n.2009-697 of June 16, 2009 which deregulated the NF mark by implicit repeal of the 1942 decree.

The NF mark[229] is a voluntary collective certification mark which provides indisputable proof that a product or service complies with the safety and quality characteristics established through guidelines collected in a reference framework.

A reference system for NF certification is drawn up by a certification body, which draws on the expertise of interested parties in the sector in question. These can be brought together within an NF certification committee or a working group.

The reference system for NF certification is subject to consultation with interested parties before being validated. Each reference system of the NF certification defines: the technical requirements that must be satisfied by the product or service; the management methods that allow the manufacturer or service provider to ensure the consistency of its production; the nature and frequency of checks that the

[229] In France, the certification mark is defined in the Intellectual Property Code in Chapter V: Guarantee marks and collective marks (Articles L715-1 to L715-10)

certification body must perform: independent laboratory tests for products, site visits for facilities, documentary assessments, on-site audits.

The quality is guaranteed by periodic checks, generally yearly, carried out by the certification body while the manufacturer or service provider also carries out continuous internal checks. The NF mark is issued by Afnor Certification ,(subsidiary of the Afnor group), as well as by some organizations belonging to the NF network (CSTB , FCBA LNE)[230]and appointed by Afnor Certification to carry outoperations certification.

AFNOR as already highlighted above acts as the central coordinator of standardization in France, identifies standardization needs and mobilizes interested parties. Strategic Committees (COS) organized by product or theme ensure the collective management of standardization programs.

Each COS brings together key decision makers from the relevant economic sector, defines work priorities and prepares French positions internationally for AFNOR representing France at CEN-Cenelec and ISO-IEC.

The types of NF standards approved by AFNOR are integrated into the national catalog[231].

Their approval as French standards is attested, depending on the level at which they were developed, by

[230] To find out about the network of French certifiers, see https://marque-nf.com/faire-certifier-ses-produits-ou-services/les-organismes-certificateurs/

[231] See https://marque-nf.com/trouver-une-certification-nf/

prefixes such as "NF ISO or NF IEC" (international standard for the general sector or electrotechnical sector adopted in France), "NF EN ISO or NF EN IEC "(French standard of international origin for the general sector or the electrotechnical sector used in Europe and France)," NF EN "(French standard of European origin whatever the sector) or" NF "(purely French standard). certification is aimed above all at the final customer, be it consumer or user.

It is the objective proof that the product or service purchased or supplied has the characteristics defined in a standard or a reference, and that it is regularly verified.

The credibility of the certification is based on competence of a certification body but also its impartiality. The certification bodies are themselves controlled by independent accreditation bodies, in France it is COFRAC[232].

The certification is issued after an evaluation of the systems, services or products and consists in measuring its characteristics so that they correspond in all points to those set in the reference system.

In 1991 AFNOR Certification introduced theNF environment ecological quality label.

[232] COFRAC - French Accreditation Committee is an association responsible for issuing accreditations to bodies involved in conformity assessment in France . It is regulated by the Ordinance of 30 March 1995 which recognizes the French Accreditation Committee as an accreditation body for certification bodies of industrial products and services -. JORF n ° 81 of 5 April 1995

It is governed by a reference document: "*General rules of the NF Environnement mark*[233]" revised on April 23, 2012.

The document states that the NFmark Environnement is intended to certify that the products and/or services on which it is affixed have a lower negative impact on the environment, and a satisfactory quality of use compared to other similar products and/or services on the market.

The NFcertification Environnement can be based on all or part of the provisions of national, European and international standard documents supplemented, if necessary, by other documents of current reference in terms of environmental protection.

The certification of the NF Environment mark can be applied to products and/or services intended for consumers and to intermediate products or services.

The NF Environment brand is the exclusive property of AFNOR, and is also subject to national filing to guarantee its protection worldwide.

The NF Environment mark is a collective certification mark which, as such, is transferable only under the specific conditions provided by law and only AFNOR has the power to enter into agreements with other French or foreign organizations relating to the NF Environment mark and which provide for the recognition of the brand name.

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[233] To learn more Règles générales de la marque NF Environnement Révision 7. Approuvée par le Président d'AFNOR, the 23/04/2012 http://cdn.afnor.org/download/reggen/FR/Marque%20NF%20Environnement.pdf

The NF brand is recognized by 8 out of 10 French and affixed to over 50,000 certified products and services.

To obtain the NF mark it is necessary to follow precise procedures[234] to guarantee the high standards of quality and safety confirmed, at the end of the procedure, by the controls of an independent third party guaranteed by the State.

Finally, the NF Environment mark meets the requirements of the ISO I standard typology equivalent to the EU Ecolabel, so it can influence the development of low environmental impact products and thus the transition towards EC.

2.2 THE NF AND ECOLABEL MARK

Both the Ecolabel and NF Environment certification are used on French products and services.

According to the EU Ecolabel website in France, there are 343 European Ecolabel certified products and services while there are 133 NF environment certified products.

This difference between the numbers of certified products is probably due to the fact that the Ecolabel is widespread throughout the country.

European territory while the NF environment brand is a French national brand. In France, the Ministry of the

[234] To know the stages of certification https://marque-nf.com/faire-certifier-ses-produits-ou-services/les-etapes-cles-de-la-certification-nf/

Environment has entrusted ADEME[235] with the accompaniment of French policy on the dissemination of the European Ecolabel and its release to AFNOR.

As already mentioned at the end of the previous paragraph, both certifications belong to type I.

Therefore, both are voluntary and subject to external (or third party) certification and are based on a system that considers the entire life cycle of the product, establishing threshold values and environmental performance limits to be respected in order to obtain their release.

Environmental labels are defined on ecological requirements established using a multi-criteria approach[236] for the entire life cycle of the product and developed in consultation with stakeholders: manufacturers, distributors, environmental and consumer protection associations.

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[235] L'ADEME- Agence de la transition ecologique - is a public industrial and commercial institute placed under the supervision of the Ministries of Ecological and Inclusive Transition and of Higher Education, Research and Innovation. The nature, missions, organization and functioning of ADEME are established by the Environmental Code (articles from L131-3 to L131-7 and from articles R131-1 to R131-26)) For 2020-2023 the agreement of ADEME with the French state foresees the acceleration of the ecological transition towards a society poor in resources and energy, united, which creates jobs, more humane and harmonious ". Furthermore, three priorities have been established for ADEME to mobilize and support citizens, territories and economic and public actors: amplify the deployment of the ecological transition, contribute to collective competence for the ecological transition and, finally, innovate and prepare for the future of the transition. ecological. Finally, ADEME contributes to the implementation of the 17 Sustainable Development Goals of the United Nations 2030 Agenda. https://www.ademe.fr/

[236] The multi-criteria approach involves the simultaneous evaluation of a large number of variables, in order to understand the reason for the environmental variability, present between the areas under study, and within the areas themselves. D.V Lindley, *La Logica della Decisione*, Il Saggiatore, Milano, 1990; E. Chiodo, *Strumenti di supporto alle decisioni per la tecnologia e l'ambiente Analisi multicriteriale deterministica applicata al progetto dei veicoli elettrici* in AMBIENTE, SICUREZZA & SALUTE, 2005; A.P Wierzbicki. et al., *Model-based Decision Support Methodology with Environmental Applications*, II ASA, Kluwer, Dordrecht, 2000

The objectives of NF environment and the European Ecolabel are similar, both aim to: distinguish products whose impact on the environment is reduced by promoting the design, production, marketing and use of products with a lower environmental impact throughout their life cycle; encourage producers to improve the ecological quality of their products; contribute to the behavior of "eco-responsible" consumers by providing better information on the impact that products have on the environment.

Hence, both labels provide consumers with transparent information according to a supervised methodology.

Once again both the two environmental labels respond to the strict framework defined by the French energy transition law which provides for the communication to consumers of clear and reliable information on the environmental impacts of the products and services offered to them since companies have a complementary tool to them which allows to expose these main environmental characteristics: the environmental declaration of the products.

2.2.1 THE ENVIRONMENTAL DECLARATION

The Energy Transition for Green Growth Act introduced a transparency requirement to allow consumers[237] to obtain clear

[237] The principle of public participation in environmental issues is enshrined in Article 7 of the Constitutional Charter for the environment. The environmental code includes several procedures for public participation in decision-making adapted to the types of projects, plans and programs and the progress of their development. The latest modalities in the democratization of the environmental dialogue were introduced by the ordinance of 3 August 2016 which reforms the procedures aimed at

and reliable information on the environmental impacts of the products and services offered to them. Article 90 of the law provides that "... in *order to guarantee the quality of the environmental information made available to the consumer, producers who voluntarily make a communication or an environmental declaration relating to their products are required to jointly make available the main environmental characteristics of these products* "Environmental communication on a product is voluntary, but also characterized by a multi-criteria approach capable of simultaneously describing the main environmental characteristics of the product in question.

In this way, the objectives of French environmental policies are complied with as it promotes a more sustainable consumption.

Through a complete information on the environmental impacts of the product that goes beyond labeling, the purchasing and consumption habits of citizens[238] and indirectly of production companies as well as of the entire

guaranteeing information and public participation in the elaboration of certain decisions that may have an impact on the environment.

[238] There are numerous researches involving citizens on the need for clearer and more transparent communication in favor of a more responsible consumption of products. These researches indicate that citizens are in favor and indeed in agreement with a possible legislative obligation in the adoption of this declaration. *Enquête Expériences de choix avec information environnementale*, CGDD-MEEM, 2013; *Les étiquettes environnementales, pour bien choisir*, Guide pratique réf. 8163, Ademe, septembre 2015; *Affichage environnemental des produits de grande consommation, bilan au Parlement de l'expérimentation nationale*, MEEM, septembre 2013; N.Ceci-Renaud, T. Tarayoun, *Comportements d'achat en présence d'affichage environnemental : les enseignements d'une enquête par expériences de choix*, Études et documents n°149, CGDD, mai 2016. A.Rolland, *Qui est prêt à payer davantage pour un produit vert ?*, Essentiel, CGDD, janvier 2017.

production chain are influenced. amb The product market, which is legally regulated, also aims to eradicate the phenomenon of greenwashing[239], quite widespread, which helps to confuse the consumer in his purchases with unfounded information on the environmental impact of products.

3.0 SUSTAINABLE FINANCIAL PRODUCT CERTIFICATIONS

As we have already pointed out in the introductory paragraphs, the French labeling system also extends to financial products in order to support the transition towards the so-called green economy.

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[239] Green washing is the phenomenon according to which unfounded, biased or partial claims are aimed at making a product appear more ecological than it actually is. To combat Greenwashing, campaigns of education, in order to make people more aware of the role that everyone plays in the field of sustainability. Among the initiatives aimed at guiding towards correct choices, it is worth mentioning that of Futerra, an English association that proposes an anti-greenwashing handbook, <www.futerra.co.uk/downloads/Greenwash_Guide.pdf>, aimed at companies interested in making good environmental communication , for example, avoiding vague expressions, suggestive images, high-sounding statements supported by weak foundations, and without omitting relevant information about one's processes. The American Enviro Media Social Marketing has also created an interesting online community, called Greenwashingindex, where users can report, comment and judge TV commercials and in general advertisements from companies and organizations suspected of being cases of greenwashing. Among the other online initiatives, which attempt to provide users with information on what is truly worthy of being considered sustainable and ecological, we point out the Greenbean agency, which conducted a survey on greenwashing among Italian companies, and GoodGuide, created by the prestigious mit (Massachusetts Institute of Technology), which classifies many consumer products by expressing a judgment according to three basic parameters: health, environmental impact and social impact. Finally, we also remember GreenWikia, which, using the same approach as Wikipedia, allows everyone to participate in the discussion of environmental issues, to make truthful and as verifiable information available as possible. M. Crivellaro,G. Vecchiato,F. *Scalco, Sostenibilità e rischio greenwashing*, libreriauniversitaria.it, Milano, 2012, F.Iraldo, M. Melis - *Oltre il greenwashing. Linee guida sulla comunicazione ambientale per aziende sostenibili, credibili e competitive,* Edizioni Ambiente, Milano, 2020, Greenwashingindex, <www.greenwashing index.com>. Greenwashingreport, http: // sinsofgreen washing.org/findings/greenwashing-report-2009/ GreenWikia, <http://green.wikia.com>.

In the research on SRI (Sustainable and Responsible Investment funds) conducted by Ipsos Mori on behalf of Vigeo Eiris, an international research and ESG (Environment, Social and Governance) agency, and FIR (The Forum for Responsible Investment)[240]

About half of the French say they care about the environmental and social impacts of their investment decisions.

The subjects with a social purpose (respect for human rights: 80%, employment: 77%, working conditions: 74%, gender equality: 70.5%) rank first among the subjects that the interviewees want to see integrated as a priority in their savings, followed by the environment (pollution: 70.4%, climate change: 66.7%).

The great majority of French retail investors (72%) want the integration of sustainability issues into their savings funds to be mandatory. Despite this interest, the concept of SRI remains unknown to the general public: 66% of

[240] The research was conducted in 2017 to answer the following questions *What is the level of knowledge and interest of the French in SRI*? *What are the key trends and new challenges associated with these investments in 2017*? Vigeo Eiris - http://vigeo-eiris.com/ is a global provider of environmental, social and governance (ESG) research for public and private investors and companies. The agency evaluates the integration level of factors of sustainability in the strategy and operations of organizations and undertakes a risk assessment to assist investors and companies in decision making. The FIR- https://www.frenchsif.org/isr-esg/ is a French multi-stakeholder association whose mission is to promote SRI, Socially Responsible Investment. FIR brings together all parts of the SRI value chain: investors, asset management companies, brokers, non-financial rating agencies, investment advisors, trade associations and trade unions. FIR is, together with the AFG - the French asset management Association - and Eurosif, one of the creators of the Code on transparency. FIR is a founding member of Eurosif. www.frenchsif.org. Ipsos MORI is a market research company based in London, England. It was formed by the merger of Ipsos UK and MORI in October 2005. https://www.ipsos.com/ipsos-mori/en-uk

respondents said they had never heard of SRI before this survey. Only 3% of French people say they have already invested in an SRI fund.

A re-reading of paragraph 2 of article 2 of the LCTV "...*National and territorial, economic, research and innovation, education and initial and continuing training policies contribute to this new way of development through regulatory, financial and fiscal devices, incentives and contracts established by the state and local authorities*"already contains indications for French political institutions to approve financial provisions to mobilize public and private funding to support the development of a new paradigm of green economy.

In fact, since the approval of the LCTV law, France has put in place a series of financial devices to mobilize the savings of French citizens.

Among these, he believed that labels could provide consumers with all the information necessary to induce them to invest in a green economy ahead of what the EU would have done with the recent Financing Plan for Sustainability.

The French government has developed three types of labels The two most important are the Greenfin label and the ISR (Investissement Socialement Responsable) label, which apply to investment funds.

The third label, "*Crowdfunding of green growth*", developed by the Ministry of Ecological and Inclusive Transition (MTES), applies to crowdfunding projects related to ecological transition.

3.1 GREENFIN-label - TEEC

The Greenfin label (formerly called 'Energy and Green Climate Transition') - TEEC was launched at the end of 2015 at the time of COP 21[241].

The Greenfin brand is based on a decree[242] which officially created the label and a reference framework[243] which defined its specifications and control procedures.

The public authorities own the label (brand, rules of use, reference system) and approve the proposals for the development of the label formulated by the Greenfin label committee.

This committee defines the main guidelines for the coordination of the whole system and proposes changes to the label specifications to public authorities.

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[241] It should be remembered that COP21 is the acronym that indicates the 21st Conference of the Parties, that is the signatory states of the UN Framework Convention on Climate Change (UNFCCC). The Convention is the treaty signed in Rio de Janeiro in 1992 ("Earth Summit") for the reduction of emissions of greenhouse gases. Later in 1997 the Kyoto Protocol was adopted. From Rio onwards almost every year the Conferences have been held which are actually governmental assemblies in which an attempt is made to reach agreements on the topics covered. COP 21 took place in Paris from 30 November to 12 December 2015. Its central objective was to keep the global temperature increase below 2 ° C, compared to the levels of two centuries ago, trying if possible to limit it by 1.5 ° C. The conference ended after two weeks with the drafting of a so-called “universal” agreement, to which 197 states signed up.

[242] The decree no. 2015-1615 of 10 December 2015 establishes the creation of the energy and ecological transition certificate for the climate and defines its specifications and control methods.
https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000031593158/

[243] For a reading of the framework approved in its latest revision in April 2019 see
https://www.ecologie.gouv.fr/sites/default/files/Label_TEEC_Criteria%20Guidelines.pdf

Ensures the proper functioning of the labeling process and its development.

The ministry chairs the label committee made up of representatives of all interested parties, including representatives of consumer associations. Verification of fund labeling is then carried out by independent third-party organizations.

Based on the specifications of the label, they examine the application files for the funds to be labeled sent by the management companies and grant or not the label, in complete independence.

They carry out an annual review of the labels and suggest any technical changes to be made. To date, the labeling bodies performing certification activities are EY France, Novethic and Afnor Certification[244].

Funds admitted to obtain Greenfin labeling must reserve a majority share determined by the label reference system towards 8 categories of activities[245] which make the fund eligible for labeling. On the other hand, there are some activities for which the funds that invest in it and ask for Greenfin labeling are excluded from the concession: the

[244] Further information on these certification bodies can be found on their reference sites: EY France - https://www.ey.com/fr_fr; Novethic- https://www.novethic.com/; Afnor Certification - https://certification.afnor.org/

[245] The categories of activities that make the funds eligible for Greenfin labeling are: Energy, Construction, Waste Management and Pollution Control, Industry, Clean Transport, Technologies of information and communication, Agriculture and forestry, Adaptation to climate change

exploration, production and exploitation of fossil fuels; entire chain of the nuclear industry[246]

Funds applying for the label must ensure the active monitoring of environmental (E), social (S) and governance (G) disputes and demonstrate their impact on the construction and life of the land portfolio.

Finally, the candidate fund must have established a mechanism to measure the actual contribution of its investments to the energy and ecological transition. In order to obtain the Greenfin, the fund management company will then have to undergo an audit by the labeling body aimed at analyzing the regulatory or commercial documents, the portfolio statement and the fund management report, the interviews with the fund managers.

Once the audit is complete, the labeling body draws up a report that will be positive if the candidate fund meets the label criteria or will report any gaps and timescales to be able to fill them.

Regarding the labeling criteria, the reference framework contains three pillars within which the criteria according to which a fund can acquire the Greenfin label are established.

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[246] Furthermore, those funds that invest even partially in activities concerning:are excluded from the granting of the Greenfin label distribution companies, transport and production of equipment and services, when over 33% of their turnover is made with customers in strictly excluded sectors; companies that realize more than 33% of their turnover in one of the following activities: storage centers and landfills without GHG capture; incineration without energy recovery; energy efficiency for non-renewable energy sources and energy savings linked to the optimization of extraction, transport and electricity generation from fossil fuels; logging, unless sustainably managed, and peat bog farming.

The first Pillar concerns the objectives of the Fund and the methodology for selecting the activities that contribute to the energy and ecological transition.

The internal criteria require that the general, financial and specific environmental objectives be clearly described in the documents intended for investors, that the evaluation of the green part of the portfolio is also described and which assets are opposed to the energy transition.

The second pillar requires that ESG criteria be taken into account in the construction of the investment portfolio, for which social responsibility issues and active monitoring of environmental (E), social (S) and governance (G) and the transparency of the fund's financial management practices.

Finally, the third pillar aims to highlight the positive impacts on the energy and ecological transition, therefore it asks that the fund has set up a mechanism to measure the effective contribution of its investments to the energy and ecological transition and that it reports impact indicators for the benefit of the same transaction.

Therefore, the criteria for obtaining a Greenfin label on a financial fund are mainly designed to inform the investor about the ability of the funds themselves to respect the impact on the environment, taking into account ESG aspects.

The Greenfin brand benefits both end investors and the funds that are labeled. Investors can trust that the Greenfin certified fund invests in truly green assets since the label is verified by independent third parties and therefore in

line with the environmental preferences of savers also reported in the interview mentioned in the introductory paragraph.

The fund for management companies, once Greenfin certified, becomes credible, reliable and obtains visibility so as to be able to increase for the future.

Finally, Greenfin and the financial Ecolabel will integrate the contents of the EU Taxonomy Regulation into their criteria, which will make them even more comparable[247].

3.2 SRI FUNDS - Socially Responsible Investments (SRI)

Socially Responsible Investment (SRI) is a management method that involves taking into consideration, beyond the financial risk and return criteria, factors related to the impact of issuers on the environment, society and governance issues.

The SRI label is a tool for choosing responsible and sustainable investments.

Created and supported by the Ministry of Finance, the brand aims to make socially responsible investment products more visible to savers in France.

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[247] The Regulation on the TaxonomyFriendly of Eco-Activities Regulation (EU) 2020/852 DEL of 18 June 2020 (EU) 2019/2088 contains a classification shared by the EU on economic activities that can be considered sustainable from an environmental point of view.

The legal framework to which the ISR label refers is the decree n. 2016-10 of 8 January 2016[248] which establishes the label and defines its specifications and control methods and the decree of 8 July 2020[249] which amends the previous decree and defines the reference framework and control and monitoring plan for the ISR label.

Hence the investment SRI aims to reconcile, as per its definition, economic performance, social and environmental impact (ESG)[250] by financing companies that contribute to sustainable development in any sector of activity.

The ISR mark, issued at the end of a rigorous labeling process conducted by independent bodies (eg AFNOR

[248] Article 1 of the decree n ° 2016-10 of 8 January 2016 shows the following definition "*The socially responsible investment "label, or " SRI "label, constitutes a distinctive sign that materializes the certification of the conformity of an investment product or service to a system of reference, according to the terms defined in this decree. Obtaining the trademark implies, for a collective investment organization, compliance with a series of criteria relating to its management methods. These criteria aim to qualify an investment that reconciles economic performance and social and environmental impact by financing companies and public bodies that contribute to sustainable development, whatever their sector of activity.* " For the complete reading of the decree https://www.legifrance.gouv.fr/loda/id/JORFTEXT000031800648/2020-11-06/

[249] For the complete reading of the decree of 8 July 2020 amending the decree of 8 January 2016 which defines the framework and the control and monitoring plan for the ISR label and in particular of Annex 2 which establishes the reference framework for labeling criteria see https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042138137/ Instead, for the reference framework that will enter into force on 23 October 2020, see https://www.afg.asso.fr/wp-content/uploads/2020/07/2020-07-23-rfrentiel-du-label-isr-juillet-2020-1.pdf

[250] The ESG (Environmental, Social and Governance) are analytical criteria used to assess the consideration of sustainable development and long-term issues in a corporate strategy. These criteria can be for example:

- CO2 emissions, electricity consumption, waste recycling for area **E**
- the quality of social dialogue, employment of the disabled, employee training for area **S**
- transparency of executive remuneration, fight against corruption, feminization boards of directors for area **G**

Certification), is a unique mark for savers who wish to participate in a more sustainable economy.

The certification process runs through the following steps: verification of the fund's eligibility for the SRI label to understand if the fund[251] is eligible, collection of data to prepare the audit, on-site audit, verification of compliance with the labeling criteria by the candidate fund, report on audit for which the certification body draws up an audit report from which the decision to assign the ISR label, depends attestation of the fund's compliance with the requirements of the ISR label.

The fund is labeled for a period of 3 years, with an annual monitoring check.

The fund is verified on the basis of the labeling criteria contained in the reference framework on the following 6 areas: Area I: objectives pursued by the fund taking into account the ESG criteria for issuers; Area II: analysis of the issuer and rating methodology implemented by the asset management company (or analysis of the real estate assets and rating methodology implemented by the asset management company for real estate funds); Area III: taking into account ESG criteria in the construction and life of the portfolio; Area IV: the ESG involvement policy (dialogue and

[251] The SRI label is accessible: for movable asset management funds (UCITS, FIVG, FPS, FPVG, OFS funds, employee savings funds and, under certain conditions, mixed corporate / sovereign funds, funds of funds or management funds, feeder funds and assets of solidarity), for real estate asset management funds (real estate AIFs marketed in France and Europe and falling under the AIFM Directive or equivalent for funds marketed outside the European Union, funds of funds or multi-management under certain conditions and mandates management relating to real estate assets).

vote) with the issuers (or the ESG involvement policy towards the main stakeholders for real estate funds); Area V: greater transparency; Area VI: highlight the monitoring of the ESG performance of the fund's portfolio.

The specifications for the ISR label are accompanied by a control and monitoring plan that specifies the eligibility methods and the procedure for certification, monitoring and withdrawal or suspension of the ISR label.

Surely this label guarantees the final customer the transparency and traceability of investments as well as safety as this fund is registered in a sustainable economy and controlled by an independent certification body.

3.3 PARTICIPATIVE GROWTH FUNDS

Many projects in favor of ecological transition can be financed by crowdfunding, whether they are carried out by individuals, associations, companies or local authorities.

These range from protecting biodiversity to developing green technologies, including local organic farming or environmental awareness projects.

More and more specialized platforms for sustainable development are developing and allow to accelerate the energy transition thanks to the direct participation of citizens, and in particular local residents, in renewable energy projects.

Therefore, a label "*Participatory finance for green growth*" - label " *Finance participative pour la croissance verte* " was developed. which is affixed to projects that fall

within these types of funding and a legal regulatory framework has also been defined for these.

The framework is outlined by the ordinance n.2014-559 du 30 mai 2014 relating to participatory financing[252]; the decree n.2014-1053 of 16 septembre 2014 relating to participatory financing[253]; the decree n.2016-1453 of 28 October 2016 relating to securities and loans proposed in the framework of participatory financing[254]; the ordinance n. 2016-1635 du 1er décembre 2016 which reinforces the French provisions in the fight against money laundering and terrorist financing.

In addition to regulating the sector, this regulatory framework has established two specific statutes: the status of participatory finance intermediary for donation and loan platforms and the status of consultant for participatory investments for investment platforms.

Compliance with the legislation and the criteria contained in the reference framework[255][43] are the conditions for platforms to obtain the participatory financing label.

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[252] For a complete reading see: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000029008408/

[253] For a complete reading see: https://www.legifrance.gouv.fr/jorf/id/ JORFTEXT000029463569? R = hh2fuNNOLP

[254] For a complete reading see: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000033317337?r=QeyPrMPwRD

[255] For a complete reading see: https: / /financeparticipative.org/wp-content/uploads/2019/06/R%C3%A9f%C3%A9rentiel-label-FPCV_201905.pdf

The criteria that the projects must respect to obtain the label include the suitability of the project according to which it must represent a "*activity green*" within the meaning of a nomenclature inspired by the same label and possibly adapted to also integrate territorial sustainable agriculture projects.

Then among the criteria we must respect: the transparency of information related to the project and its environmental and social impacts guaranteed with the description of the project and a space dedicated to user questions created on the platform; highlight the positive impacts of the project by measuring its positive contribution to the energy and ecological transition.

Finally, impact indicators on the issues of water, biodiversity, climate change and the circular economy are envisaged. This label can be required for all forms of participatory finance (donations, loans, capital, bonds and cash vouchers, etc.).

The participatory finance mode is mainly based on the ability to mobilize a community to raise large sums of money through platforms crowdfunding online, any citizen can finance a project and can have their project funded by users of the platform.

The platforms are distinguished according to the type of financing they support between donations with a very large number of small donors or investment in securities such as bonds, shares or shares of profits.

The right to the trademark is delegated by the Ministry of Ecological and Solidarity Transition to participatory

financing platforms that, selected on the basis of a rigorous disciplinary, have signed an agreement with the ministry and FPF[256].

3.4 REPORTING ON FUNDS AND TRANSPARENCY

In order to encourage savers to invest their savings in order to facilitate the transition to a green economy, France has wasted no time and has encouraged, through a precise legal framework, the reporting on funds and transparency.

These aspects of green investments are both aimed at the saver and are precursors of the current choices of the EU itself in this field.

With the law of May 15, 2001[257] relating to the new economic discipline, France asked listed and unlisted companies with more than 500 employees whose turnover exceeded 100 million euros, to include, in their management report, quantitative and qualitative information on the social and environmental consequences of their activity.

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[256] Financement Participatif France (FPF) is an association under the law of 1901 whose objective is the collective representation and defense of the rights and interests of participants in participatory finance (crowdfunding) and more generally of all actors with a activity related or complementary or common interests with crowdfunding. http://financeparticipative.org/label-croissance-verte/

[257] See Loi n ° 2001-420 du 15 mai 2001 relative aux nouvelles régulations économiques (NRE) - https://www.legifrance.gouv.fr/ praise / id / JORFTEXT000000223114 / 2020-11-12 /

The decree of 24 April 2012[258], relating to the transparency obligations of companies in social and environmental matters, required companies managing a financial portfolio to indicate, starting from 1 July 2012, the inclusion of environmental criteria, and governance in their investment process.

The information to be submitted referred to both the management companies and the undertakings for collective investment in transferable securities it manages.

The approval of the energy transition law for green growth through Article 173 has obliged institutional investors to measure and declare the ways in which they take into account environmental and social objectives, and quality of governance (ESG) in their investment as well as its exposure to the risks associated with climate change, demonstrating that it has taken adequate measures to reduce it.

The reporting envisaged by article 173[259] conforms to the "*comply or explain" approach*[260] and therefore companies

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[258] See Décret n ° 2012-557 du 24 avril 2012 relatif aux obligations de transparence des entreprises en matière sociale et environnementale - https: //www.legifrance.gouv. fr / jorf / id / JORFTEXT000025746900/

[259] The decree adopted in application of Article L. 533-22-1 of the Monetary and Financial Code and entered into force on 30 December 2015 in compliance with Article 173-VI, defines the information to be published in the extra-financial report and specifies the information that can be provided on the climatic aspects. The decree provides for a review of its application by the government within 3 years of its entry into force. Décret n ° 2015-1850 du 29 décembre 2015 pris en application de the article L. 533-22-1 du code monétaire et financier - https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000031740341?r= UBr8HrQnJq

[260] The principle of comply or explain or "*respect or explain*", referred to in Article 20 of Directive 2013/34 / EU, plays a fundamental role for corporate governance provisions in Europe. Based on this principle, companies that deviate from their respective corporate governance code are required to explain, in the corporate governance report, which parts of the

that do not comply with the legislation are required to provide the reasons underlying this choice.

France was the first country in the world to make it mandatory for investors to publish information on their contribution to the objectives climate and financial risks associated with the energy and ecological transition.

Therefore, investment funds with the Greenfin brand must have established a mechanism to measure the actual contribution of their investments to the energy and ecological transition.

In this regard, the funds provide information on human resources, the impact assessment method or the comparison of the selected indicators with possible benchmarks.

Regarding transparency in France the code for transparency for SRI funds open to the public is the French version of the European Code for Transparency[261].

code they have breached and justify their decision. A subsequent European Commission Recommendation of 9 April 2014 on the quality of corporate governance disclosure (the "comply or explain" principle) in European listed companies is published with the aim of providing guidance to the Member States and the bodies responsible for the national corporate governance codes, to companies and other stakeholders. The guideline aims to improve the overall quality of corporate governance reports published by companies under Article 20 of Directive 2013/34 / EU and, in particular, the quality of the explanations provided by companies in case of derogation from the code recommendations applicable corporate governance.

[261] In 2018 Eurosif together with the various national SIFs launched the new European transparency- codeTransparency code 4.0. The principle behind the Code is that asset managers' signatories should disclose accurate, adequate and timely information to enable interested parties, particularly retail investors, to understand the policies and practices of a given SRI fund. The Code focuses on publicly distributed SRI funds in Europe and is designed to cover a broad range of asset classes. The updated code reflects the most relevant practices on sustainable and responsible investment and sustainable finance. In fact, it also takes into account the provisions of art. 173 of the LCTV which binds institutional investors to declare their exposure to climate risks and to indicate the measures introduced to reduce it.

Designed and approved by the French Asset Managers Association - AFG[262], French SIF - FIR[263] and EUROSIF, it has been made mandatory by the AFG and FIR since 2010, for all funds that require the SRI approach.

The string for transparency improves the readability and transparency of the approach of the SRI funds towards investors, savers and any other stakeholder.

Funds signatories to the Code must provide accurate and up-to-date information in clear language that can be understood by a wide audience, to enable all interested parties, particularly investors and savers, to better understand the ESG policies and practices implemented in the funds.

In 2018 FIR, AFG, and Eurosif launched a new version of the Transparency Code for SRI funds.

Finally, in 2017, the Autoritè de Marches Financiers - AMF[264] recommended that environmental financial products intended for retail investors receive a label, SRI or TEEC

[262] AFG - Association francaise de la gestion financieres - https://www.afg.asso.fr/lindustrie-de-la-gestion-financiere/environnement-international/actions-de-lafg/

[263] FIR - Forum for responsible investment - https://www.frenchsif.org/isr-esg/

[264] AMF - Autoritè de marches financiers - https://www.amf-france.org/fr

4. DEVELOPMENTS - THE ROADMAP ON FINANCING

The regulatory framework that emerges from reading the paragraphs dedicated to certification allows us to say that France, among the member states of the European Union, certainly plays an important role both for its strong attention to the environment and for ability to anticipate the times by developing regulations that lead the way on economic, social and environmental issues, including at an international level.

The LCTV law and its implementing decrees are an example. By now France, through actions that involve both the social system (associations, consumers, producers, etc.) and the administrative system (central state and territorial communities at all levels) is oriented towards a green and circular socio-economic future to which environmental certifications can contribute effectively.

In general, French environmental certifications insist on demand and guide both the consumer and the producer or investor to adopt a proactive behavior towards the purchase and production of goods with low environmental impact or in investing in funds for the environment.

Environmental certifications of products or services now present a well-established legal framework where Ecolabel and NF environment, although they insist on different

territorial situations, are linked to several products[265], increasing with a certain constancy.

However, what will make environmental labels even more incisive for the transition to a circular economy is the complementarity with the environmental declaration required by the LCTV in art. 90, which aims to make the information that accompanies certified products even more transparent and makes consumers and producers aware of the need for environmental protection.

On the other hand, with regard to environmental labels on sustainable funds as on the other hand in the EU also in France although in some aspects it is ahead of its time, albeit already regulated, the picture on labels and sustainable finance appears lively and all in progress.

The 2015 Energy Transition Law for Green Growth, LCTV, was essential with its mechanisms to outline in some cases from scratch in others in refinement the push towards sustainable and certified financial funds.

Indeed, according to a Eurosif research between 2014 and 2016, the responsible investment market in France increased by 61.7% and will certainly strengthen with the application of the PACTE law[266].

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[265] At the following Link you can find the French products that have obtained both the EU Ecolabel and NF environment certification: https://www.ecolabels.fr/trouver-un-produit-ou-service-ecolabellise/

[266] The PACTE law was enacted on 22 May 2019. The Action Plan for Business Growth and Transformation (PACTE) aims to remove obstacles to business growth at all stages of their development: from their creation to their transmission , via their financing. The aim of the PACTE law is also to better share the value created by companies with employees. Furthermore, this law allows companies to better consider social and environmental challenges in their strategy.

The latter consecrates the notion of social interest and offers the possibility for entrepreneurs who wish to specify the raison d'être of their enterprises in the statutes of the same.

In essence, financial actors can make clear their responsibilities for integrating ESG objectives into their strategies and investment tools as well as in terms of analyzing the environmental impacts of their investment activities.

Despite this, the French sustainable investment market is in trouble for a number of reasons including: the regulatory system for applying the provisions of the laws is complex and favors the growth of costs; both public and private companies still struggle to take into account ESG reporting and the impact on the environment of their activities and therefore to accept the obligations of Article 173; the heterogeneity of the market does not allow to fully apply the comply or explain logic and move investors; good practices are exchanged little; training on sustainable funds is not enough to offer savers the right information and make them a plausible offer on responsible savings.

The road map on sustainable finance, already introduced in the previous paragraphs, with the aim of strengthening the driving role of France in the development of responsible investment dictates a series of suggestions.

Among these, he states that it would be necessary to create a more favorable context for the development of

responsible investment through the clarification and deepening of the fiduciary responsibility of investors, the promotion of the analysis of the measurement of the impacts of investment activities and the strengthening of collaborative dynamics between public and private actors.

Based on this, the roadmap suggests a series of recommendations and actions that also involve the future of financial labels.

In particular, recommendation no.8: "*Making the offer of responsible savings products more transparent and systematic*" provides that the Ministry of Economy and Finance will explore the possibility, in accordance with the duty of consulting for the sale of savings products[267], of modify the regulatory framework to create an offer capable of integrating ESG factors for retail savings products. These products could also benefit from a recognized environmental label such as ISR, TEEC, FINANSOL and other European labels.

In support of these measures, the Ministry of Economy and Finance and the Ministry for Ecological and Inclusive Transition should develop actions to improve savers' understanding of the different labels and broaden their scope to include all asset classes and thus enable the labeling of all types of investment products.

Recommendation 4 provides for the possibility of integrating the social and environmental impacts of

[267] The duty of advice is specified in articles L223-25-3 du Code de la mutualité and L132-27-1 du code des assurances.

investment activities into the definition of investor responsibility.

Therefore, the governing bodies of French financial actors could integrate the social and environmental impacts of their investment activities into the definition of responsibility for their organization.

This reflection follows article 173 of the LCTV law (comply or explain) and the PACTE law which invites small companies to take social and environmental impacts into account in their management strategies and decisions.

Furthermore, following the proposed amendments to article 1835 of the civil code[268], the shareholders of the company could include in its statute its raison d'etre defined as "*the expression of what is essential for the achievement of the social*".

In this way companies are encouraged to no longer be guided by a single “reason for being” linked to profit, but

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[268] Entered into force on 1 January 2016, this article extends article 224 of the Grenelle II law and introduces new transparency requirements for institutional investors and their intermediary asset managers by requiring them to describe the procedures for taking into account ESG and climate criteria in their investment policies, as well as to define and publish the procedures for the voluntary alignment of their investment policies with the national energy and ecological transition strategy. This law was published following the so-called “comply or explain” principle, leaving investors with the option of not publishing information on investment policies in the social and environmental field provided they explain the reasons. This regulatory obligation has helped to extend the mobilization of French investors in the financial sector and inspired similar regulatory developments in other countries. The art. 1835 of the French Civil Code. Art. 1835 “*Les statuts doivent être établis par écrit. Ils déterminent, outre les apports de chaque associé, la forme, l'objet, the appellation, le siège social, le capital social, la durée de la société et les modalités de son fonctionnement. Les statuts peuvent préciser une raison d'être, constituée des principes dont la société se dote et pour le respect desquels elle entend affecter des moyens dans la réalisation de son activité.*"

also by a reason for being aimed at the search for sustainable development.

Finally, recommendation 2 invites you to complete the procedures for applying art. 173 of the LCTV. This article should be revised in order to: clarify the methods for implementing ESG policies adopted by investors; to increase the comparability of published information and its readability by the general public; expand the scope of the text so that the comply or explain principle becomes mandatory and that all French institutional investors are required to comply with it by 2020.

CONCLUSIONS OF FIFTH CHAPTER

The regulatory framework outlined along the paragraphs of the Chapter portrays France as a member state of the EU very active in the field of environmental policies.

Starting from the Environmental Charter in a succession of regulations in favor of environmental protection up to the law in the process of being approved which provides for France's commitment to achieve zero impact[269] on carbon emissions in 2050.

[269] Draft climate law - France's commitments to achieve carbon neutrality in 2050. The bill therefore defines the guidelines set by the French strategy for energy and climate, with in particular: a path to decarbonise the energy mix accelerating the decline in fossil fuel consumption to minus 40% in 2030; the end of electricity generation from coal in mainland France by 2022; the transformation of the energy model by bringing the deadline for reducing the nuclear share to 50% until 2035

Also in the field of environmental certifications France did not spare itself by approving the NF national certification adequate over time up to the NF environment in 1941 and being ahead of its time in the field of sustainable financial product certification.

It is this last field in the regulatory field that currently appears to be in dynamic evolution.

Regarding environmental certifications, although two fields of intervention of the French legislation have been identified, environmental certifications that take part on products and services of the real market and certifications that take part on sustainable financial products in the financial market in any case contribute to the same objectives, involve the same subjects and Both certifications preserve environmental protection and contribute to the transition to the circular economy (LCTV, Road map to the circular economy, etc.).

In fact, the certifications of sustainable financial products drive savers to invest in ecologically suitable activities and capable of finding ecological solutions in the production processes of products or services.

In turn, the ecological products are certified and push the consumer towards their purchase and the producer, to satisfy the consumer's demand, towards their production in a virtuous circle that leads simultaneously to saving resources and sustainable and circular economic development.

Furthermore, environmental certifications work on the same elements: the citizen who becomes a consumer in the market of environmental certifications of products and

services and a saver in the financial market of certifications of financial environmental products but for both the information is the element that affects the decisions of the consumer/saver in favor of an ecological orientation of his behavior.

Precisely on information, the French legislation has issued an important body of legislation. For example, the introduction with article 90 of the environmental declaration alongside the certifications.

The controversial article 173 which obliged institutional investors to measure and declare the ways in which they take into account environmental and social objectives, and the quality of governance (ESG) in their investment strategies, as well as their exposure to the risks associated with climate change.

Again the LOI PACTE which concerns the new development of small businesses as well as the possibility of explicitly inserting socio-environmental objectives for strategic management purposes in its statute.

Finally, once again on information, certifications must provide reliable, transparent and scientific information to allow the consumer and the investor to make correct choices.

Regarding the NF environnement certification, in addition to having a clear reference framework for the training and assignment procedure, it is comparable to the international standard ISO 14024, therefore it belongs to type I as the EU ecolabel, since the certification is verified/assigned by a third party independent (e.g. AFNOR Certification).

With regard to the Greenfin brand, similar to the EU financial Ecolabel, the regulatory framework that characterizes it is clear and well defined but also, for greater comparability at European level, pending comparison with the criteria outlined in the Taxonomy approved by 'EU for financial products.

Therefore, the French legislation in terms of environmental certifications on financial products will still have to make a journey of comparison and implementation but perhaps it will be able to anticipate the times as it has shown in other certification situations.

CONCLUSIONS

The path of the transition from the sustainable product ecolabel to the financial ecolabel, described in the previous chapters, outlines the regulatory choices made by the European legislator who, guided by the will to achieve the environmental policy objectives, aims to make the European Union and prefers to focus on voluntary rather than mandatory application effectiveness of the instruments.

In fact, both the product eco-label and the financial eco-label are tools whose application is voluntary.

They are encouraged in their use in directives, regulations and recommendations but are not subject to an application obligation.

In this way we intend to stimulate the behavior of the consumer/saver, to whom ecolabels are aimed primarily, towards an ecological awareness that does not need impositions to achieve the objectives linked to sustainable and circular development.

In fact, however, the legal regulation of eco-labels is necessary, for example, in their constitution process to guarantee constant and effective applicability comparability in EU member states.

Greater legislative input towards ecolabels can increase their potential for action or become a precursor of situations that will then be acknowledged by European policy makers.

In this perspective we can recall the Italian and French experiences.

Italy, through the Procurement Code, has made CAM mandatory - minimum environmental criteria, such as technical specifications for the definition of procurement objects, which can be proven through quality certifications such as the EU Ecolabel.

This represents for the eco-labels an opportunity for application development and dissemination as well as the indirect realization of the objectives of European environmental policies.

Instead, France has always been ahead of its time by regularizing before the EU the ecological product label NF environnement and the label on TEEC financial products, now Greenfin, as well as on other situations such as the obligation of information that accompanies the labels green (environmental declaration art.90 and principle of comply or explain art.173) regulated by the Loi de transition vert of 2015.

In addition to this aspect, the analysis of the product ecolabel-financial ecolabel path, highlighted the close relationship that, in the end, it unites the two labels passing from the same procedural logics of constitution to the interconnection of the elements that characterize them (criteria, consumer/saver, information).

This allows ecological product and financial certifications to act in synergy to implement the environmental policies of EU government decision makers.

A brief articulation of the topics covered in the course will allow us to consolidate what has been stated and, starting from the theoretical premise up to the practical implementation, an evident systematicity will close the circle of the relationship between the two certifications.

Sustainable development in its weak and strong declinations, supported respectively by the theories of the environmental economy of the decoupling of resources and the sufficiency of resources, outline the background within which the environmental policy of the European Union moves to resolve the question of reconciliation between scarcity of resources and economic development.

European policies have recognized the economic model of the circular economy capable of supporting weak sustainable development through eco-efficient production that favors an efficient use of resources but projected towards strong sustainable development through the use of production which, for saving resources, limit consumption.

The legislation issued by the EU, among the application tools to achieve its environmental objectives, has considered the quality certifications to be effective in the context of production and services and an integrated product policy.

In fact, in the product market, the input of requests for ecological products from the consumer, stimulated in his sensitivity towards the environment, affects the offer of the producer in a virtuous circle aimed at spreading products that respect the environment and are effective in preserving resources.

In this context, the ecological quality certifications of the product offer the consumer the necessary information so that, among the products, he can recognize the ecologically excellent ones, selected on the basis of criteria established through a standardized process and verified by third parties, therefore completely reliable. In this context, the EU is aware of the need to make even greater investments in economic activities in favor of the development of the circular economy.

Therefore, since the investment potential of savers covers a significant share of the financial market, a financial product certification addressed to them, which informs them of its commitment to ecological activities, has represented the most suitable tool to mobilize such investments.

The briefly outlined picture of the path from the product Ecolabel to the financial Ecolabel already highlights the common elements that characterize both certifications and which, in synergy with each other, allow their current and future development: the consumer/saver, information, criteria.

With regard to the product Ecolabel, the consumer and the right to information on products refer to a general regulation represented by article 191 of the TFEU, by art. 2 of EU Regulation no. 254/2014 relating to a multiannual program for consumer protection for the period 2014-2020, the 2012 Consumer Agenda and the 2020 New Consumer Agenda which presents an EU consumer policy perspective from 2020 to 2025

and which clearly spells out the active role of the consumer in the green transition.

In any case, the product ecolabel carries implicit, in itself, the information necessary for the consumer to make an ecologically conscious choice as the certified product is selected on ecological criteria, scientifically tested, included in the reference framework dedicated to him by the therefore credible and reliable label.

Instead, the saver, to which the financial eco-label refers, is regulated in its profile by art. 4 of Directive 2014/65 / EU and the information it receives for choosing the financial product that best suits its investment capabilities are governed by a revised legislation currently with EU Regulation 2019/2088.

Finally, for both ecolabels, the criteria represent a constitutive node. The procedure for choosing the criteria is the same for both the product eco-label and the financial eco-label as the latter also follows the indications provided for by EU Regulation 66/10.

The choice of criteria for both ecolabels is important as the inclusion or exclusion of a criterion determines their scope of action but also the orientation towards the achievement of the EU environmental objectives.

To give an example, what was stated in the final paragraph of the fourth chapter is taken up in which, in addition to highlighting the interconnection between the three elements common to both ecolabels, the interconnection between the two labels is also outlined and, through the choice of the criteria, support for the circular economy.

Therefore, it is necessary to consider an Ecolabel certified product which, among the criteria that make it certifiable for the label, includes recyclability and a financial product labeled Ecolabel that invests in economic activities of recyclable products.

The consumer buys the product, informed through the Ecolabel label that this product is recyclable, while the saver buys the financial product labeled Ecolabel, knowing that, through the accompanying information documentation, the same invests in recyclable product activities.

Recyclability represents one of the 3R that is part of the principles of the circular economy, therefore both the Ecolabel certified asset and the Ecolabel certified financial product favor an efficient use of resources and support the circular economy.

Thus we arrive at the terminus of the path that allows us to affirm that although they refer to different areas, product and financial ecolabels still act synergistically, orienting the socio-economic system towards circular sustainability, supported by regulatory inputs that are not directly taxable but however effective in results.

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