

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2022/822

of 18 May 2022

on speeding up permit-granting procedures for renewable energy projects and facilitating Power Purchase Agreements

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) Renewable energy is at the heart of the clean energy transition necessary to achieve the objectives of the European Green Deal, make energy affordable and decrease the Union's dependence on fossil fuels and energy imports.
- (2) Renewable energy has multiple benefits for the citizens of the Union: contributing to the efforts to deal with climate change, helping to protect our environment, creating growth and jobs as well as contributing to the Union's technological and industrial leadership and making the Union's economy more resilient.
- (3) The energy sector is responsible for over 75 % of the total greenhouse gas emissions in the Union. Speeding up the production of energy from the development and deployment of renewable energy installations is therefore vital for the Union to reach its 2030 renewable energy target and for contributing to reaching the 2030 Union target of at least 55 % GHG emission reductions in accordance with Regulation (EU) 2021/1119 of the European Parliament and of the Council ⁽¹⁾.
- (4) Rapidly increasing the share of renewable energy is crucial for addressing the problem of high energy prices. The decreased fixed costs and close-to-zero variable costs of renewable energy mean that renewable electricity costs have been more stable and lower than fossil fuel costs. The accelerated deployment of renewables will make the Union less reliant on – primarily imported – fossil fuels.
- (5) As recognised in the Communication 'REPowerEU : Joint European Action for more affordable, secure and sustainable energy' ('REPowerEU Communication') ⁽²⁾, rapidly ramping up the use of renewable energy is fundamental in reducing the dependency of the Union on fossil fuels and phasing out the consumption of Russian gas. The REPowerEU plan contains measures aimed at making this happen, as does the European Semester, in the context of which country-specific recommendations on permitting tailored to individual Member States' circumstances are being proposed.
- (6) The REPowerEU Communication has also introduced a hydrogen accelerator initiative doubling the 2030 objectives for renewable hydrogen, to reduce the Union's external dependencies on fossil fuel imports. To produce 10Mt of renewable hydrogen, the Union will require additional renewable energy capacities of 80 GW by 2030.
- (7) Renewable energy projects are in principle required to receive an authorisation so that they are able to perform their intended activity. Permit-granting procedures help to ensure that the projects are safe and secure. However, the complexity, variety and excessive duration of those procedures constitutes a major barrier to the swift necessary deployment of renewable energy and to achieving a more affordable, secure and sustainable Union energy system.

⁽¹⁾ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1.)

⁽²⁾ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions REPowerEU: Joint European Action for more affordable, secure and sustainable energy, COM(2022) 108 final.

- (8) Delays in processing project authorisations put at risk the timely reaching of energy and climate targets and increase the cost of the projects necessary to do so. Delays can also lead to the installation of less efficient renewable energy installations due to dynamic innovation.
- (9) Those barriers were already identified in Directive 2001/77/EC of the European Parliament and of the Council ⁽³⁾, which required Member States to evaluate the permit-granting procedures in order to reduce the regulatory and non-regulatory barriers to the production of renewable electricity. Directive 2009/28/EC of the European Parliament and of the Council ⁽⁴⁾ introduced requirements to simplify the administrative procedures for renewable energy developers. Directive (EU) 2018/2001 of the European Parliament and of the Council ⁽⁵⁾ strengthens these requirements. Their full and rapid transposition by all Member States is significantly helping to shorten administrative procedures and is a matter of the highest priority and urgency.
- (10) The Commission supports the Member States through the Technical Support Instrument ⁽⁶⁾, providing tailor-made technical expertise to design and implement reforms, including those streamlining the framework for authorisation and permit-granting processes for renewable energy projects and promoting the use of corporate power purchase agreements for renewable energy. The technical support, for example, involves strengthening of administrative capacity, harmonising the legislative frameworks, and sharing of relevant best practices.
- (11) The deadlines for the permit-granting process established in Directive (EU) 2018/2001 apply without prejudice to obligations under applicable Union environmental law, to judicial appeals, remedies and other proceedings before a court or tribunal, and to alternative dispute resolution mechanisms, including complaints procedures, non-judicial appeals and remedies, and may be extended for the duration of such procedures.
- (12) The lack of public acceptance of renewable energy projects is another significant barrier to their implementation in many Member States. To address this, the needs and perspectives of citizens and societal stakeholders should be taken into account at all stages of renewable projects development – from policy development to spatial planning and project development – and good practices for ensuring just distribution of the various impacts of installations among the local population should be encouraged.
- (13) Most of the barriers related to permit-granting for renewable energy projects and the related grid infrastructure, as well as good practices to overcome them, have been identified at the Member State level.
- (14) Administrative barriers have become more relevant due to the improvements regarding other barriers, such as technology costs, which have decreased dramatically over the last ten years, or financing issues, alleviated by the cost reductions and the increasing number of corporate power purchase agreements for renewable energy.
- (15) This Recommendation addresses these concerns, calling for solutions to be found within the existing legal framework. It is without prejudice to Union law, in particular in the area of energy and environment and to the obligations arising out of it. It is also without prejudice to the Union rules on competition, in particular Articles 101, 102 and 106 of the Treaty on the Functioning of the European Union, and the Commission's decisional practice in the enforcement of the Union competition rules.
- (16) A legislative proposal to amend and strengthen the provisions of Directive (EU) 2018/2001 related to administrative procedures has been adopted alongside this Recommendation. As it is urgent to accelerate the deployment of renewable energy projects, Member States should start as soon as possible to identify suitable land and sea areas and to prepare plans for particularly suitable areas ("renewables go-to areas"), in accordance with Article 15b of the proposal for amendment to Directive (EU) 2018/2001 on permitting.

⁽³⁾ Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market (OJ L 283, 27.10.2001, p. 33).

⁽⁴⁾ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L140, 5.6.2009, p. 16).

⁽⁵⁾ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

⁽⁶⁾ Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).

- (17) Maritime Spatial Planning is a key tool for identifying future areas for the deployment of renewable energy as well as facilitating multiple uses of the maritime space, including conservation and protection of the marine environment. Member States are required by the Maritime Spatial Planning Directive ⁽⁷⁾ to have their national maritime spatial plans adopted by 31 March 2021. The Commission urges the Member States that have not yet fully implemented the MSP Directive to establish and adopt their national plan ⁽⁸⁾.
- (18) Barriers resulting from permit procedures might also affect the future deployment of innovative decarbonisation technologies needed for climate neutrality. Setting up regulatory sandboxes, that is to say the testing, in a real-life environment, of innovative technologies, products, services or approaches, which are not fully compliant with the existing legal and regulatory framework, could support innovation and facilitate the subsequent adaptation of the regulatory environment to accommodate them.
- (19) The development of renewable energy projects partly or fully financed through corporate purchase agreements will help to accelerate the uptake of renewable energy. Corporate purchase agreements also provide direct benefits to the end-consumers, including by providing a competitive and predictable energy price and contributing to the corporate social responsibility agenda of companies in the Union.
- (20) Despite a year-on-year increase in corporate purchase agreements in the last five years, the percentage of renewable energy projects financed directly by corporate off-takers is only 15-20 % of the annual market. The uptake of corporate purchase agreements is also mainly limited to certain Member States, to electricity as an energy carrier, and to large multinational consumer-facing companies.
- (21) Along with this Recommendation, the Commission is making available digitally consolidated datasets on a wide range of relevant energy and environmental factors through the Energy and Industry Geography Lab ⁽⁹⁾ (EIGL), to help Member States for identifying renewables 'go-to areas' for the rapid deployment of new renewable energy projects. The Commission intends to develop this mapping tool further by incorporating additional datasets and links with Member States' digital spatial planning tools.

HAS ADOPTED THIS RECOMMENDATION:

DEFINITION

1. For the purposes of this Recommendation and the accompanying guidance, renewable energy projects are understood to encompass production plants for the generation of renewable energy as defined in the Renewable Energy Directive (including in the form of renewable hydrogen), as well as the assets needed for their grid connection and for the storage of the energy produced.

FASTER AND SHORTER PROCEDURES

2. Member States should ensure that the planning, construction and operation of plants for the production of energy from renewable sources, their connection to the electricity, gas and heat grid and the related grid itself and storage assets qualify for the most favourable procedure available in their planning and permit-granting procedures and are presumed as being in the overriding public interest and in the interest of public safety, in view of the legislative proposal amending and strengthening the provisions of Directive (EU) 2018/2001 related to administrative procedures and without prejudice to the Union law.
3. Member States should establish clearly defined, accelerated and as short as possible deadlines for all the steps required for the granting of permits to build and operate renewable energy projects, specifying the instances where such deadlines may be extended and under which circumstances. Member States should establish binding maximum

⁽⁷⁾ Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning (OJ L 257, 28.8.2014, p. 135).

⁽⁸⁾ Cf. Commission progress report on the implementation of the MSP Directive, COM(2022)185 of 3 May 2022.

⁽⁹⁾ <https://energy-industry-geolab.jrc.ec.europa.eu/>

deadlines for all relevant stages of the environmental impact assessment procedure. The duration of the permit-granting procedures for the installation of solar energy equipment in artificial structures should be limited to a maximum of three months.

4. Member States should establish timeframes and lay down specific procedural rules with a view to ensuring the efficiency of the legal proceedings related to access to justice for renewable energy projects.
5. Member States should create a single unified application process for the entire administrative permit application and granting process. Simultaneous applications should be prioritised over sequential applications if different authorisations are required, including for related grid projects.
6. Member States should allow applicants to update the technology specifications of their projects in the time between the permit application and the construction of projects to facilitate the uptake of innovative technologies.
7. When implementing these recommendations, Member States should make use of the practices described in Chapter I, Section 2 of the guidance in the Annex to this Recommendation.

FACILITATING CITIZEN AND COMMUNITY PARTICIPATION

8. Member States should stimulate the participation of citizens, including from low and middle-income households, and energy communities in renewable energy projects, as well as take measures to encourage passing the benefits of the energy transition on to local communities thus enhancing public acceptance and engagement.
9. Member States should implement simplified permit-granting procedures for renewable energy communities, including for the connection of community-owned plants to the grid and reduce to a minimum production licensing procedures and requirements, including for renewables self-consumers.
10. When implementing these recommendations, Member States should make use of the practices described in Chapter I, Sections 5 (c) and 6 (a) of the guidance in the Annex to this Recommendation.

IMPROVING INTERNAL COORDINATION

11. Member States should ensure streamlining and effective coordination between national, regional and municipal levels regarding the roles and responsibilities of the competent authorities, as well as the applicable legislation, regulations and procedures for the authorisation of renewable energy projects.
12. Member States should design a one-stop-shop for granting permits for renewable energy projects required in Directive (EU) 2018/2001 in such a way as to limit the number of authorities involved to what is necessary and maximise efficiency, taking into account public resources and the benefits of concentrating technological, environmental and legal expertise.
13. Member States should introduce rules such that the lack of a reply from the competent authority or authorities, within the established deadlines, results in the acceptance of a given request at the relevant stage of a permit-granting procedure for renewable projects (so-called “positive administrative silence”), unless their reply is required by Union or national legislation.
14. When implementing these recommendations, Member States should make use of the practices described in Chapter I, Section 3 of the guidance in the Annex to this Recommendation.

CLEAR AND DIGITALISED PROCEDURES

15. Member States should communicate to applicants clear, complete and transparent information on all requirements and procedural stages, including complaint procedures, at the beginning of the permit-granting procedure for renewable energy projects.
16. Member States should introduce fully digital permit-granting procedures and e-communication to substitute the use of paper. Relevant information should be made available to project developers centrally as part of an online manual of procedures, including templates for applications, environmental studies and data, as well as information on options for public participation and administrative charges.
17. When implementing these recommendations, Member States should make use of the practices described in Chapter I, Section 3 of the guidance in the Annex to this Recommendation.

SUFFICIENT HUMAN RESOURCES AND SKILLS

18. Member States should ensure sufficient and adequate staffing, with relevant skills and qualifications, for their permit-granting bodies and environmental assessment authorities.
19. Member States should use the Union and national funding opportunities available for upskilling and reskilling, in particular at regional and local level, and consider setting up an Alliance for sectoral cooperation on skills to bridge the skills gap of staff working on permit-granting procedures and on environmental assessments.
20. When implementing these recommendations, Member States should make use of the practices described in Chapter I, Section 4 of the guidance in the Annex to this Recommendation.

BETTER IDENTIFICATION AND PLANNING OF LOCATIONS FOR PROJECTS

21. Member States should swiftly identify suitable land and sea areas for renewable energy projects, commensurate with their national energy and climate plans and their contribution to reaching the revised 2030 renewable energy target. As part of this mapping process, limited and clearly defined areas should be designated as particularly suitable for the development of renewable energy (renewable go-to areas), while avoiding as much as possible environmentally valuable areas and prioritising *inter alia* degraded land not usable for agriculture. For this purpose, Member States are encouraged to make use of the updated datasets available in the Energy and Industry Geography Lab ⁽¹⁰⁾ ('EIGL').
22. Member States should limit 'exclusion zones', where renewable energy cannot be developed, to the necessary minimum. They should provide clear and transparent information with reasoned justification on restrictions related to distance to housing and military or civil aviation zones. The restrictions should be evidence-based and designed in such a way as to fulfil their intended purpose while maximising the availability of space for the development of projects, taking into account other spatial planning constraints.
23. Member States should streamline environmental impact assessment requirements for renewable energy projects to the extent that is legally possible, applying available technical guidance on reconciling renewable energy deployment and the Union's environmental legislation, and integrating the environmental impact assessment with other applicable environmental assessments in a joint procedure. Member States should use scoping ⁽¹¹⁾ in a systematic manner or make it mandatory in order to improve the quality of the environmental impact assessment process.

⁽¹⁰⁾ <https://ec.europa.eu/energy-industry-geography-lab>

⁽¹¹⁾ Scoping means issuing an opinion on the scope and level of detail of the environmental information to be submitted in the form of an environmental impact assessment report.

24. Member States should ensure that the killing or disturbance of individual specimens of wild birds and protected species under Council Directive 92/43/EEC ⁽¹²⁾ is not an obstacle to the development of renewable energy projects, by requiring such projects to integrate, as appropriate, mitigation measures to effectively prevent as much as possible killing or disturbance, by monitoring their effectiveness and, in the light of the information obtained from monitoring, taking further measures as required to ensure there is no significant negative impact on the population of the species concerned. If this is done, the incidental killing or disturbance of individual specimens should not be considered deliberate and therefore should not fall under Article 12(1) of Directive 92/43/EEC nor Article 5 of Directive 2009/147/EC of the European Parliament and of the Council ⁽¹³⁾.
25. Member States should encourage early public involvement to define spatial plans, promote the multiple use of sites and ensure transparency about where and how renewable energy projects may be built or installed, including small-scale installations at municipal level. Member States should pursue coordinated planning of grids and renewable energy generation capacities at all levels, including in the context of regional cooperation.
26. When implementing these recommendations, Member States should make use of the practices described in Chapter I, Section 5 of the guidance in the Annex to this Recommendation.

EASIER GRID CONNECTION

27. Member States should implement long-term grid planning and investment consistent with the planned expansion of renewable energy production capacities, taking into account future demand and the objective of climate neutrality.
28. Member States should establish simplified procedures for repowering existing renewable energy plants, including streamlined procedures for environmental assessments, and adopt a simple-notification procedure for their grid connections where no significant negative environmental or social impact is expected.
29. Member States should ensure that system operators (i) apply a transparent and digital procedure for grid connection applications; (ii) provide information on grid capacities; and (iii) optimise the use of grid capacity by allowing its use by power plants combining multiple complementary technologies.
30. Member States should provide legal certainty for the repurposing of natural gas pipelines to hydrogen by clearly stating which authorisations will be required and allowing the grandfathering of their existing authorisations.
31. When implementing these recommendations, Member States should make use of the practices described in Chapter I, Section 6 of the guidance in the Annex to this Recommendation.

INNOVATIVE PROJECTS

32. Member States are encouraged to put in place regulatory sandboxes to grant targeted exemptions from the national, regional or local legislative or regulatory framework for innovative technologies, products, services or approaches, to facilitate permit-granting in support of the deployment and system integration of renewable energy, storage, and other decarbonisation technologies, in line with Union legislation.

⁽¹²⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

⁽¹³⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

FACILITATING POWER PURCHASE AGREEMENTS

33. Member States should swiftly remove any unjustified administrative or market barriers to corporate purchase agreements of renewable energy, in particular to accelerate the uptake of corporate purchase agreements of renewable energy by small and medium-sized enterprises.
34. Member States should design, schedule and implement support schemes – and guarantees of origin – in such a way that they are compatible with, complement and enable corporate purchase agreements of renewable energy.
35. When implementing these recommendations, Member States should make use of the practices described in Chapter II of the guidance in the Annex to this Recommendation.

MONITORING, REPORTING AND REVIEW

36. Member States should set up a contact point tasked with regularly monitoring the main bottlenecks in the permit-granting process and addressing the issues encountered by renewable energy project developers.
37. Member States should communicate to the Commission, every two years starting in March 2023, as part of the integrated national energy and climate progress reports to be submitted pursuant to Article 17 of Regulation (EU) 2018/1999 of the European Parliament and of the Council ⁽¹⁴⁾, all available detailed information on the state of implementation of this Recommendation.
38. The Commission will review the implementation of this Recommendation two years after its adoption and assess whether further measures are required, taking into account information submitted by the Member States.

Done at Brussels, 18 May 2022

For the Commission
Kadri SIMSON
Member of the Commission

⁽¹⁴⁾ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).