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## **COMMISSION RECOMMENDATION**

of **XXX**

**on accelerating permitting for renewable energy projects and facilitating Power  
Purchase Agreements**

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### on accelerating permitting 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 brings multiple benefits for the citizens of the European Union contributing to the fight against the climate change, helping to protect our environment, creating growth and jobs as well as contributing to the Union's technological and industrial leadership, as well as increasing resilience of the Union's economy.
- (3) Accelerating the production of energy from the development and deployment of renewable energy installations is vital to achieve the EU's 2030 renewable energy target and contribute to the 2030 Union target of at least 55% GHG emission reductions set in the European Climate Law<sup>1</sup>, given the energy sector constitutes over 75% of total GHG emissions in the EU.
- (4) Rapid increase of the share of renewable energy is crucial to address the problem of high energy prices. Thanks to their decreased fixed costs and close-to-zero variable costs of renewable energy, renewable electricity costs have been more stable and below those for fossil fuels. The accelerated deployment of renewables will cut down EU's reliance on – primarily imported – fossil fuels.
- (5) As recognised in the Communication on REPowerEU<sup>2</sup>, rapid ramp up of renewable energy is fundamental in reducing our dependency from fossil fuels and phasing out the consumption of Russian gas. Concrete measures in this regard are being addressed also in the framework of the REPowerEU plan and the European Semester, where country-specific recommendations on permitting targeted to the situation in individual Member States are being proposed.

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<sup>1</sup> 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. 1–17.

<sup>2</sup> 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.

- (6) Furthermore, the REPowerEU Communication introduced a hydrogen accelerator doubling the 2030 targets for renewable hydrogen, which will in turn reduce the Union's external dependencies on fossil fuel imports. 10mt of renewable hydrogen production in Europe 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. While permitting procedures contribute to ensuring that the projects are safe and secure, the complexity, variety and excessive duration of these permitting procedures is a key barrier to the swift necessary deployment of renewable energy and to achieving a more affordable, secure and sustainable EU energy system.
- (8) Delays in processing project authorisations put at risk the timely achievement of energy and climate targets and increase the cost of the projects necessary to this end. The delays can also lead to installation of less efficient renewable energy installations due to dynamic innovation.
- (9) These barriers were already identified in the Renewable Electricity Directive of 2001<sup>3</sup>, which required Member States to evaluate the permitting procedures in order to reduce the regulatory and non-regulatory barriers for the production of renewable electricity. The 2009 Renewable Energy Directive<sup>4</sup> introduced requirements to simplify the administrative procedures faced by renewable energy developers. The 2018 Renewable Energy Directive<sup>5</sup> strengthens these requirements. Their full and rapid transposition by all Member States significantly contributes to shortening those procedures and is a matter of highest priority and urgency.
- (10) The deadlines for the permit-granting process established in the Renewable Energy Directive 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.
- (11) Lack of public acceptance of renewable energy projects is another important barrier in many Member States. To address this, the needs and perspectives of citizens and societal stakeholders should be taken into account in all phases of renewable projects development -from policy development to spatial planning and project development - and good practices for addressing just distribution of various impacts of installations among the local population should be encouraged.
- (12) 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

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<sup>3</sup> 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. 33–40.

<sup>4</sup> 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 (Text with EEA relevance)

<sup>5</sup> 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. 82–209.

of hydrogen), the assets needed for their grid connection and for storage of the energy produced. 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.

- (13) Administrative barriers have become more relevant due to the improvements regarding other obstacles, such as technology costs, which have reduced 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.
- (14) This Recommendation addresses these concerns calling for solutions within the existing legal framework. These recommendations are without prejudice to Union law in the area of energy and environment and to the obligations stemming from it.
- (15) A legislative proposal has been adopted alongside this Recommendation in view of modifying and strengthening the permitting-related provisions of the Renewable Energy Directive. Due to the urgency of accelerating the deployment of renewable energy projects, Member States should start as soon as possible the identification of suitable land and sea areas, as well as prepare plans for particularly suitable areas (“renewables go-to areas”), in line with Article 15b of the [proposal for amendment to RED on permitting].
- (16) Barriers resulting from permit-granting procedures might also affect the future deployment of innovative decarbonisation technologies needed to reach climate neutrality. Setting up regulatory sandboxes to enable the testing of innovative technologies, products, services or approaches could support innovation and facilitate the subsequent adaptation of the regulatory environment to accommodate them.
- (17) The development of renewable energy projects financed through corporate purchase agreements will help to accelerate 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 European companies.
- (18) Despite a year-on-year growth of 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. Furthermore, the uptake of corporate purchase agreements is mainly limited to certain Member States, to electricity as an energy carrier, and to large multinational consumer-facing companies.
- (19) Following the adoption of this Recommendation, the Commission will also engage in follow-up with the Member States at technical and political level, with the objective of ensuring progress on the implementation of this Recommendation and moving forward with solutions for simplifying and accelerating the approval of renewable energy projects.
- (20) Along with this Recommendation, the Commission is making available digitally consolidated datasets on a wide range of relevant energy and environmental factors via the EIGL, in support to 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

### **FASTER AND SHORTER PROCEDURES**

- (1) 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 considered as being in the overriding public interest and in the interest of public safety.
- (2) Member States should establish clearly defined, accelerated and as short as possible deadlines for all the steps required for granting permits to build and operate renewable energy projects, clearly delimiting the instances where such deadlines may be extended and under which circumstances. Member States should establish binding maximum deadlines for all relevant steps of the environmental impact assessment procedure. The length of permitting for rooftop and building-integrated solar installations, including large ones, should be limited to a maximum of 3 months.
- (3) Member States should take measures to establish time frames 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.
- (4) Member States should endeavour to create a single unified application process for the entire administrative permit application and granting process. Simultaneous applications should be prioritised over sequential applications when different authorisations are required, including for related grid projects.
- (5) Member States should allow applicants to update the technology specifications of their projects in the timeframe between the permit application and the construction of projects to facilitate the uptake of innovative technologies.

In the implementation of these recommendations, Member States should make use of practices described in Chapter I, section 2 of the guidance in Annex.

### **FACILITATING CITIZEN AND COMMUNITY PARTICIPATION**

- (6) Member States should stimulate the participation of citizens and energy communities in renewable energy projects, as well as take measures to encourage passing the benefits of the energy transition to be passed on to local communities thus enhancing public acceptance and engagement.
- (7) 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 prosumers.

In the implementation of these recommendations, Member States should make use of practices described in Chapter I, sections 5 (c) and 6 (a) of the guidance in Annex.

### **IMPROVING INTERNAL COORDINATION**

- (8) Member States should ensure streamlining and effective coordination between the 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.

- (9) Member States should design the one-stop-shop for granting permits for renewable energy projects required in the Renewable Energy Directive in such a way 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.
- (10) Member States should introduce rules for positive administrative silence in permitting procedures for renewable projects, such that the lack of reply of the competent authority(ies), within the established deadlines, results in the acceptance of a given request in the relevant step of the procedure, unless their reply is required by Union or national legislation.

In the implementation of these recommendations, Member States should make use of practices described in Chapter I, section 3 of the guidance in Annex.

### **CLEAR AND DIGITALISED PROCEDURES**

- (11) Member States should communicate to applicants clear, complete and transparent information on all requirements and process steps, including complaint procedures, at the beginning of the permit-granting procedure for renewable energy projects.
- (12) 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 and information on options for public participation, and administrative charges.

In the implementation of these recommendations, Member States should make use of practices described in Chapter I, section 3 of the guidance in Annex.

### **SUFFICIENT HUMAN RESOURCES AND SKILLS**

- (13) Member States should ensure sufficient and adequate staffing, with relevant skills and qualifications, in the permit-granting entities and environmental assessment authorities.
- (14) Member States should use the EU and national funding opportunities available for up-and re-skilling, in particular at the 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 and on environmental assessments.

In the implementation of these recommendations, Member States should make use of practices described in Chapter I, section 4 of the guidance in Annex.

### **BETTER IDENTIFICATION AND PLANNING OF LOCATIONS FOR PROJECTS**

- (15) 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 towards 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. For this

purpose, Member States are encouraged to make use of the updated datasets available in the Energy and Industry Geography Lab<sup>6</sup> (EIGL).

- (16) 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 requirements should be evidence-based and designed in such a way as to fulfil their intended purpose while maximising the availability of land for the development of projects, taking into account other spatial planning constraints.
- (17) 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 require scoping in a systematic manner or make it mandatory in order to improve the quality of the environmental impact assessment process.
- (18) Member States should ensure that the killing or disturbance of individual specimens of wild birds and protected species under the Habitats Directive 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 gathered, taking further measures as required to ensure no significant negative impact on the population of the species concerned. Whenever this is fulfilled, the incidental killing or disturbance of individual specimens should not be considered deliberate and hence should not fall under Article 12(1) of the Habitats Directive nor Article 5 of the Birds Directive.
- (19) 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.

In the implementation of these recommendations, Member States should make use of practices described in Chapter I, section 5 of the guidance in Annex.

## **EASIER GRID CONNECTION**

- (20) Member States should implement long-term grid planning and investment which are consistent with the planned expansion of renewable energy production capacities, taking into account future demand and the objective of climate neutrality.
- (21) Member States should establish simplified procedures for repowering of existing renewable energy plants and endeavour to adopt a simple-notification procedure for their grid connections, including simplified procedures for environmental assessments.

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<sup>6</sup> <https://ec.europa.eu/energy-industry-geography-lab>

- (22) Member States should ensure that system operators (i) apply a transparent and digital procedure for applications for grid connection; (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.
- (23) 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.

In the implementation of these recommendations, Member States should make use of practices described in Chapter I, section 6 of the guidance in Annex.

## **INNOVATIVE PROJECTS**

- (24) Member States are encouraged to set regulatory sandboxes to grant targeted exemptions from the national, regional or local legislative or regulatory framework to innovative technologies, products, services or approaches, which will facilitate permitting in support of the deployment and system integration of renewable energy, storage, and other decarbonisation technologies, in line with the EU legislation.

## **FACILITATING POWER PURCHASE AGREEMENTS**

- (25) Member States should swiftly remove any unjustified administrative and market barriers to corporate purchase agreements for renewable energy projects, with a specific focus on accelerating the uptake of corporate purchase agreements for renewable energy by small- and medium size enterprises.
- (26) 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 for renewable energy projects.

In the implementation of these recommendations, Member States should make use of practices described in Chapter II of the guidance in Annex.

## **MONITORING, REPORTING AND REVIEW**

- (27) Member States should set up a contact point tasked with regular monitoring of the main bottlenecks in the permit-granting process and addressing the issues encountered by renewable energy project developers.
- (28) Member States should communicate to the Commission, on a biennial basis starting in March 2023, as part of the integrated national energy and climate progress reports to be submitted pursuant to Article 17 of the Governance Regulation<sup>7</sup>, all available detailed information regarding the state of implementation of this Recommendation.

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.

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<sup>7</sup> 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

Done at Brussels,

*For the Commission*

*[...]*

*Member of the Commission*